

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on June 4, 2025
Sacramento, California
Zoom Platform

Present:

Ed Lowry, Public Member, Chair
Judith Freyman, Management Member
Marvin Kropke, Labor Member
Kerry Lewis, Presiding Administrative Law Judge
Howard Chernin, Administrative Law Judge
Jennie Culjat, Administrative Law Judge
Kevin Reedy, Administrative Law Judge
Les Murad II, Administrative Law Judge
Aaron Jackson, Chief Counsel
Vincent Mersich, Staff Counsel
Karen Halbo, Staff Counsel
Scott Pease, Operations Manager
Maria Rios, Legal Analyst
Beth Reiken, Executive Secretary
Ina Fitzgibbon, Office of Director, DIR
Denise Cardoso, Assistant Chief Counsel, DOSH
John Steve Barnett, Staff Counsel DOSH
Lauren H. Ocadiz, Staff Counsel, DOSH
David Wiseman, Staff Counsel, Cal Fire
Fred Walter, Attorney, Conn Macie Carey LLP
Kita Banks, Staff Counsel, CalFire
Bruce Wick, Risk Management Director, Housing Contractors of California
Fred Walter, Attorney, Conn Maciel Carey LLP
Lisa Prince, The Prince Firm
Tresten Keys, AGC of California

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 May 21, 2025, Meeting:

(Approve or amend minutes of previous board meeting.)

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
June 4, 2025

Action: The Board voted to approve the minutes for the May 21, 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: Lisa Prince shared observations about video settlement conferences. The Board heard comments from stakeholders on the matter.

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 reported he and Patricia Hapgood are working with the media office on their second draft of the video flyer.

Legislation:

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

Action: Karen Halbo provided status updates on the following bills in the CA legislature: SB-20, AB-596, AB-694, AB-845, AB-1371, AB-1424, AB-1515, AB-1336, AB-1181.

Chairperson’s Report:

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

Action: Ed Lowry met with the DOSH advisory committee and the Senate Rules Committee staff at the end of May.

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.)

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
June 4, 2025

Action: In Patricia Hapgood's absence, Scott Pease shared that the AGPA (Associated Government Program Analyst) position was resubmitted to HR with revisions and is expected to be posted in 1-2 weeks.

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 stated the Pre-hearing and Hearing regulation packets are still in the DIR and Agency review process.

2. Ligation Update

Action: Aaron Jackson provided the following updates: Angelus Block Co., Inc. (1113026) was heard by the San Bernadino Superior Court on March 28, 2025, and has been taken under submission. The Board is working on responding to writs in the Geo Group, Inc. (1609228) and Uber Technologies, Inc. (1594663). The June 3rd hearing for Baldi/Arana Residential and Commercial Painting, Inc. (1568252) was continued by the court and a new hearing date is still pending. For Waterproofing and Roofing Solutions, Inc. (1690885) the Board is working on an opposition brief.

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: No Report.

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.)

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
June 4, 2025

1436014 MWL Solutions, Inc.

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.)

1360156 CA Forestry and Fire Protection

Action: The Board voted to take the matter under submission.

This motion was moved by Marvin Kropke.
It was seconded by Judi Freyman
The vote was 3-0

17521819 M-B Auto Body & Paint, Inc.

Action: The Board voted to take the matter under submission.

This motion was moved by Marvin Kropke.
It was seconded by Judi Freyman
The vote was 3-0

1728192 Westech Systems, LLC

Action: The Board discussed this matter.

Orders Dismissing Appeal:

1633722 All in One Services, Inc.

Action: The Board discussed this matter.

1666866 De Santiago FLC, Inc.

Action: The Board discussed this matter.

1721688 Everlevel Holdings LLC

Action: The Board discussed this matter.

1695512 Jarquin and Gonzalez Inc

Action: The Board discussed this matter.

1706660 Javier Valdovinos

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
June 4, 2025

Action: The Board discussed this matter.

1650006 Partners Personnel- Management Services, LLC

Action: The Board discussed this matter.

1719967 RBM

Action: The Board discussed this matter.

1685885 Shoreline Constructors, Inc.

Action: The Board discussed this matter.

1723744 Triple I Press, LLC.

Action: The Board discussed this matter.

Orders Denying Leave to File Late Appeal:

1777892 Van Duerr Industries, Inc.

Action: The Board discussed this matter.

1759903 Woodmont Real Estate Services L.P.

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

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
June 4, 2025

- Whether the employer's training program was in compliance with the applicable safety order.*
- 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.
- 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].
- 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)

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
June 4, 2025

[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)
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)

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
June 4, 2025

6. Waterproofing and Roofing Solutions, Inc., 24STCP03693, (1690885)

7. The Geo Group, Inc., 25WM000023 (1609228)

Action: The Board discussed this matter.

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.)

1635260	AertoTek, Inc.
1671373	Airport Appliance, Inc.
1765555	All Natural Stone Design Inc.
1616302	Antelope Valley Union High School District
1733275	Armtec Defense Products Co.
1547524	Arvato
1575874	Associated Ready Mixed Concrete, Inc.
1677652	Bill Howe Plumbing, Inc.
1690280	Blackwool, Inc.
1748948	Boca Plumbing, Inc.
1661577	Constellation Brands, Inc.
1691662	D A Wood Construction, Inc.
1713566	Davidon Homes
1581950	DFA Dairy Brands, LLC
1699565	Exodus Recovery, Inc.
1753116	Fairfield Suisun Unified School District
1633189	Fresh Harvest, Inc.
1776198	G & S Fresh, Inc.
1603718	G.I. Trucking Company
1761689	Galag Securities, Inc.
1696609	Gold Leaf Landscaping
1648037	Green Valley Labor, Inc.
1756182	Hogies Construction

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
June 4, 2025

1530023	Holland Brothers Construction, Inc.
1532348	Holliday's Helping Hands, Inc.
1747664	Ignacio Medina
1736243	ITI Resource Inc.
1731943	ITT Aerospace Controls LLC
1415096	J.T. Thorpe & Sons, Inc.
1488542	Jackson & Blanc
1782454	JC's Painting & Coating Inc.
1555732	JT2, Inc.
1732679	Los Angeles Times Communication Incorporated
1678454	McCarthy Building Companies, Inc.
1793382	Michael Preaseau, An Individual
1744827	Myers & Sons Construction LLC
1623122	Norstan Communications Incorporated
1712366	Novin Construction, Inc.
1747958	PCN3, Inc.
1728319	Premium Welding Co.
1489177	R & R Framing Inc.
1613092	R & R Framing Inc.
1630271	Satco, Inc.
1754198	Scott Busby Construction, Inc.
1582362	Security Paving Company, Inc.
1759437	Sierra West Construction, Inc.
1669941	Starbucks
1793363	Teichert Energy & Utilities Group, Inc.
1737799	Trinity Personnel, Inc.
1780505	Tutor Perini Corporation and O & G Industries, Inc.
1683535	Universal Protection Service LP
1594773	Vacuum Process Engineering, Inc.
1755565	Walmart Inc.
1655144	Wayne Ting Associates, Inc.
1785478	Wing Inflatables, Inc.
1778164	Zuniga Marble and Granite

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

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 11:40 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 11:41 a.m.