

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

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

Wednesday, September 18, 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: September 6, 2024
RE: Closed Session of the Board to be held on September 18, 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.)

There are no Decisions.

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.)

1483438 Sutter Bay Hospitals dba Mills-Peninsula Medical Center

1690885 Waterproofing and Roofing Solutions, Inc.

Orders Dismissing Appeal:

1516789 American Mobile Nurses, Inc.

1236819 Earth Tech Well Drilling

1541294 Rick Young

Orders Denying Leave to File Late Appeal:

- 1719398 Cody Jacobsen, An Individual
- 1539535 Oaty Mesa Sales, Inc.
- 1719964 United States Pipe and Foundry Company, LLC

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.
- 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.
- 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.*
- 1499137 Employbridge Holding Company

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- Whether Employer violated IIPP requirements as alleged.*
- 1609228 Geo Group, Inc. dba Golden State Annex (3RD 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.
- 1523238 Orange County Fire Authority
Whether the ALJ's order barring Employer from arguing various affirmative defenses was an abuse of discretion.
- 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.
- 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.
- 1498595 Western Oilfields Supply Company
Did the ALJ err by affirming a citation alleging that Employer did not guard a machine at its point of operation? And did the ALJ err by allowing an amendment to the citation so the Division could assert an alternate theory?

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)
7. Angelus Block Co., Inc., CIVSB2417796 (1113026)
8. Hamilton Iron Works, Inc., 24WM000100 (1497263)

Appellate Court:

There are no cases currently filed with the Appellate Court.

Other Items:

There are no Other Items.

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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.)

1670464	A-G Sod Farms, Inc.
1693828	Abraham Auto Repair, Inc.
1730922	American Ice Co.
1428136	Anderson Pacific Engineering Construction, Inc.
1654885	Arco Murray National Norcal, Inc.
1611131	ARCOSA LWFP, LLC
1695262	Bert & Cheryl Weststeyn
1616579	Bluewater Business Group, Inc.
1368254	Burtech Pipeline Incorporated
1735802	CalChef Foods LLC
1643306	Controlled Thermal Resources
1575582	County of Los Angeles UCLA Harbor Medical Center
1709929	CTrust, Staffing LLC
1714952	Fallbrook Public Utility District
1743919	Freedom Forever California, LLC
1688905	Fresh Express, Inc.
1731788	Gold Top Ranch
1690069	Healthright 360 San Mateo Clinic
1694341	Heavenly Construction, Inc.
1731149	J. Rodriguez Farm Labor Contractor Inc.
1560005	Jose A. Cardenas
1737392	Michael Shaffer
1674906	Micro Paradox, Inc.
1760115	Mission Landscape
1698827	Mr. Roofing, Inc.
1747054	Nirmala R. Parmar, Individual
1687261	Nor Cal Fast Foods Inc.
1707420	Nordstrom, Inc.
1731363	NVision Build
1552325	Oakley Union School District
1722600	Oilar's AG Services
1713063	Pablo Rivas, An Individual
1749853	Panera LLC
1685253	Pearce Concrete And Masonry, Inc.
1543406	Pitman Family Farms
1577829	Priority Landscape Services, LLC
1729058	Quail Park Memory Care
1489281	R & V Investments, LLC
1681000	Rancho Coastal Environmental Service Inc.
1564191	Rancho Nuevo Harvesting, Inc.
1598403	Reyes Holdings

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1680214	RTX Corporation - Pratt & Whitney Division
1728006	S & J Home Maintenance, Inc.
1732014	Sierra Pacific Industries, Inc.
1585176	Skanska-Traylor-Shea A Joint Venture
1736831	Southwestern Wire Inc.
1590256	Stanislaus Farm Supply Company
1616319	Starko, Inc.
1759732	Steelhead Constructors, Inc
1622268	Target Corporation
1728735	Target Corporation
1684441	Trans-West Security Services, Inc.
1574712	Triangle Rock Products, LLC
1657808	VF Outdoor, LLC
1607536	Yuba River Moulding & Mill Work, Inc.

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.