

**State of California**  
**California Occupational Safety and Health Appeals Board**  
**Minutes of the Public Meeting & Closed Session**  
**Held on February 25, 2026**  
**Sacramento, California**  
**Zoom Platform**

**Present:**

Ed Lowry, Public Member, Chairperson  
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  
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  
Ina Fitzgibbon, Office of Director, DIR  
Kita Banks, Staff Counsel, Cal Fire  
David Wiseman, Staff Counsel, Cal Fire  
Matt Smylie, Ford Construction Company, Inc.  
Catherine Baldi  
Mona F.

**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 March 11<sup>th</sup> and March 25<sup>th</sup> 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 February 11, 2026, Meeting:**

(Approve or amend minutes of previous Board meeting.)

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Action: The Board voted to approve the minutes for the February 11, 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: Scott Pease advised that the transcripts from the Stakeholders' Roundtable have been distributed to attendees. He asked if typos or errors are found, to please share with OSHAB so they can be amended.

**Legislation:**

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

Action: Karen Halbo shared that the last day to introduce new legislation was on February 20<sup>th</sup>. Nothing new was presented that would affect OSHAB.

**Chairperson's Report:**

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

Action: Ed Lowry met with the Department of Labor for their first quarter meeting and discussed the fiscal budget, compliance, and OSHAB's update on hiring.

**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: Scott Pease reported that our limited term Attorney III, Brian Nichols, was selected as the full time Attorney III position. Interviews for the Attorney I position will take place in March.

Scott is finalizing the interview packet for the Supervisor I position.

**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 there is no update with her Pre-hearing and Hearing Regulations rulemaking documents that were presented to the Labor Agency. Their review is expected to take 2-4 months, but she will follow up on March 5, 2026, with the Office of Legislative and Regulatory Affairs.

Presiding Administrative Law Judges Sam E. Lucas and Kerry Lewis shared they are working towards hosting a training course for Stakeholders on the Board's appeal process.

Discussion about document remediation of the ALJ's Decisions took place.

2. Ligation Update

Action: Aaron Jackson provided the following updates: The hearing on the Board's demurrer in The Geo Group (1609228) will be heard on 3/6/2026. In General Dynamics NASSCO (1300984), the appellate court will hear oral arguments on 3/10/2026. In Metropolitan News Company (1689021), there will be a hearing on the Board's demurrer on 4/9/2026. Employer's motion for sanctions will be heard on the same day. The hearing on the Board's demurrer in Uber (1594663) is on 4/20/2026.

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 the public regarding DOSH working to hire 3 more Attorneys, and respirators, and

answered clarifying questions on the training courses mentioned by the PALJs. Judge Jessup provided clarification regarding the document accessibility requirements for documents posted to the Board website.

**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.)*

1691867 Trademark Construction Co., 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.)*

1824578 Allied Express Logistics, Inc.  
Action: The Board voted to issue an Order Taking the Petition for Reconsideration Under Submission. It was moved by Marvin Kropke. It was seconded by Judith Freyman. The vote was 3-0.

1628750 Tad Van Nguyen  
Action: The Board discussed this matter.

**Orders Dismissing Appeal:**

1599365 Califoam Products, Inc.  
Action: The Board discussed this matter.

1661252 Top Design Commercial, Inc.  
Action: The Board discussed this matter.

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

1819474 Hormel Foods Operations, 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.)*

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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.
- 1040471 Blue Diamond Growers  
*Whether or not the Unforeseeable Extreme Departure Defense applies to vacate the citations?*
- 1625267 Boulay Construction  
*Whether the ALJ properly granted a motion to amend a citation?*  
  
Action: The Board voted to issue a Decision After Reconsideration It was moved by Marvin Kropke.  
It was seconded by Judith Freyman.  
The vote was 3-0.
- 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.*
- 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*

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*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.*

Action: The Board discussed this matter.

1692964 L & S Framing, Inc.  
*Whether the penalties were miscalculated.*

Action: The Board voted to issue a Decision After Reconsideration  
It was moved by Judith Freyman.  
It was seconded by Marvin Kropke.  
The vote was 3-0.

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 voted to issue a Decision After Reconsideration  
It was moved by Judith Freyman.  
It was seconded by Marvin Kropke.  
The vote was 3-0.

1235941 McCarthy Building Companies, Inc.  
*Whether the Division proved exposure to Valley Fever.*

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- 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.*
- 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:**

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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. Los Angeles Police Department 25STCP05034 (1599318)
11. 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.)*

1859083	8 Net, Inc.
1819721	AADG, Inc
1856160	Above Board Construction & Roofing Inc.
1824033	All State Roofing
1563684	APM Terminals
1826337	Barry Callebaut USA LLC.
1786725	Bilt Rite, Inc.
1837557	California Department of General Services
1832155	Cardinal Builder, Inc.
1616887	Cinnabar California, Inc.

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1762754	Coastal Cooling, LLC
1502478	Davey Tree Surgery Company
1767860	Department of Water and Power of the City of Los Angeles
1838313	Dhanuba Hospitality, Inc.
1717582	Directv, LLC
1716800	Employnet, Inc.
1766276	Erickson Framing CA LLC
1832167	Felix Santos
1685367	Flexivan Leasing LLC
1646816	Fordyce Construction Inc
1822000	GloriAnn Farms, Inc.
1825474	GloriAnn Farms, Inc.
1787008	Hills Flat Lumber Co Inc.
1812799	iLink Business Management, Inc.
1785311	Joe Nicholas
1732273	Jose Sandoval Marble and Granite
1758591	Lamonica's Pizza Dough International, Inc.
1770924	LC Logistics Services
1809402	M&J Pallet Recycling
1706742	Marin Sun Farms, Inc.
1742801	Martinez Refining Company LLC
1750969	Martinez Refining Company LLC
1825089	McMilan Roofing
1851802	MG AG
1756981	Mid Valley Labor Services, Inc.
1776219	Minturn Huller Cooperative, Inc.
1847866	Nazareth House of San Diego
1841568	Next Phase Construction, Inc.
1775246	Nextcrop Inc.
1815819	NP Mechanical, Inc.
1847006	Pacific Biosciences of California, Inc.
1775612	Palm Springs Unified School District
1701753	PCI Industries
1742875	R.J. Noble Company
1808363	R.L. Mays Construction Company Inc.
1788982	Right Now Air Inc
1827838	Roofline, Inc.
1639489	Rosendid Electric, Inc.
1792873	Sable Offshore Corp.
1788811	San Ramon Valley Unified School District
1783075	Santa Cruz Biotechnology Inc.
1742095	Searles Valley Minerals, Inc.
1514256	SG Labor, Inc.
1851251	Southern California Edison
1815490	Southwest Sun Solar Inc.
1789440	Specialty Minerals Inc.

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1716138	Sub-Zero Excavating Incorporated
1507215	Sunnygem, LLC
1818287	Super Center Concepts Inc
1837636	Superior Paving Company, Inc.
1819766	Swierstok Enterprise Inc.
1599151	Taylor Farms California, Inc.
1802026	Top Armor Roofing Inc.
1778992	Tree Pros, Inc.
1807571	TST Inc.
1649887	Vahram Makuchyan
1497097	Vector Resources, Inc.
1838823	West Coast Marine Group, LLC
1759100	Western Precooling Systems
1577675	Whole Foods Market California, Inc.
1811476	Wonderful Orchards LLC

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

**Personnel:**

*(Issues regarding staff)*

The Closed Session adjourned at 11:11 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 11:12 a.m.