

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

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

Wednesday, December 4, 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: November 22, 2024
RE: Closed Session of the Board to be held on December 4, 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.)

1235941 McCarthy Building Companies, Inc.

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.)

1749164 La Quinta Inn & Suites by Wyndham Redding

1713315 Porter & Sons Painting & Construction Inc

Orders Dismissing Appeal:

1613791 E & B Natural Resources Management Corporation

1687227 I V Mechanical, Inc.

1643386 Ingersoll Rand

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted November 22, 2024

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| 1728703 | Lazy Dog Family LLC |
| 1647460 | National Wellbore Solutions, Inc. |
| 1760966 | Pratt Robert Man Packaging, LLC |
| 1601337 | Three Star Demolition & Janitorial, Inc. |
| 1670197 | United Employment Solutions, Inc. |
| 1594773 | Vacuum Process Engineering, Inc. |
| 1643595 | Zi Pa Inc |
| 1688206 | Zoological Society of San Diego – San Diego Zoo |

Orders Denying Leave to File Late Appeal:

There are no Orders Denying Leave to File Late Appeal.

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.

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| 1431672 | A. Teichert & Son, LLC
<i>Whether the cited employer was in violation of lockout/tagout requirements.</i> |
| 1473644 | Amazon.com Services, LLC
<i>Whether the employer's training program was in compliance with the applicable safety order.</i> |
| 1399613 | BMC West, LLC
<i>Whether the Division produced evidence proving the violation, and whether the AJL correctly determined the credibility of a witness.</i> |
| 1466722 | Bragg Investment Company, Inc.
<i>Whether the Employer violated the crane operating safety order as alleged while repositioning a crane at a construction site.</i> |

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted November 22, 2024

- 1647115 Concord Farms, Inc.
- 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
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.
- 1238985 Grimmway Enterprises, Inc.
*Was the ALJ correct in holding that Employer did not violate
section 4002, subdivision (a)? Was the ALJ correct in finding that
Employer satisfied the IEAD with respect to the alleged violation
of section 3314, subdivision (c)?*
- 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.*
- 1760736 RJS Electric
Was the ALJ's Order Denying Late Appeal correctly decided?

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted November 22, 2024

- 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.
- 1483438 Sutter Bay Hospitals dba Mills-Peninsula Medical Center
Was the ALJ correct in granting Employer's appeals of the citations alleging violations of section 342, subdivision (a) and section 5199, subdivision (i)?
- 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)
7. Angelus Block Co., Inc., CIVSB2417796 (1113026)
8. Hamilton Iron Works, Inc., 24WM000100 (1497263)
9. Arana Residential and Commercial Painting, Inc., 24CV097096 (1568252)

10. Western Oilfields Supply Company, 24WM000169 (1498595)

Appellate Court:

There are no cases currently filed with the Appellate Court.

Other Items:

There are no Other Items.

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.)

1634387	A & M Reinforcing Specialists
1748596	Abacus Business Capital, Inc.
1751989	Advanced Systems Services, Inc.
1476061	Aggreko LLC
1730349	Agra Trading, LLC
1741520	Alan Enterprise, LLC
1769311	Avis Rent a Car System LLC
1573155	BHC Crane, LLC
1716789	Biolife Corporation
1558340	Boudreau Pipeline Corporation
1630227	California Concrete Pumping, Inc.
1622315	California Department of State Hospitals
1693422	California Shine Construction
1742234	Casper Company
1730044	Continental Terminals Annex Inc.
1708525	Cowboys Roofing
1728175	CRC Roofing, Inc.

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted November 22, 2024

1719937	DL Propriis Construction, Inc.
1643263	Dolgen California, LLC
1654431	Earl Huey
1718839	Excalibur Well Services Corporation
1583169	Fedex Ground
1583980	Garney Pacific, Inc.
1657911	General Dynamics NASSCO
1601347	Giampolini & Co.
1756086	Golden Labor Services, LLC
1584455	Ignacio Quezada
1733267	Imperial Irrigation District
1617474	J&J Snack Foods Corporation of California
1581861	JK Management, Inc.
1712386	Jocer Enterprises, Inc.
1701093	Joseph Crown Construction and Development, Inc.
1512533	Kaiser Foundation Hospitals/Kaiser Permanente
1610278	Kenyon Plastering of California, Inc.
1640288	LA Valle Sabbia, Inc.
1735487	Limoneira Co.
1731638	Los Angeles Community Hospital
1750964	Lotus Villa Affiliate LLC
1680705	Moreno Trenching, LTD.
1637486	Nunes and Sons, Inc.
1706794	Papazian Inc.
1607484	Plamar U.S.A.

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted November 22, 2024

1653977	Polar Power, Inc.
1702566	Precision Castparts Corp
1706526	R/D Construction-Roberts & De La Torre
1740978	Recon360 LLC
1629760	Recycled Base Materials, Inc.
1750842	Reliable Roofing, Loomis
1475110	San Francisco Bay Area Rapid Transit
1508154	San Francisco Fire Department
1512093	Sandridge Partners, LP
1733626	Scorpion Services, Inc.
1691279	Sentinel Peak Resources Management LLC
1721057	Serco, Inc.
1595597	Shimmick Construction
1601273	Sierra Aluminum
1682167	Six Star Framing Concepts Inc
1647425	Socal Home Builders, Inc.
1720144	Society of Orators LLC
1752492	South Coast Mechanical Insulation
1749820	Staples Inc.
1657690	Sun Pacific Shippers, L.P.
1382323	Superprint Lithographics Inc.
1696548	Talley Transportation
1700388	Tammy's Place LLC
1539563	The Lawson Roofing Co., Inc.
1704859	The Tree Guys, Inc.

California Occupational Safety & Health Appeals Board
Closed Session Agenda
Posted November 22, 2024

1728822	TN 27, Inc.
1725422	Tom Brennan Plumbing Inc
1575436	Tractel, Inc.
1744550	Tudor Ranch
1699055	VCSD, Inc.
1737027	Veridiam Inc.
1625329	Vessel CA Operations LLC
1653643	VM Tree Service, Inc.
1672871	Wright Tree Service of the West, Inc.
1700021	Youngstown Grape Distributors 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.