

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, September 30, 2009
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: September 17, 2009

RE: Closed Session of the Board to be held on September 30, 2009

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

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.)

1. AC LUMBER, 06-R1D2-4111 THROUGH 4118
2. BAY CITIES TIN SHOP, INC. DBA BAY CITIES METAL PRODUCTS, 09-R4D1-0882
3. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
4. EZ-MIX, INC., 08-R4D3-1897 AND 1898
5. McEACHRON CONSTRUCTION & DESIGN, 09-R6D2-1308
6. POLISHING TECHNOLOGIES, INC. DBA OC METAL POLISHING, 09-R3D1-1423 THROUGH 1425
7. S A FRAMERS, INC., 09-R3D2-0262 AND 0263

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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.)

1. AAA ROOFING BY GENE, INC., 09-R3D3-2687 AND 2688
2. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068 AND 1069
3. AHERN RENTALS, INC., 08-R1D4-3031 AND 3032
4. ALCAL/ARCADE CONTRACTING, INC., 09-R4D3-1141
5. ALDENTE, INC. DBA NELLO CUCINA, 09-R3D1-1731
6. AMADOR STAGE LINES, INC., 08-R2D1-3489
7. AMERICAN PROMOTIONAL EVENTS, INC. WEST DBA TNT FIREWORKS, 08-R2D5-0718 AND 0719
8. BELK FARMS, 08-R3D3-3744
9. BROWNSTONE LOFTS, LLC., 08-R4D1-5117 THROUGH 5120
10. BSK ASSOCIATES, 08-R2D5-3006
11. BURNS CONSTRUCTION, INC., 09-R4D5-2436 THROUGH 2438
12. CA GENERAL SERVICES DEPARTMENT, 08-R2D5-2857 AND 2858
13. CARLOS ON THE RIDGE, 08-R2D3-0696 AND 0697 and 09-R2D3-1752
14. CENTER GLASS CO. NO. II, INC., 09-R3D1-0042 AND 0043
15. CENTRAL CALIFORNIA ALMOND GROWERS ASSOCIATION, 09-R2D5-0402 AND 0403
16. CERTIFIED METAL PRODUCTS, INC., 09-R3D1-1842 AND 1843
17. COLOR GLOW AUTOMOTIVE PAINTING, INC., 09-R6D5-0996 THROUGH 0998
18. CORONA MILLWORKS CO. – BLDG.-3, 08-R3D3-4128 AND 4129

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19. CSI ELECTRICAL CONTRACTORS, INC., 09-R4D3-0496 AND 0497
20. CUNNINGHAM DOORS & WINDOWS, INC., 09-R3D1-1902 THROUGH 1904
21. CV ICE COMPANY, INC., 09-R3D3-2731 AND 2732
22. CVS PHARMACY GARFIELD BEACH, LLC, 09-R3D1-0571
23. DANNY LETNER, INC. DBA LETNER ROOFING CO., 09-R4D1-1610
24. JULIO DEL TORO DBA CUSTOM BODY SHOP, 09-R6D5-0652 THROUGH 0654
25. JOHN DeVINCENZO, 09-R4D3-0515 THROUGH 0517
26. DOUG OHLAND HARVESTING, 08-R2D5-1317 AND 1318
27. E. C. GOMEZ FARMS, 08-R2D5-3287 AND 3288
28. EL COMPA JESUS BODY SHOP, 09-R6D5-0702
29. ENCORE MODEL HOME FURNITURE SALES, 08-R2D1-1829
30. ESPARZA ENTERPRISES, INC., 09-R3D3-1205
31. FALCON PROTECTIVE SVCS., INC., 08-R3D5-3958
32. G & C EVENT PRODUCTION, 09-R3D6-2514
33. ROSA MARIA GARCIA DBA GARCIA'S MARKET, 08-R2D4-1722 AND 1723
34. GENERAL MILLS, 08-R2D4-3192 AND 3193
35. GEORGE C. HOPKINS CONSTRUCTION CO., INC., 09-R4D3-1244 THROUGH 1246
36. GONSALVES & SANTUCCI, INC. DBA CONCO, 08-R1D2-3340 AND 3341
37. GREEN VALLEY TRANSPORTATION CORPORATION, 08-R2D4-3949
38. GREGG DRILLING & TESTING, INC., 09-R3D5-2733
39. HARRIS FREEMAN & COMPANY, LP, 09-R3D1-2869 THROUGH 2871
40. IDEAL RADIATOR COMPANY, 08-R4D4-3907 AND 3908

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41. INWESCO, INC., 09-R6D2-2104 THROUGH 2110
42. J & J PLASTERING, INC., 08-R6D5-4442 AND 4443
43. J.A. FARM LABOR, INC., 09-R2D5-2364
44. JOE'S AUTO BODY AND PAINT, 09-R6D5-0832
45. JOHNS MANVILLE, 09-R4D2-2142 THROUGH 2144
46. K & N ENGINEERING, INC., 08-R3D3-4624
47. K & N ENGINEERING, INC., 09-R3D3-1203 AND 1204
48. KING YOUNG DEVELOPMENT, INC. DBA KING YOUNG CONSTRUCTION,
08-R4D4-4821 THROUGH 4824
49. L & N TRANSPORT, INC., 08-R3D3-4956 AND 4957
50. LA FIESTA RESTAURANT, 09-R6D5-0703
51. LEFIELL MANUFACTURING COMPANY, 08-R4D4-3542 AND 3543
52. LEHMAN'S MFG. CO., INC., 08-R2D5-2193
53. LEISO, INC. DBA APEX RENTALS, 09-R3D3-1751
54. LOUIS S. LOPEZ, INC., 08-R4D4-2955 AND 2956
55. MAINAS FARMS, LLC., 09-R3D2-1517
56. MANCHA DEVELOPMENT CO., 09-R3D3-2221
57. MDDR, INC. DBA ECONO AIR, 08-R6D5-4869
58. MERIDIAN STEEL ERECTORS, 09-R4D3-0204
59. MIXED NUTS, INC., 09-R6D2-1420 THROUGH 1422
60. MONTAUK ENERGY CAPITOL DBA GSF ENERGY, 09-R6D4-0917 AND 0918
61. MORNINGSTAR FOODS, LLC., 08-R2D4-1494
62. NATIONAL BEEF CALIFORNIA, LP [NATIONAL BEEF PACKING COMPANY,
LLC], 09-R3D2-0447 THROUGH 0449

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63. NEW ALBERTSONS, INC., 09-R3D1-2405
64. OFFICE DEPOT, INC., 09-R3D1-1718
65. PACIFIC COAST BUILDERS, 09-R3D1-2964
66. PACIFIC PRODUCTION PLUMBING, 09-R3D1-0601
67. PARKER-HANNIFIN CORPORATION, RACOR DIVISION, 08-R2D4-2508
68. PINNACLE FASHION, INC., 08-R3D5-3836 THROUGH 3838
69. PLASMA TECHNOLOGY, INC., 09-R3D5-1640
70. PLASTIFAB, 08-R4D4-5057
71. PROAM ENTERPRISE, INC., DBA CLOVER ELECTRONICS USA, 09-R3D5-2027
72. Q-STAR TECHNOLOGY, LLC., 09-R3D5-1721
73. RAIN FOR RENT, 09-R4D3-0418 AND 0419
74. SAFEWAY SELF STORAGE CO., INC., 09-R4D1-2004 AND 2005
75. SAN FRANCISCO ZOOLOGICAL SOCIETY, 08-R1D1-3819
76. SELECT STAFFING, 08-R2D5-1724
77. BEN F. SMITH, 09-R4D3-1070
78. SOCAL FRAMING, INC., 09-R3D2-2427
79. RIGOBERTO SOLORIO, 08-R6D3-3810
80. SOUTHERN CALIFORNIA EDISON, 09-R3D3-1234
81. SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, 09-R3D1-2501
82. STAR B RANCH [formerly GALPIN MOTORS, INC. DBA STAR B RANCH], 08-R3D2-4894 THROUGH 4896
83. STREMICKS HERITAGE FOODS, LLC DBA HERITAGE FOODS, 09-R6D2-2663 THROUGH 2667
84. STURGEON CONSTRUCTION COMPANY, 09-R6D5-1650

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85. SUNVIEW COLD STORAGE, 09-R6D4-0086 AND 0087
86. SURVEYORS GROUP, INC., 08-R2D1-1828
87. THREE HANDS CORP., 09-R4D3-1012
88. TRAYLOR-SHEA, A JOINT VENTURE, 09-R5D1-1934
89. UGO, 09-R4D1-0819 AND 0820
90. URETHANE PRODUCTS, CORP., 08-R4D4-4829 THROUGH 4831
91. VALLEY CENTER-PAUMA USD, 09-R3D2-1811
92. DANIEL VELORIA DBA VELORIA FARM LABOR CONTRACTING, 09-R4D3-2101 AND 2103
93. CYNDEY VUE, 08-R2D5-3144 AND 09-R2D5-2904
94. WALMART STORES, INC. #2009, 09-R4D1-0912
95. WINE GROUP LLC (THE) DBA GOLDEN STATE VINTNERS, 09-R6D4-0085
96. YANACO WATER WORKS PARK, 08-R2D3-3191
97. YNT HARVESTING, 08-R2D5-2856
98. ZAC PALLETS, INC., 08-R6D5-4345 AND 4346
99. WINE GROUP LLC (THE) DBA GOLDEN STATE VINTNERS, 09-R6D4-0085

ORDERS DISMISSING APPEALS:

1. DAVIS WIRE CORP. DBA VIKING WIRE, LLC, 08-R3D3-4088 THROUGH 4090
2. ER CONSTRUCTION, 08-R2D1-0033
3. HIGHRISE BUILDERS, INC., 08-R4D3-2628 THROUGH 2636
4. LAID OUT KUSTOMZ, 09-R4D4-9229
5. THE VCI, 08-R6D5-1939 THROUGH 1941

ORDER DENYING LATE APPEAL:

1. SHAMROCK STRUCTURES, INC., 09-R1D1-9158

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ORDER DENYING LEAVE TO FILE LATE APPEAL:

1. COX STEEL BUILDERS, 09-R2D5-9219

ORDER TO SHOW CAUSE WHY SANCTIONS SHOULD NOT BE IMPOSED:

1. THE PEPBOYS – MANNY, MOE AND JACK OF CALIFORNIA, 09-R3D1-1732

STIPULATIONS:

1. ANC ROOFING, INC., 06-R1D5-3058
2. ANC ROOFING, INC., 07-R1D5-0550 AND 0551
3. WAWONA FROZEN FOODS, 07-R2D4-1536 AND 1537

PETITIONS FOR RECONSIDERATION:

1. JOHN LEWIS LOPEZ, 08-R2D3-0694
2. MISSION HILLS CONSTRUCTION CO., 07-R3D2-9302
3. WEBCOR CONSTRUCTION, LP DBA WEBCOR BUILDERS, 08-R1D2-2499 AND 2500

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. STATE OF CALIFORNIA, DEPT. OF CORRECTIONS AND REHABILITATION, FOLSOM STATE PRISON, 07-R2D1-4631 THROUGH 4634

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. A & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. ABACHERLI DAIRY, 08-R3D3-5028
4. ABLE SERVICES, 08-R4D1-4397 AND
5. AC FRAMERS INC., 03-R2D3-3475
6. AC TRANSIT, 08-R1D4-0135

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7. AMERICAN REMEDIAL TECHNOLOGIES, 08-R4D2-3154 THROUGH 3156
8. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
9. ARBORICULTURAL SPECIALTIES INC., DBA PROFESSIONAL TREE CARE
CO., 08-R1D4-0799
10. ANNING-JOHNSON COMPANY, 06-R1D3-1976
11. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
12. BART, 03-R1D1-5170
13. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
14. BIMBO BAKERIES USA, 05-R6D2-0856 AND 0857
15. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
16. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
17. BURTON L. SILVA FARMS, 09-R1D2-1498
18. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
19. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
20. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
21. CALIFORNIA FRESH FARMS, 06-R2D4-4127
22. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
23. CENTRAL VALLEY CONCRETE, INC., 07-R2D4-1375 THROUGH 1378
24. CITY OF POWAY, DEPARTMENT OF PUBLIC WORKS, 09-R3D2-2165 AND
2166
25. CLINE CELLARS, INCL., 08-R1D5-2946
26. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
27. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693

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28. COLES CARBIDE CORPORATION, 08-R4D3-2012 THROUGH 2014
29. CORE GENERAL CONTRACTOR DBA CORE BUILDERS, 08-R1D2-1379
30. CVS PHARMACY GARFIELD BEACH, LLC, 09-R3D1-0571
31. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
32. D'QUALITY SERVICE, INC., 08-R4D4-3454
33. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
34. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
35. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
36. JOHN DeVINCENZO, 09-R4D3-0515 THROUGH 0517
37. DESIGN BUILDERS, INC., 08-R4D4-1901
38. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
39. DUKE PACIFIC, INC., 08-R3D3-574
40. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
41. DUININCK BROS., INC., 06-R4D3-2871
42. DYNALECTRIC, 03-R1D1-4101
43. E C U, INC., 09-R3D5-1094 AND 1095
44. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
45. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
46. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
47. FORTUNA IRON WORKS 06-R2D3-4222
48. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
49. G.T. ALDERMAN, INC., 05-R4D3-3513
50. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784

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51. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
52. GLASS PAK, 03-R2D2-750 AND 751
53. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
54. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
55. H. WAYNE LEWIS, INC., DBA AMBER STEEL CO., 09-R3D3-2016 AND 2017
56. HB PARKCO, 07-R4D2-1730 AND 1731
57. HELPMATES STAFFING SERVICES, 05-R3D3-2239
58. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
59. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
60. HERITAGE OPERATING, LP DBA PRO-FLAME, 09-R3D3-1067
61. THE HERRICK CORP., 07-R3D1-495
62. HUSSMAN CORPORATION, 03-R3D1-2939
63. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
64. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
65. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
66. J & W WALKER FARMS, 09-R2D1-1949
67. JC PAPER, 08-R1D4-1823 AND 1824
68. JENSEN PRECAST, 05-R2D1-2377
69. JOHN LAING HOMES, 04-R3D1-194 AND 195
70. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
71. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
72. KELLY SERVICES, INC., 06-R1D2-1024
73. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
74. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014

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75. LARSON STEEL, INC., 08-RID4-4334 AND 4335
76. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
77. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
78. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
79. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
80. MILLENIUM GENERATION, INC., 08-R4D3-5047
81. MITCHELL ENVIRONMENTAL CONCRETE, 09-R4D5-0147
82. MIXED NUTS, INC., 09-R6D2-1420 THROUGH 1422
83. NEW CREATION BUILDERS, 09-R3D1-1460
84. NUTRAMED, INC., 08-R3D3-4546 AND 4547
85. O & M INDUSTRIES, 04-R1D5-1597
86. PMR RACE CARS, 03-R3D3-1825
87. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
88. PRIME STEEL, INC., 09-R3D6-1523
89. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
90. R & L BROSAMER, INC., 03-R1D5-4832
91. RR DONELLEY, INC., 09-R3D3-2201
92. REAL EQUITY DEVELOPMENT, INC., 07-R2D4-4129 AND 4130
93. SAMTECH AUTOMOTIVE USA, INC. DBA SAMTECH INT'L, INC., 09-R6D2-0688 THROUGH 0692
94. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
95. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
96. SHANKARA IND. DBA RUSS'S AUTO BODY & REPAIR, 09-R6D5-2135

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97. SOUTHWEST TRADERS, INC., 08-R2D4-0710 THROUGH 0712
98. STACY & WITBECK, INC., 05-R1D1-1142
99. STAR B RANCH [formerly GALPIN MORORS, INC. DBA STAR B RANCH], 08-R3D2-4894 THROUGH 4896
100. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
101. STREMICKS HERITAGE FOODS, LLC DBA HERITAGE FOODS, 09-R6D2-2663 THROUGH 2667
102. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
103. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
104. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
105. TEICHERT AGGREGATES, 04-R5D1-2982
106. TRADER DAN'S DBA ROOMS N. COVERS, ETC., 08-R6D2-4978 THROUGH 4980
107. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
108. UNITED PARCEL SERVICE, 07-R3D3-3322
109. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
110. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
111. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

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. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)

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2. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
3. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
4. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
5. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
6. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
7. SOUTHERN CALIFORNIA EDISON COMPANY, BS 119297, LOS ANGELES SUPERIOR COURT (08-9062)
8. UNITED AIRLINES (SFO), 07CS00331
9. UNITED AIRLINES (SFO), 34-2009-80000256
10. XL CONSTRUCTION, SUPERIOR COURT (34-2009-80000300), 08-R1D2-1191 THROUGH 1193
11. MENDOTA UNIFIED SCHOOL DISTRICT, 08-CECG04324 (07-3572)

APPELLATE COURT:

1. MURRAY COMPANY, BS112469
2. HARRIS CONSTRUCTION COMPANY, INC. 07CS00518 (02-3914)
3. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., G042132

PERSONNEL:

(Issues regarding staff.)

Any matter not completed at this Closed Session may be continued to subsequent meetings.