

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on July 22, 2026
Sacramento, California
Zoom Platform

Present:

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
Camille Dixon, Staff Counsel
Amy N. Lara, Supervisor
Maria Rios, Legal Analyst
Beth Reiken, Executive Secretary
Denise Cardoso, Assistant Chief Counsel, DOSH
Ina Fitzgibbon, Office of the Director, DIR
David Wiseman, Staff Counsel, Cal Fire
Kevin Bland, Ogletree Deakins
Michelle Henson, Ogletree Deakins
Karin Umfrey, Worksafe
Matt Smylie, Ford Construction Company, Inc.
Mona Fran

Absent:

Ed Lowry, Public Member, Chairperson

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 August 5th and August 19th Board meetings remotely pursuant to Government Code section 11123.2, subdivision (j)(2)(A).
This motion was seconded by Judith Freyman.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 22, 2026

The Board voted to approve the remote attendance request 2-0.

Minutes of July 8, 2026, Meeting:

(Approve or amend minutes of previous Board meeting.)

Action: The Board voted to approve the minutes of the July 8, 2026, meeting.
This was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 2-0.

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 reported that the initial analysis of the Stakeholders Roundtable comments has been distributed to the Board.

Legislation:

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

Action: Karen Halbo reported that a hearing on SB-1046 will be on July 26th, 2026, and a hearing on SB-2321 will be on August 3rd, 2026. Karen took follow-up questions from the Board on SB-1046.

Chairperson's Report:

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

Action: No report.

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 he received 160 applications for the Analyst I position and will start interviews mid-August. A

new Administrative Law Judge (ALJ) will be starting on August 10th at the West Covina office. The Analyst II position has closed, and Scott is waiting on receiving the applications. He is hoping to hold interviews for the Analyst II position in late August-early September.

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 reported that she and Aaron Jackson made revisions and improvements to the Appeals Initiation Regulation rulemaking regulation package documents, including edits to the text, and the revised documents have been resubmitted to Agency Legal for review.

2. Ligation Update

Action: Aaron Jackson provided the following litigation update: On July 17, 2026, the trial court denied Employer's motion for reconsideration and entered a judgment denying Employer's petition for writ of mandate in the matter of Metropolitan News Company (1689021). The Board has filed demurrers to Employers' writs of mandate in Fontenoy Engineering, Inc. (1847651) and MCM Construction, Inc. (1666933) appeals. The Board is working to prepare briefs for the appeals in L&S Framing, Inc. (1692964) and Employbridge Holding Company (1499134) matters. The trial court has ordered the parties to file separate proposed statements of decision in the Drill Tech Drilling & Shoring, Inc. (1420923) matter. The statements of decision are due to be filed on July 27, 2026. Supplemental briefing is due on July 30, 2026, in the of Waterproofing and Roofing Solutions, Inc. (1690885) matter. On August 20, 2026, the Board will appear at a hearing on Employer's writ of mandate in the Los Angeles Police Department (1599318) matter.

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.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 22, 2026

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 witnesses' appearances at Zoom hearings when done via iPhone.

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 may, in their discretion, decide to reconsider the ALJ Decision on their own motion.)

1731627 City of Los Angeles Department of General Services
Action: The Board discussed this matter.

1499128 Sturgeon Electric California, 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.)

1625267 Boulay Construction (DOSH)
Action: The Board voted to issue a Denial of Petition for Reconsideration.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
It was voted 2-0.

1784640 Innovation Construction Inc.
Action: The Board discussed this matter.

1460783 Otis Elevator (DOSH)
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.
It was voted 2-0

Orders Dismissing Appeal:

1779670 Bluewater Marine & Dock Specialists, Inc.
Action: The Board discussed this matter.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 22, 2026

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| 1803018 | Diana's Mexican Food Products, Inc.
Action: The Board discussed this matter. |
| 1714193 | FEI Enterprises Inc.
Action: The Board discussed this matter. |
| 1772096 | M&M Concrete Contractor
Action: The Board discussed this matter. |
| 1818734 | MI Wuk Sugar Pine Fire Department
Action: The Board discussed this matter. |
| 1817764 | Narcizo Martinez, An Individual
Action: The Board discussed this matter. |
| 1764632 | Whittier Union High School District
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.

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| 1296297 | Alliance Diversified Enterprises, Inc.
<i>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.</i> |
| 1637991 | Amirian Management Company dba Popeyes |

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 22, 2026

Action: The Board voted to issue a Decision After Reconsideration as amended.

It was moved by Marvin Kropke.

It was seconded by Judith Freyman.

It was voted 2-0.

- 1625267 Boulay Construction
- 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 Forestry 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.
- 1314977 Empire Equipment Service, Inc.
- 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?
- 1644980 Herman Weissker Power, Inc.
Was the ALJ correct in granting employer's appeal of an alleged violation of electrical safety order section 2943, subdivision (e)?
- 1488312 Indiana Finish Line, Inc.
Whether the cited employer established procedures adequate to protect employees from COVID-19.
- Action: The Board discussed this matter.
- 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.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 22, 2026

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.

- 1692164 L & S Framing, Inc.
- 1642084 Los Angeles County Probation Department
- 1652861 Los Angeles County Probation Department
Did the evidence support the finding that it was appropriate for Employer not to report an incident causing a serious injury where a guard received facial cuts that left him with visible scarring? Did the evidence support the finding that Employer implemented its established IIPP procedures?
- 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?
- 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.
- 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 (15)(B) [safe use of ladders], and whether Employer established its affirmative defense.
- 1460783 Otis Elevator (ER)
- 1547223 Perry C. Thomas Construction, Inc.
Did employer commit a serious violation of section 1541, subdivision (j)(2) [trenching], as alleged?
- 1458699 Primula Mozzarella LLC.
Whether the Employer's petition for reconsideration was timely.
- 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)

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 22, 2026

- 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).
- 1552002 Tesla, Inc.
- 1486176 Tutor Perini Corporation and O&G Industries, Inc.
Whether the Employer committed a serious accident-related violation of section 3328, subdivisions (a).
- 1626309 Universal Dust Collector MFG. & Supply Corp.
- 1660543 West Coast Drywall & Paint
- 1563307 XL Concrete Masonry, LLC

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. Below is a list of active court cases filed against the Board in the Superior Court and Court of Appeal. Pursuant to Government Code section 11126, subdivision (e), the Appeals Board may confer with its Legal Unit for the purposes of receiving legal advice regarding the pending litigation and confer on litigation strategy.)

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. Employbridge Holding Company, 25CHCP00143 (1499137)
5. Sun Belt Rentals, 25CU041526C (1465119)
6. Drill Tech Drilling & Shoring, Inc. N25-1793 (1420923)
7. Metropolitan News Company, 25STCP04455 (1689021)

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 22, 2026

8. Los Angeles Police Department 25STCP05034 (1599318)
9. L & S Framing, Inc. S-CV-0057345 (1692964)
10. L & S Framing, Inc. 26CV011326 (1720076)
11. Fontenoy Engineering, Inc. 26WM000139 (1847651)
12. M.C.M Construction, Inc. 26WM000146 (1666933)

Appellate Court:

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

Other Items:

There are no Other Items.

Orders Of Administrative Law Judges:

(Written orders 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 may, in their discretion, decide if they will reconsider or remand the issued order.)

1843004	A & A Air Conditioning Heating and Sheetmetal
1841861	ASG Scaffolding Inc
1833929	A- Bar AG Enterprises
1843559	AAA Golden Auto, Inc.
1858775	Albertsons LLC
1831331	American Qualified Builders Inc.
1855560	Austin Air
1862262	Big Joe California North, Inc.
1846017	Boulevard Construction
1850080	Brand Globalization Warehouse
1855963	C & L Refrigeration Corporation
1874341	Chuy and Sons Labor Inc.
1728541	Clean Energy Fuels
1773164	Coffman Specialists, Inc.
1856161	Cortz Co.
1834694	Daniel C. Salas Harvesting, Inc.
1850894	Daniel C. Salas Harvesting, Inc.
1834700	Dignity Health
1847653	Divine Hotels LLC
1874604	Dream Arcades
1790958	EI Super Distribution Center
1772226	Emblem Built LLC
1884257	Escondido Union School District

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 22, 2026

1844502	Eurostone Design, Inc.
1828151	Ford Construction Company, Inc.
1825360	Fourest Tree Service, Inc.
1856735	Gita Management LLC
1813180	Holder Pankow Tec A Joint Venture
1828173	Iron Mechanical, Inc.
1846758	Irvine Ranch Water District
1697391	JAJ Roofing
1848669	Jarrett Foundations, Inc.
1841334	John Michael Designs, LLC
1840619	Joshua Holt
1872986	Kevin Kasich
1858764	La Colonial Tortilla Products Inc.
1797883	La Strada Pipeline, Inc.
1835783	Lazy Dog Family Restaurant Inc.
1858574	Lefty Production Co., LLC
1791953	Lifestyle Solar, Inc.
1863148	Manuel Lopez Body & Frame LLC
1839980	Martnez Professional Movers Inc
1821463	Martinez Refining Company LLC
1861605	Merit Aluminum Inc.
1852593	Metro Trailer
1822313	New Cal Metals, Inc
1731679	Nexsentio
1867772	Northern California Chair Corporation
1645543	O'Bryan Electric Inc.
1462382	Overhill Farms, Inc.
1752748	Pacific Farm Management, Inc.
1534561	Perdue Farms, Inc.
1831036	Performance Abatement Services, Inc.
1814897	Pocino Foods Company
1841843	Prime Converting Corporation
1681872	QC Poultry
1842948	Quality Labor Service, Inc
1848666	Quality Labor Service, Inc.
1796075	Raley's Production Bakery
1591044	Recycled Base Materials, Inc.
1823998	San Francisco Fire Department
1850641	Santa Cruz County Sheriff's Office
1623730	Security Paving Company, Inc.
1744461	Sharcar Enterprises, Inc.
1749212	Shea Properties Management Co.
1820756	SMA Builders, Inc.
1869449	Sodexo America LLC
1881283	Spork Food Hub
1771794	Stan Koch & Son's Trucking, Inc.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 22, 2026

1864131	Takhmans Ornamental Design Inc
1526992	Tesla, Inc.
1624636	Tesoro Refining & Marketing Company, LLC
1860899	The Cabaret
1631045	The Vons Companies, Inc.
1853991	Thomas Construction Group, In.
1825364	Tov Builders
1838298	United Veterinary Care CA, Inc.

Action: The Board has reviewed the Settlement Orders issued by the ALJs.

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 10:40 a.m. and the Board returned to the Public Meeting. The Appeals Board incorporated, by reference, its actions taken in the Closed Session as indicated above. The Board meeting was adjourned at 10:41 a.m.