

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on June 18, 2025
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 E. Lucas, Presiding Administrative Law Judge
Howard Chernin, Administrative Law Judge
Kevin Reedy, Administrative Law Judge
Mario Grimm, Administrative Law Judge
Rheeah Yoo Avelar, Administrative Law Judge
Aaron Jackson, Chief Counsel
Vincent Mersich, Staff Counsel
Karen Halbo, Staff Counsel
Scott Pease, Operations Manager
Maria Rios, Legal Analyst
Anne Marie Plascencia, Senior Legal Typist
Beth Reiken, Executive Secretary
Denise Cardoso, Assistant Chief Counsel, DOSH
Ina Fitzgibbon, Office of Director, DIR
John Steve Barnett, Staff Counsel, DOSH
Keith Mackenzie, Staff Counsel, DOSH
Rachel E Brill, Staff Counsel, DOSH
Lisa Brokaw, Staff Counsel, DOSH

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:

Member Marvin Kropke made a motion requesting to attend the July 9th and July 23rd board meetings remotely pursuant to Government Code section 11123.2, subdivision (j)(2)(A).

This motion was seconded by Judith Freyman.

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

Minutes of June 4, 2025, Meeting:

(Approve or amend minutes of previous board meeting.)

Action: The Board voted to approve the minutes for the June 4, 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: 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 reported the informational videos have been translated into Spanish and will be posted on the website in the next few days.

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 shared he met with the staff of the Senate Rules Committee, he's been told it's on the consent calendar for June 26, and thereafter his reappointment goes to the full Senate for approval.

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 shared the Board is ready for staff to return to the office on July 1st. This is staff counsel Vincent Mersich's last week with the Board. Patricia and other Board members extended their appreciation for his service with the Board. Katie Hagen will be leaving the DIR after the first week of July. Adam Romero, the Assistant Director will serve as Director in the interim until her replacement is appointed.

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: In the matter of Angelus Block Co., Inc. (1113026), the Board received a favorable decision from the Superior Court. The Board is responding to the first amended petition in the matter of the Geo Group, Inc. (1609228). The writ matter in Uber Technologies, Inc. (1594663) is stayed pending the outcome of the related appellate court case. The hearing in the Baldi/Arana Residential and Commercial Painting, Inc. (1568252) was continued to June 26th, and either Aaron Jackson or Jeffrey Mojcher will appear. For Waterproofing and Roofing Solutions, Inc. (1690885) the Board's opposition brief will go out this week.

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 comments from a Division staff counsel regarding audio issues during Zoom hearings.

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.)

1626625 Kenyon Plastering of Southern California, Inc.

Action: The Board discussed this matter.

1620468 OWB Packers, LLC

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.)

1728192 Westech Systems, LLC

Action: The Board voted to issue a Denial of the Petition of Reconsideration

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

1759903 Woodmont Real Estate Services LP

Action: The Board voted to grant the Petition for Reconsideration and remand the case to hearing operations.

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

Orders Dismissing Appeal:

1699342 Infinity Structures Inc.

Action: The Board discussed this matter.

1714885 Trenchless Tech, Inc.

Action: The Board discussed this matter.

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 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.

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.

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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.

Action: The Board voted to issue the Decision After Reconsideration

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

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) [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

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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)
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)

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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.)

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| 1768991 | Aircraft Carrier Hornet Foundation |
| 1661275 | All Seasons Roofing & Waterproofing, Inc. |
| 1722913 | Allstate Roofing Specialists, Inc. |
| 1790733 | American Masonry Specialists |
| 1591498 | Ave Sheet Metal and Rain Gutter, Inc. |
| 1799820 | Bengard Ranch, Inc. |
| 1768671 | Big Rig Tires and Alignment, Inc. |
| 1758835 | Blue Mountain Construction Services, Inc. |
| 1712221 | Boston Barricade Company, Inc. |
| 1798893 | California Department of Corrections and Rehabilitation |
| 1525551 | Covanta Long Beach Renewable Energy |
| 1798654 | Danco Builders |
| 1747672 | Davis Wire Corporation |
| 1580815 | Dollar Tree |
| 1798892 | Don Lee Meek |
| 1767488 | Dualatpur Inc |
| 1720308 | Early Morning LLC |
| 1650235 | Eclipse Pro |
| 1780932 | Epic Bros Enterprise, Inc. |
| 1716441 | FedEx Ground Package System, Inc. |
| 1748944 | G.B. Construction, Inc. |
| 1627914 | Goodwill of Silicon Valley |
| 1400299 | GXO Warehouse Company, Inc. |
| 1743523 | Heritage Grocers Group |
| 1597477 | Innovative Construction Solutions |
| 1766790 | JC Painting SSA |
| 1414626 | Jeld-Wen, Inc. |
| 1765808 | Jordan Tree Service, Inc. |
| 1795771 | Kyochon USA Inc |
| 1572646 | L& S Framing, Inc. |
| 1777185 | McClarty Farms, LLC |

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| 1631945 | MCDCC VIII, LP |
| 1556502 | Meyers Constructors, Inc. |
| 1783371 | National Community Renaissance of California |
| 1630497 | Pacific Plastics Injection Molding |
| 1602891 | Pacific Steel Group, Inc. |
| 1692265 | Phillips 66 Pipeline LLC |
| 1788427 | Planasa, LLC |
| 1785012 | Prime AG Labor Source, Inc. |
| 1760702 | PWLC II, Inc. |
| 1766222 | Richard O'Sullivan |
| 1773336 | Rick Slater Construction, Inc. |
| 1748396 | Safeway, Inc. |
| 1652037 | Santa Cruz County Fire Department |
| 1630669 | Save Mart Supermarkets |
| 1776763 | Sebastian Antonio |
| 1792265 | Sepulveda Superb Framing |
| 1776585 | Shasta Services Inc |
| 1781573 | Shasta Services Inc |
| 1634401 | State Foods Supermarket |
| 1767463 | Storage Management Solutions, LLC |
| 1805588 | Sunrun Installation Services, Inc. |
| 1769496 | Thermalito Water and Sewer District |
| 1771481 | Travel + Leisure |
| 1757760 | Turlock Sheet Metal and Welding, Inc. |
| 1586240 | Uber Technologies, Inc. |
| 1680550 | United Foods International (USA), Inc. |
| 1536935 | United Parcel Service, Inc. |
| 1698663 | Van G Trucking Inc. |
| 1569761 | Walmart Inc. Store #2245 |
| 136827 | Walt Oxley Enterprises, Inc. |
| 1673185 | Westco Roofing Company, Inc. |
| 1772693 | Western Industrial Contractors, Inc. |
| 1799309 | Wholesale Solar and Consulting Inc. |

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

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 10:41 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 10:42 a.m.