

**State of California**  
**California Occupational Safety and Health Appeals Board**  
**Minutes of the Public Meeting & Closed Session**  
**Held on February 11, 2026**  
**Sacramento, California**  
**Zoom Platform**

**Present:**

Ed Lowry, Public Member, Chair  
Judith Freyman, Management Member  
Marvin Kropke, Labor Member  
Scott Pease, Executive Officer  
Kerry Lewis, Presiding Administrative Law Judge  
Sam E. Lucas, Presiding Administrative Law Judge  
Christopher Jessup, Administrative Law Judge  
Rheeah Yoo Avelar, Administrative Law Judge  
Aaron Jackson, Chief Counsel  
Jeffrey Mojcher, Chief Counsel Emeritus  
Karen Halbo, Staff Counsel  
Brian Nichols, Staff Counsel  
Maria Rios, Legal Analyst  
Beth Reiken, Executive Secretary  
Denise Cardoso, Assistant Chief Counsel, DOSH  
Rocio Reyes, Assistant Chief Counsel, DOSH  
Javier Castro, Staff Counsel, DOSH  
Katera Rutledge, Staff Counsel, DOSH  
Ina Fitzgibbon, Office of Director, DIR  
Kita Banks, Staff Counsel, Cal Fire  
Kevin D. Bland, Ogletree Deakins  
David Wiseman, Staff Counsel, Cal Fire  
Jordan Uter, Worksafe

**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 January 28, 2026, Meeting:**

(Approve or amend minutes of previous Board meeting.)

Action:           The Board voted to approve the minutes for the January 28, 2026, 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. Discussion of comments received at the Stakeholder's Roundtable.

Action: Ed Lowry advised that once the transcripts from the Stakeholder's Roundtable are received, future discussion will take place regarding public comments from the Stakeholder's Roundtable event. Scott Pease shared he is making formatting corrections to the transcripts and expects to have the transcripts distributed by the end of next week.

**Legislation:**

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

Action: Karen Halbo shared legislation AB 1371 and AB 1424 have expired, and AB 694 is still in committee. The last day to introduce new legislation is on February 20<sup>th</sup>.

**Chairperson's Report:**

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

Action: Ed Lowry and Scott Pease will be meeting with FedOSHA for their first quarter meeting. Ed shared an article he had read about an accident with UBER.

**Board Members' Reports:**

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

Action: Judith Freyman asked if anyone had information on the telework agreements. Marvin Kropke asked about the current lease and proposed renovations on both the Sacramento and West Covina OSHAB offices.

**Executive Officer's Report:**

*(Report regarding administrative matters.)*

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Action: Scott Pease discussed the memorandum distributed by DIR that authorized OSHAB to no longer post the COVID report on their website. The new Senior Legal Typist (SLT), Shaquarrius Calloway, started on 2/2/2026. Scott is waiting on approval from HR on the top candidate for the Attorney III position. The Attorney I position is posted until 2/6/2026. The Supervisor I position is posted until 2/18/2026.

**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 shared that the DIR Director has signed and moved both the Appeal Initiation Regulations and the Pre-hearing and Hearing Regulations rulemaking documents to the Labor Agency. Their review is expected to take 2-4 months.

2. Ligation Update

Action: Aaron Jackson provided the following updates:

The hearing on the Board's demurrer on the Baldi/Arana (1568252) matter has been moved to 2/19/2026. The matter was reassigned to a different department thus the need to reschedule the hearing. In the General Dynamics NASSCO case (1300984), the appellate court will hear oral arguments on March 11<sup>th</sup>. In the Metropolitan News Company (1689021) case, there will be a hearing on the Board's demurrer on 4/9/2026. Employee's motion for sanctions will be heard on the same day. The hearing on the Board's demurrer in the Uber matter (1594663) is on 4/20/2026. The hearing on the Board's demurrer in The Geo Group (1609228) matter will be heard on March 6<sup>th</sup>.

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.)*

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Action: Members of the public expressed appreciation to the Board for hosting the Stakeholder's Roundtable event and are looking for follow-up once the transcripts are completed. Clarifying questions were asked regarding OSHAB's new hiring and legislation updates. DOSH provided their HR hiring updates. Ina Fitzgibbon shared that SB 470 has been extended the sunset date on the Bagley-Keene changes that allow Board members attend meetings on Zoom to January 1, 2030.

**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 of Administrative Law Judges.

**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.)*

- |         |   |
|---------|---|
| 1784640 | Innovation Construction Inc<br>Action: The Board voted to issue a Denial of Petition for Reconsideration.<br>It was moved by Marvin Kropke.<br>It was seconded by Judith Freyman.<br>The vote was 3-0.                  |
| 1625267 | Boulay Construction<br>Action: The Board voted to issue an Order taking the Petition for Reconsideration under submission.<br>It was moved by Marvin Kropke.<br>It was seconded by Judith Freyman.<br>The vote was 3-0. |

**Orders Dismissing Appeal:**

- |         |  |
|---------|--|
| 1108589 | Colbalt Construction Company<br>Action: The Board discussed this matter. |
| 1762036 | Dutch Bros Coffee<br>Action: The Board discussed this matter.            |
| 1377671 | German Machined Products, Inc.   |

Action: The Board discussed this matter.

1755547

Los Cuates Supermercado

Action: The Board discussed this matter.

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

1622740

Esparza Enterprises, Inc.

Action: The Board discussed this matter.

1833982

Signature Concrete LLC

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.

1296297

Alliance Diversified Enterprises, Inc.

Whether Employer committed the violations alleged in the citations, including alleged violations of section 1509, subdivision (b) [failure to adopt code of safe practices]; section 1511, subdivision (b) [failure to survey the worksite]; and (3) section 1541.1 [failure to provide adequate protective system in excavation], and whether the Division established the repeat classification for one of the citations.

1573582

CA Department of Corrections & Rehab

Whether several of the ALJ's findings of fact are supported by the record, and whether those findings support the decision.

1360156

CA Forest and Fire Protection

*Did the Decision of the Administrative Law Judge properly affirm a violation for failure to wear thermal protection for ears and neck during wildland fire fighting.*

1446266

Creative Packaging

*Whether the employer violated hazard energy control regulations as alleged.*

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- 1545777      *Entact, LLC*  
*Did the Decision of the Administrative Law Judge properly affirm violations for failure to ensure that employees operated industrial trucks in a safe manner by maintaining a safe distance from other vehicles, and for failure to ensure that employees traveled with the load trailing when the load being carried obstructed forward view.*
- 1488312      *Indiana Finish Line, Inc.*  
*Whether the cited employer established procedures adequate to protect employees from COVID-19.*
- 1518442      *JT2, Inc.*  
*How should the term “issue” or “issued” as used in Labor Code section 6317, subdivision (e)(1) be interpreted. How should the notice requirements of Labor Code 6319 be interpreted.*
- 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.*
- 1692964      *L & S Framing, Inc.*  
*Whether the penalties were miscalculated.*
- 1469097      *Lowe’s Home Centers, LLC*  
*Whether there was exposure to foot injuries from falling objects, crushing, or penetrating actions. If so, whether the employer required appropriate foot protection.*
- 1529748      *Los Angeles Department of Water & Power*  
*Did the Division cite the correct regulation section when it cited Employer for violating 8 CCR 2940.14, and was it established that under the stipulated facts that Employer violated that section?*
- 1581944      *Marques General Engineering, Inc.*  
*Whether to permit a post-submission amendment of the citation.*  
*Action: The Board discussed this matter.*
- 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.*

- 1719334 One Source Plumbing & Rooter Inc.  
*Whether to grant employer a payment plan for the assessed penalties.*  
Action: The Board voted to issue the Order Granting Payment Plan.  
It was moved by Marvin Kropke.  
It was seconded by Judith Freyman.  
The vote was 3-0.
- 1458699 Primula Mozzarella LLC.  
*Whether the Employer's petition for reconsideration was timely.*
- 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.*
- 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)?*
- 1703764 The Don Chapin Co., Inc.  
*Did the Decision of the Administrative Law Judge properly find that employees were exposed to the hazard of a failure to provide a swinging gate or equivalent protection at the entrance to a ladder opening on a platform.*
- 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. Arana Residential and Commercial Painting, Inc. (1568252)
3. Western Oilfields Supply Company, 24WM000169 (1498595)
4. The Geo Group, Inc., 25WM000023 (1609228)
5. Uber Technologies Inc (1594663)
6. Employbridge Holding Company, 25CHCP00143 (1499137)
7. Sun Belt Rentals, 25CU041526C (1465119)
8. Drill Tech Drilling & Shoring, Inc. N25-1793 (1420923)
9. Metropolitan News Company, 25STCP04455 (1689021)
10. Blue Diamond Growers, 34-2018-80003007 (1040471)
11. Los Angeles Police Department 25STCP05034 (1599318)
12. L & S Framing, Inc. (1692964)

**Appellate Court:**

1. General Dynamics NASSCO (1300984)
2. Waterproofing and Roofing Solutions, Inc. 24STCP03693 (1690885)

**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.)*

1864831	A C Framers Inc.
1743879	Alameda County Fire Dept.- Maintenance Department
1760432	Alliance AG Labor, LLC
1796284	Alpha Structural Inc.
1823660	Arizona Tile, L.L.C.
1821648	Art of Construction Inc.

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1713316	Berkeley Cement, Inc.
1775085	Best Pro Painting, Inc.
1706761	Bluescope Coated Products, LLC
1752482	Brookdale Senior Living Communities, Inc.
1658361	Brookman Protection Services, Inc.
1688702	Café Rio Mexican Grill
1747440	California Waste Services, LLC
1779375	City of Lemoore
1562209	City of Los Angeles- Department of Water & Power
1691883	Dawit Goitom Fessehay
1781477	DJ Trans, Inc.
1782217	East Bay Municipal Utility District- Lafayette
1570852	Eastside Packing, Inc.
1829160	Employbridge, LLC
1824795	Erickson Framing CA LLC
1681120	Evolve Realty & Development
1781297	Federal Express Corporation
1847297	Flatiron Dragados West LLC
1553280	Folliott Construction, Inc,
1670990	Foothill Packing, Inc.
1669933	Foust, Heat, Air & Refrigeration, Inc.
1764661	GBC Concrete and Masonry Construction Inc.
1788469	Genlabs Corporation
1797107	Goodfood WS Inc.
1858162	Graphic Packaging International LLC
1696570	GXO Logistics
1766198	Hasz Construction
1789815	ICR Staffing Services, Inc.
1823546	J&H Drilling Co Inc.
1767869	J.D. Miller Construction, Inc.
1835314	Jones Lang Lasalle Americas, Inc.
1847359	Jose Martinez Tree Service, Inc.
1819215	JR Construction Adviser Inc.
1825982	Kellanova
1749852	Kwan Wo Ironworks Inc.
1826930	Las Montanas Market, Inc.
1727660	Lockheed Martin Corporation
1740324	Madera Framing, Inc.
1833573	Malik Construction Inc.
1744207	Maxim Crane Works, LP
1822944	Meissner Filtration Products, Inc.
1796828	Mercury Plastics Inc.
1742068	Monterey Mushrooms, LLC
1689294	MP Nextlevel of California Inc.
1798649	Omniduct Systems
1766415	Pacific Gas and Electric Company

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1758270	Pacific Western Stone Inc
1821274	Plump Jack Winery Estates, LLP
1778222	Prime Works USA Inc.
1832598	Professional Asbestos & Lead Services, Inc.
1721771	Prowest PCM Inc.
1853584	Reyes Coca-Cola Bottling, LLC
1648159	Security Paving Company, Inc.
1603688	Sinanian Development, Inc.
1581738	South Coast Shingle Company
1790027	Summit Line Construction, Inc.
1795948	Summit Line Construction, Inc.
1715485	TC Transcontinental Packaging Inc.
1518504	Tesla, Inc.
1848673	Tien Enterprise, LLC
1720739	Tight Quarters, Inc.
1620457	United Parcel Service, Inc.
1772555	United Plant Growers, Inc.
1696109	Valley Wide AG Management Inc.
1723991	VCA Animal Hospitals, Inc.
1832177	Vintage Landscape
1793008	Volunteers of America Los Angeles
1791563	Wastexperts, Inc.
1813949	Western Precooling Systems

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

**Personnel:**

*(Issues regarding staff)*

The Closed Session adjourned at 11:28 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 11:29 a.m.