

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

1601687 R D Olson Construction

1454931 Tesla, Inc.

1604884 United Parcel Service, 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.)

1109663 Richard L Barnes General Contractor

Orders Dismissing Appeal:

1552021 Action Urgent Care Inc.

163352 Amarjit Kandola

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- 1653876 Ducoing Enterprises, Inc
- 1694098 Julio & Son's Auto Services
- 1620475 Loomis Armored US
- 1595422 Pimentel Vineyard Management, Inc.
- 1514697 Southern California Gold Products, Inc
- 1594443 Villa's Roofing Company, Inc.
- 1677667 Wedriveu, Inc.

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.

- 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.
- 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.

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- 1647115 Concord Farms, Inc.
Whether there was good cause for the late appeal.
- 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.
- 1647115 Issue Statement for Concord Farms
Whether there was good cause for the late appeal.
- 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*

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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?
- 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)

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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.)

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| 1634387 | A & M Reinforcing Specialists |
| 1733248 | A Train Staffing LLC |
| 1598114 | Able Sheet Metal, Inc. |
| 1557898 | Accel Framing, Inc. |
| 1579550 | Acosta Heat and Air Conditioning, Inc. |
| 1750562 | Advantage Drywall, Inc. |
| 1643723 | AI California LLC |
| 1595756 | AI California, LLC |
| 1730359 | Amando's Roofing Inc. |
| 1739999 | Amgen Inc. |
| 1727689 | Ampla Health |
| 1724592 | Anderson Charnesky Structural Steel |
| 1738860 | Anderson Charnesky Structural Steel |
| 1713918 | Anvil Builders, Inc |

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1728225	Atlas Environmental Services
1699115	Atlas Vineyard Management, LLC
1731724	AVN, Inc
1568915	Brightview Landscape Services, Inc.
1723456	C & L Refrigeration Corporation
1688163	C&C Utility, Inc.
1608410	Cacique Foods, LLC.
1746058	Calavo Growers Inc DBA GH Foods
1719941	California Department of Motor Vehicles
1731012	California Resources Corporation
1748153	Cappo Management XLVII, LLC
1694700	Capstone Logistics
1664065	Certified Freight Logistics, In
1542754	Citistaff Solutions, Inc
1576674	Covi Concrete Construction, Inc
1593924	Crowder Constructions, Inc
1716648	CVTC, LLC
1739768	D.M. Camp & Sons
1701094	DSD Trucking, Inc
1677268	E&S Ring Management Corporation
1588637	Elka Construction, Inc.
1652360	Garcia Masonry & Development, Inc
1736213	Gerson Funes
1747029	Gilead Sciences, Inc.
1688145	Griswold Industries

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1361841	Hampton Tedd Electric
1544214	Hi Grade Materials Co.
1741501	Horizon Farms LLC
1561956	Housing Authority of City of Fresno
1379721	JBT Aerotech Corporation
1566754	John Mourier Construction Inc.
1500445	Key Energy Services, LLC
1609907	Lancaster Burns Construction LLC
1728703	Lazy Dog Family LLC
1636951	Lehr Brothers Inc
1733606	LKQ Corporation
1657470	Machado Family Limited Partnership DBA Alvaro
1682871	Rackley Company, Inc
1686383	Ramsey Security
1716430	Regal Repair, Inc
1630855	Richard W, Herman, Inc
1695287	Richmond Sanitary Service, Inc
1748159	Robert Morken Construction Inc
1513800	Robert Peterson
1568375	San Diego Gas and Electric
1442876	Securitas Security Services USA, Inc.
1648606	Silver Farm Labor Inc
1588901	Snelson Companies, Inc.
1108581	Steeltech Reinforcing, Inc
1709137	Sutter Hotel Group, LLC

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1670099	Timber Works Construction Inc
1327280	United Parcel Service
1501579	United Rentals Northwest, Inc
1497293	USF Reddaway, Inc.
1579548	Valley Gym Corp/USA Fitness Super Center
1602898	Vehicle Technical Consultants, Inc
1590477	Vin Lux Fine Wine Transport, LLC
1734643	Vision Construction Group, Inc
1695255	Wayne J. Sand & Gravel, Inc
1728339	West Coast Turf, Inc
1712239	William M. Perkins Company, Inc
1659376	Worldwide Flight Services, Inc.
1709078	XL Concrete Masonry, Inc
1690020	XPO Logistics Freight, Inc
1677796	Yergat Packing Company, Inc
1689486	Yosemite/Bass Lake Activities, 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.