

**State of California**  
**California Occupational Safety and Health Appeals Board**  
**Closed Session Agenda**

**Government Code § 11126 (a), (c)(3), (e) and (f)**

**for**

**Wednesday, June 19, 2024**

**9:30 a.m.**

**Sacramento, California**

**Alternate locations:**

**West Covina, California**

**&**

**Held on Zoom**

**To: Members of the California Occupational Safety & Health Appeal Board**

**From: J. Jeffrey Mojcher, Chief Counsel**

**Date: June 7, 2024**

**RE: Closed Session of the Board to be held on June 19, 2024**

**Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.**

**Decisions of Administrative Law Judges:**

*(Written Decision issued by an Administrative Law Judge. The Decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the Decision. The Board Members review the Decision and decide if they will reconsider the ALJ Decision on their own motion.)*

1499137      Employbridge Holding Company

1372705      Herrick Corporation

**Petitions for Reconsideration:**

*(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)*

1631420      Bobby Gilbert

1593924      Crowder Construction

**Orders Dismissing Appeal:**

1650044      Central Transport LLC

**Orders Denying Leave to File Late Appeal:**

1709627      Select Education Group, Inc.

**Matters Pending Reconsideration:**

*(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters, or amends the Order or Decision being reconsidered.)*

The following list is intended to inform stakeholders and members of the public of what the Board believes is the issue of most interest to the general public presented in each of the following matters. The issues are listed to assist those interested in research or public information, and not litigation, and are not necessarily or exclusively the only issue or issues presented in each matter. The issues identified are not positions of the Board. Further, the Board may add and decide issues not included in the list or decide the matter on other grounds, under the authority provided in Labor Code sections 6620 through 6623.18.

- 1431672      A. Teichert & Son, LLC  
*Whether the cited employer was in violation of lockout/tagout requirements.*
- 1473644      Amazon.com Services, LLC  
*Whether the employer's training program was in compliance with the applicable safety order.*
- 1398352      Anheuser-Busch, LLC  
*Whether the evidence supports the holding that employer violated lockout/tagout requirements.*
- 1568252      Arana Residential and Commercial Painting, Inc.  
*Whether the Division violated Employer's due process rights in conducting the inspection leading to issuing citations.*
- 1399613      BMC West, LLC  
*Whether the Division produced evidence proving the violation, and whether the AJL correctly determined the credibility of a witness.*
- 1466722      Bragg Investment Company, Inc.  
*Whether the Employer violated the crane operating safety order as alleged while repositioning a crane at a construction site.*
- 1564732      Calvary Chapel of San Jose  
Whether the ALJ was correct that the good faith exception does not apply.

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- 1420923 Drill Tech Drilling & Shoring, Inc.  
*Whether the Employer failed to enforce its IIPP as required.  
Whether the Employer violated the lockout/tagout requirements of section 3314 as alleged.*
- 1609228 Geo Group, Inc. dba Golden State Annex (3<sup>RD</sup> PTY PFR)  
*Whether the motion for third party status was properly denied.*
- 1233597 Hampton Tedder Electric (DOSH)  
*Whether the ALJ correctly decided that the Employer violated three high voltage safety orders.*
- 1488312 Indiana Finish Line, Inc.  
*Whether the cited employer established procedures adequate to protect employees from COVID-19.*
- 1436480 Interline Brands, Inc.  
*Whether the employer violated foot protection standards.*
- 1371294 KPRS Construction Services, Inc.  
*Whether the employer violated section 1632 as alleged?  
Whether the ALJ's ruling that the Division did not meet its burden of proof regarding the employer's IIPP was correct.*
- 1486257 Kroger Company  
*Whether the cited employer adequately trained employees regarding workplace hazards.*
- 1415736 Los Angeles County Probation Dept.  
*Whether the ALJ erred in reclassifying one citation from serious to general.*
- 1465354 Natural Alternatives International, Inc.  
*Whether the ALJ erred in dismissing the matter.*
- 1355061 Republic Electric West, Inc.  
*Whether fall protection requirements apply to the work. Whether the IEAD was established. Whether penalties were duplicative. Whether the Employer exercised reasonable diligence. Whether it was an error to reduce the classification of the violations and reduce the penalties.*
- 1465119 Sun Belt Rentals  
*Whether certain information accepted into evidence was inadmissible hearsay, and whether the evidence supports a finding that Employer violated sections 3203 and 3328, as alleged.*

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- 1475491 Sutter Bay Medical Foundation  
*Whether the employer failed to comply with COVID protections as alleged.*
- 1486176 Tutor Perini Corporation and O&G Industries, Inc.  
*Whether Employer committed a serious accident-related violation of section 3328, subdivision (a).*
- 1594663 Uber Technologies, Inc.  
*How Proposition 22 interacts with the Board's statutes and operative regulations.*

**Matters Pending Litigation:**

*(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)*

**Superior Court:**

1. United Parcel Service, Inc. dba UPS, 34-2019-80003174 (1116529)
2. Davis Development Company, 34-2020-80003373 (1226084)
3. Hill Crane Service Inc., 34-2021-80003744 (1135350)
4. USA Waste of California, Inc., 34-2022-80003841 (1384029)
5. General Dynamics NASSCO, 37-2023-00024521 (1300984)
6. S.C. Anderson, Inc., 24WM000039 (1405107)

**Appellate Court:**

There are no cases currently filed with the Appellate Court.

**Other Items:**

1. Discuss title 8, California Code of Regulations section 348, the Board's present regulation which adds five days to the time in which something must be done to account for mailing time.
2. Categorizing the Board's DARs and Denials on the DIR website.

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3. Superior Court cases that also involve or relate to appeals pending before the Board.

Lyft, Inc., 30-2023-01368387-CU-MC-CXC (1594664)

Uber Technologies, Inc., 30-2023-01330884-CU-JR-CXC (1594663)

**Orders Of Administrative Law Judges:**

*(Written orders issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)*

1679149	Ayres Hotel Company, Inc.
1567563	Basalite Concrete Products, LLC
1500444	Bonanza Productions Inc.
1673700	Cal-Pacific Construction, Inc.
1644925	California Custom Fruits and Flavors, Inc.
1651690	Cardenas Markets, Inc.
1480765	Carmel Partners Inc.
1475269	Cedar Operations, LLC
1725504	Champion Home Builders Inc.
1721756	CKM Painting
1659030	Closets by Design Inc.
1693647	D Lassen LLC
1734208	Danco Builders
1619646	De Jarnette Forest Lumber
1698653	Devil Mountain Wholesale Nursery
1683182	Dinucci Corporation
1691539	Donald D. Diffenbaugh Construction Inc.
1664096	Dons Market LLC
1723200	El Dorado County Sheriff's Office
1733245	Elie Tanios, an Individual
1716631	Elite Builder Services, Inc.
1645258	Evergood Sausage Co Inc.
1570996	FBV Morro Bay Joint Venture
1658856	Flex Interconnect Technologies
1708010	Freewire Technologies, Inc.
1701068	Frontier Building Products Pacific, Inc.
1696401	Gallo Cattle Company LP
1702778	Goodfellow Bros. California, LLC
1702900	Homer T. Hayward Lumber Co
1675917	J Rivas & Sons Transport Inc.
1678660	John Reedy Company, LLC

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1705807	Jose De Jesus Pelayo-Gudino
1536447	KAG Merchant Gas Group, LLC
1697723	Keith Monroe & Company
1667491	KV Construction 1, Inc.
1722911	Lamanuzzi & Pantaleo, LLC
1519800	M4 Concrete and Drywall
1566668	Malcolm Drilling Company, Inc.
1719872	Metals Treatment Technologies, LLC
1713411	Metro Services Group
1699678	Michael's Concrete
1673631	Miguel Angel Guzman
1702390	Morada Produce Company, L.P.
1699967	NH Holdings Inc.
1684235	Pleasanton Garbage Service Inc.
1681341	PLT-Art International
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1547000	PSSI Holdings, LLC
1690285	Purple Line LLC
1713300	Quality Development and Construction, Inc.
1671898	Ramen 7 LLC
1711791	RC Willey Home Furnishings
1601835	Reyes Contracting, Inc.
1685103	Rigoberto Isabel Calderon Cifuentes
1694711	Rush Personnel Services, Inc.
1590923	Saddleback Roofing, Inc.
1580540	Securitas Security Services USA, Inc.
1666146	SEFNCO Communications Inc.
1737669	Stanislaus County
1717246	Steve Roberts Roofing
1711583	Strand Ace Hardware, Inc.
1621333	T.M. Cobb Company
1571630	The American Bottling Company
1627448	The F A Bartlett Tree Expert Company
1711839	Tope's Environmental Inc.
1719859	Tulio Costa
1645882	U.S. Foodservice, Inc.
1575627	Ultimate Internet Access, Inc.
1653866	United Ground Express, Inc.
1728649	United Logistic Solutions, Inc.
1615490	United Natural Foods, Inc.
1701865	West Coast Harvesting & Packing, Inc.

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**Personnel:**

*(Issues regarding staff.)*

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.