

**State Of California**  
**California Occupational Safety and Health Appeals Board**  
**Minutes of the Public Meeting & Closed Session**  
**Held on November 20, 2024**  
**Sacramento, California**  
**Zoom Platform**

**Present:**

Ed Lowry, Public Member, Chair  
Judith Freyman, Management Member  
Marvin Kropke, Labor Member  
Patricia Hapgood, Executive Officer  
Kerry Lewis, Presiding Administrative Law Judge  
Sam Lucas, Presiding Administrative Law Judge  
Christopher Jessup, Administrative Law Judge  
Mario L. Grimm, Administrative Law Judge  
Jeffrey Mojcher, Chief Counsel  
Aaron Jackson, Staff Counsel  
Elizabeth Clarke, Staff Counsel  
Karen Halbo, Staff Counsel  
Scott Pease, Operations Manager  
Maria Rios, Legal Analyst  
Denise Cardoso, Assistant Chief Counsel, DOSH  
Rocio Reyes, Assistant Chief Counsel, DOSH  
Javier Castro, Staff Counsel, DOSH  
Lisa Brokaw, Staff Counsel, DOSH  
Ramesses Surban, Staff Counsel, DOSH  
William Cregar, Staff Counsel, DOSH  
Edgar Gonzalez, District Manager, DOSH  
Bruce Wick, Risk Management Director, Housing Contractors of California  
David Wiseman, Staff Counsel, Cal Fire  
Lisa Prince, Prince Law Firm

**Notice of remote attendance:**

As required by Government Code Section 11123.5, subdivision (d), notice is hereby given that Board member Marvin P. Kropke will be participating remotely pursuant to Government Code Section 11123.2, subdivision (j)(2), and Board member Judith Freyman will be participating remotely pursuant to Government Code Section 11123.2, subdivision (j)(1).

**Request for remote attendance:**

Member Marvin Kropke made a motion requesting to attend the December 4, and December 18, 2024, Board meetings remotely, pursuant to Government Code section 11123.2, subdivision (j)(2)(A).

This motion was seconded by Judith Freyman.

The Board voted to approve the remote attendance request 3-0.

**Minutes of November 6, 2024, Meeting:**

(Approve or amend minutes of previous board meeting.)

Action: The Board approved the minutes of the November 6, 2024, meeting.  
This was moved by Marvin Kropke.  
It was seconded by Judith Freyman.  
The vote was 3-0.

**New Business:**

*(The Appeals Board hears and discusses new reports presented by staff.)*

Action: No report.

**Old Business:**

*(The Appeals Board hears and/or discusses matters on a follow-up basis.)*

1. Discuss the newly prepared informational stakeholder videos (re “How to File an Appeal”) and discuss whether to post on OSHAB’s website. In addition, discuss whether the Board should explore any other avenues to publicize the availability of these videos to stakeholders.

Action: Scott Pease will provide a report at the next Board meeting.

2. Discuss proposals and comments received at the recent roundtable meeting.

Action: Scott Pease will provide a report at the next Board meeting.

**Legislation:**

*(Review and discuss current legislation which may affect the appeals Board.)*

Action: Elizabeth Clarke provided the following update: newly elected members will be sworn in on Dec. 2, 2024. The legislature reconvenes for the 2025-2026 session on January 6, 2025.

**Chairperson’s Report:**

*(Hear report from the Chairperson on activities and issues affecting the Appeals Board.)*

Action: No report.

**Board Members’ Reports:**

*(Hear reports from Board members on activities and issues affecting the Appeals Board.)*

Action: No report.

**Executive Officer's Report:**

*(Report regarding administrative matters.)*

Action: Patricia Hapgood reported that she and Ed Lowry will meet with FedOSHA on Monday, November 25, 2024. Patricia also provided an update on the Board's hiring progress – two new staff members will start in December. The new Executive Secretary's first day is December 2, and the new Administrative Law Judge will start on December 9.

**Staff Reports:**

*(Reports from the Supervising ALJ and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)*

1. Discuss and may take action on proposals for new regulations or proposals for modifications to, or repeal of, existing regulations. In addition, discuss whether any concerns exist with existing regulations.

Action: Karen Halbo will provide a report at the next Board meeting.

- a. Discuss proposals for possible adoption of rules of professional responsibility pertaining to lay representatives that charge money for their services.

Action: Discussed.

2. Litigation update.

Action: Jeffrey Mojcher reported that the Board will appear in court on November 26, 2024 in the matter of *Catherine Baldi v. California Occupational Safety and Health Appeals Board* filed by Catherine Baldi, owner of Arana Residential and Commercial Painting, Inc. (1568252). Jeffrey Mojcher also reported that the Board has been served with a Writ in the matter of Western Oilfields Supply Company (1498595). The Legal Team is currently preparing an Answer to the Writ.

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.

**Public Comment:**

*(Public comments will be entertained during discussion of each agenda item of the open meeting.)*

Action: Rocio Reyes asked for clarification regarding the proposed language changes. Karen Halbo responded that the Board is

still very early in the process and that language changes are currently being generated.

Bruce Wick provided background information regarding CalOSHA funding.

The Board recessed to its 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 have 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.)*

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|---------|--|
| 1647115 | Concord Farms, Inc.<br>Action: The Board voted to take this matter under submission.<br>This was moved by Marvin Kropke.<br>It was seconded by Judith Freyman.<br>The vote was 3-0.  |
| 1749164 | La Quinta Inn & Suites by Wyndham Redding<br>Action: Discussed.  |
| 1713315 | Porter & Sons Painting & Construction Inc<br>Action: The Board voted to issue an Order Extending Time to Act on the Petition for Reconsideration.<br>This was moved by Marvin Kropke.<br>It was seconded by Judith Freyman.<br>The vote was 3-0. |
| 1760736 | RJS Electric<br>Action: The Board voted to take this matter under submission.<br>This was moved by Marvin Kropke.<br>It was seconded by Judith Freyman.<br>The vote was 3-0.   |

**Orders Dismissing Appeal:**

- 1719077      BAJ Management, Inc.  
Action:      The Board discussed this matter.
- 1641429      Toro Enterprises Inc.  
Action:      The Board discussed this matter.

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

- 1722758      Prime Flight Aviation Services, Inc  
Action:      The Board discussed this matter.

**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 authority of Labor Code sections 6620 through 6623.

- 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.*
- 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.*

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- 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.*
- Action:            The Board discussed this 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.*
- 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.*

Action: The Board discussed this matter.

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. (1568252)

**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 order 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.)*

1520742	Agri-Quip, Inc.
1603435	Avalon Care Center – Merced Hy-Lond, LLC
1743916	Blue Ridge Forest Products, Inc.
1747342	Broward Builders Inc
1696415	California Department of Forestry and Fire
1764093	California Gas Transport Inc
1576893	Castle West Construction, Inc.
1556611	Cerca Trova Steakhouse LP
1716380	Chris Jackson Roofing LLC
1701711	City of Los Angeles, Department of Public Works
1696965	Conception Nurseries
1718643	Conifer Communications, Inc.
1507409	Covenant Care California, LLC
1707091	Denault’s Ace Hardware Home Centers, Inc.
1585357	Employbridge, LLC
1753876	Fanelli Dairy
1756906	Heritage Grocers Group, LLC
1558243	Holland Partner Group Management, Inc.
1630516	Incast Asset Management, Inc.
1733195	J.F.S. Specialty Services Inc.
1730304	Jazzar Construction Group, Inc.
1685998	Jireh, Inc.
1516812	K & J AG Services, Inc.
1754375	K.A. Vanderham Dairy
1729944	Magnificent Family Tree, Inc.
1693826	Mark Sawaya, An Individual
1601948	Maurices Incorporated
1725502	Miguel Zacapala Rojas & Crecencio Gomez
1710392	Munoz Roofing and Roof Removal Inc.
1712166	Nobu Restaurant Group, LLC
1733930	Pacific Coast Farms LLC
1666852	Pacific Coast Investments, Inc.



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1664358	Pacific Gas and Electric Company
1483577	Prime Now LLC
1704560	Quiring General LLC
1546548	R N R Construction, Inc.
1564489	Rebel AG Service, Inc.
1689585	Redding Drywall Systems Inc.
1486139	Regents of the University of California
1668664	RGF Properties, Inc.
1690993	Riverside Public Utilities
1736857	Rodolfo Cortez
1445170	S & A Industries Inc.
1702698	Sierra Pacific Industries
1728244	Skanska USA Civil West California District Inc
1741196	Spreckels Sugar Company, Inc.
1744801	Statewide Roofing, Inc.
1125287	SW Forage LLC
1732029	Tesoro Refining & Marketing Company LLC
1527008	Thompson Builders Corporation
1484126	Ugly Brothers, LLC
1639051	Vallarta Food Enterprises, Inc.
1717575	Voral Construction
1728304	Webb Builders, Inc.
1752692	World Class Distribution Inc.
1672449	Wright Tree Service of the West Inc.
Action:	The Board discussed the Settlement Orders issued by the Administrative Law Judges.

**Personnel:**

*(Issues regarding staff)*

The Closed Session adjourned at 11:20 a.m. and the Board returned to the Public Meeting. The Appeals Board incorporated, by reference, its actions in the Closed Session as indicated above. The Board meeting was adjourned at 11:21 a.m.