

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on May 7, 2025
Sacramento, California
Zoom Platform

Present:

Ed Lowry, Public Member, Chair
Judith Freyman, Management Member
Marvin Kropke, Labor Member
Patricia Hapgood, Executive Order
Kerry Lewis, Presiding Administrative Law Judge
Sam E. Lucas, Presiding Administrative Law Judge
Aaron Jackson, Chief Counsel
Jeffrey Mojcher, Chief Counsel Emeritus
Vincent Mersich, Staff Counsel
Karen Halbo, Staff Counsel
Scott Pease, Operations Manager
Maria Rios, Legal Analyst
Anne Marie Plascencia, Senior Legal Typist
Jennifer Glikman, Office Technician
Timothy Prochnow, Office Technician
Beth Reiken, Executive Secretary
Denise Cardoso, Assistant Chief Counsel, DOSH
Jennifer L. Martin, Attorney Supervisor DOSH
Tuyet Tran, Attorney Supervisor DOSH
Javier Castro, Staff Counsel, DOSH
Bruce Wick, Risk Management Director, Housing Contractors of California
David Wiseman, Staff Counsel, Cal Fire
Fred Walter, Attorney, Conn Medical Carey LLP
Kita Banks, Staff Counsel, CalFire

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), paragraph (2), and Board member Judith Freyman will be participating remotely pursuant to Government Code Section 11123.2, subdivision (j), paragraph (1).

Request for remote attendance:

No report

Minutes of April 23, 2025, Meeting:

(Approve or amend minutes of previous board meeting.)

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Action: The Board voted to approve the minutes for the April 23, 2025, 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.)

1. Discussion regarding processing and handling of verification of abatement forms by both the Appeals Board and the Division.

Action: Fred Walters spoke to the Board regarding the abatement and expedited proceedings process. Denise Cardoso asked clarifying questions and provided comments.

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: The media office provided a first draft of the promotional flyer. Patricia Hapgood and Scott Pease will be submitting revisions.

Legislation:

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

Action: Karen Halbo provided status updates on the following assembly bills: AB596, AB845, AB1424, AB1515

Chairperson’s Report:

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

Action: Ed Lowry will be meeting with the rules committee staff at the end of the month to extend his reappointment as Chairperson.

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: No report.

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: No report.

2. Ligation Update

Action: Aaron Jackson provided the following updates: Angelus Block Co., Inc. (1113026) was heard in Superior Court on March 28, 2025, and has been taken under submission, the Board is working on responding to writs in the matters of the Geo Group, Inc. (1609228), Uber Technologies, Inc. (1594663), and Employbridge LLC (1499137). There are hearings coming up on June 3, 2025, and July 22, 2025, in the matters of Baldi/Arana Residential and Commercial Painting, Inc. (1568252) and Waterproofing and Roofing Solutions, Inc. (1690885), respectively.

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: The Board heard members of the public on matters including questions regarding Ed Lowry's reappointment process, and appreciation to the Board on a recently issued decision after reconsideration.

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.)

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1360156: CA Forestry and Fire Protection

Action: The Board discussed this matter.

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.)

1632835 Beverly Hills Sculpture LLC

Action: The Board voted to issue a Denial of the Petition for Reconsideration.
This motion was moved by Marvin Kropke.
It was seconded by Judi Freyman
The vote was 3-0

1777880 Valley Sun Products, Inc.

Action: The Board voted to issue an order of remand reinstating the appeal in this matter.
This motion was moved by Marvin Kropke.
It was seconded by Judi Freyman
The vote was 3-0

Orders Dismissing Appeal:

There are no Orders Dismissing Appeal at this time.

Orders Denying Leave to File Late Appeal:

There are no Orders Dismissing Appeal at this time.

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

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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.

Action: The Board discussed this matter.

- 1466722 Bragg Investment Company, Inc.
Whether the Employer violated the crane operating safety order as alleged while repositioning a crane at a construction site.

- 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.

- 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.

Action: The Board discussed this matter.

- 1692964 L & S Framing, Inc.
Whether Employer committed the violations alleged in the citations, including alleged violations of section 1704, subdivision (f) [failure to adopt a compliant Code of Safe Practices]; section 1704, subdivision (b)(2) [failure to ensure that nailers and staplers were operated in accordance with manufacturer's recommendations], and section 1704, subdivision (g), 1509, and section 3203 [inadequate safety training on the use of nailers and staplers].

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- 1235941 McCarthy Building Companies, Inc.
Whether the Division proved exposure to Valley Fever.
- 1549611 Metcalf, Inc.
Whether Employer committed the violations alleged in the citations, including alleged violations of section 3203, subdivision (a)(6) [failure to correct an unsafe condition]; section 1621, subdivision (b) [failure to provide toeboards on scaffolding]; and (3) section 3276, subdivision (e)(15)(B) [safe use of ladders], and whether Employer established its affirmative defense.
- 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 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)?
- 1454931 Tesla Inc.
Whether the ALJ properly affirmed the citations and, if so, whether Employer committed a serious accident-related violation of section 3328, subdivision (a).
- 1486176 Tutor Perini Corporation and O&G Industries, Inc.
Whether the Employer committed a serious accident-related violation of section 3328, subdivisions (a)?

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. USA Waste of California, Inc., 34-2022-80003841 (1384029)

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2. Angelus Block Co., Inc., CIVSB2417796 (1113026)
3. Hamilton Iron Works, Inc., 24WM000100 (1497263)
4. Arana Residential and Commercial Painting, Inc. (1568252)
5. Western Oilfields Supply Company, 24WM000169 (1498595)
6. Waterproofing and Roofing Solutions, Inc., 24STCP03693, (1690885)
7. The Geo Group, Inc., 25WM000023 (1609228)
8. Uber Technologies Inc (1594663)
9. Employbridge Holding Company, 25CHCP00143 (1499137)

Appellate Court:

1. General Dynamics NASSCO (1300984)

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.)

1790808	A-Tech Auto Repair
1678841	Allied Universal Security Services Universal
1505628	Baymarr Constructors, Inc.
1764873	Brinker International, Inc.
1668819	California Erectors, Inc.
1753015	CB Manufacturing Company Inc.
1769609	Ceenbee LLC
1752322	Classic Farms, LLC
1756170	Comfort California Inc.
1626041	County of Los Angeles, Department of Parks and Recreation
1777178	County of Riverside
1777435	Crain Marketing, Inc.
1756709	Crown Energy Services, Inc.
1570629	De La Cruz Farm Labor Contracting
1714151	Farmers' Rice Cooperative
1686965	Fassberg Construction Company
1544440	Ford Motor Company
1775900	Golden Valley Grape Juice and Wine, LLC

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1686839	Hot Line Construction, Inc.
1733159	Housing Consortium of the East Bay
1682811	Industrial Service Oil Company Inc
1657689	Jaj Roofing
1722748	JJR Management Services Inc.
1768993	John F. Otto, Inc.
1464143	Kashi Organization, Inc.
1762381	Landscape Development Inc.
1672850	Lombardo Diamond Core Drilling Company, Inc
1665161	Maas Brothers, Inc.
1771132	Mark Nicholson, Inc
1591312	Meridian Building Services, Inc.
1793010	MGA Research Corporation
1784672	Modern Classic Automotive Inc.
1773134	Mr. Emin Gharibian
1727169	Nordstrom, Inc.
1792239	Ontrac Logistics, Inc.
1626299	Pak 'N Save Foods
1734102	Peninsula Tile and Marble, Inc.
1685113	R & I Marble and Granite
1770703	RB Hospitality Inc.
1762041	Recology Yuba-Sutter
1760189	Remo Incorporated
1662623	Ricker Thermline, Incorporated
1633057	S. Stamoules, Inc.
1778159	Sierra Valley Painting Inc
1496932	Silverado Contractors, Inc.
1547113	Silverado Contractor, Inc.
1764891	Sim Donuts, LLC
1416858	Simple Container Solutions
1766690	Smokehouse Pet Products Inc.
1735534	So Cal Manufactured Housing
1514697	Southern California Gold Products, Inc
1775959	Styro Shapes Lath Plaster & Foam
1738589	T-Y Nursery, Inc.
1732013	Tesla Energy Operations Inc
1693211	Tolead Logistics US Inc.
1761578	Truesdell Corporation of California, Inc.
1779940	Twin Cities Tree Service
1465462	U.S. Granite Corporation
1616032	Valley of the Sun Cosmetics, LLC
1724554	Vantage Vehicle International, Inc.
1554020	Ventura Foods, LLC
1731611	Vortex Industries LLC
1786270	Wisoman Foods, Inc.

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Action: The Board discussed the Settlement Orders issued by the Administrative Law Judges.

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 10:49 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 10:50 a.m.