

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, April 15, 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: April 3, 2009

RE: Closed Session of the Board on April 15, 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. AB & I FOUNDRY, 08-R1D4-0380
2. FRANKLIN ACQUISITIONS DBA FIBERNETICS MOLDED PRODUCTS, 07-R6D2-1465 THROUGH 1469
3. FRANKLIN ACQUISITIONS DBA FIBERNETICS MOLDED PRODUCTS, 07-R6D2-1470 THROUGH 1474
4. MELMAT, INC., 07-R3D1-0733 AND 0734
5. SPARKO ELECTRIC, INC., 08-R4D1-1350 AND 1351
6. WEBCOR CONSTRUCTION, LP DBA WEBCOR BUILDERS, 07-R1D1-5150

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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. A & R PALLETS, INC., 09-R6D2-0091 THROUGH 0094
2. ADAMS IRON CO., INC., 08-R4D2-4594
3. AJM PACKAGING CORPORATION, 09-R3D2-0602 THROUGH 0604
4. ALCASTCO, INC., 08-R4D3-2686 AND 2687
5. ALNA ENVELOPE, 09-R6D2-0148 THROUGH 0155
6. AMERICAN REPROGRAPHICS CORP. DBA BLAIR GRAPHICS, 08-R6D2-4411 AND 4412
7. AMERICAN WRECKING, INC., 08-R4D4-1230 AND 1231
8. ARAMARK, 09-R3D1-0534
9. ASPLUNDH TREE EXPERT CO., 08-R4D3-1424
10. ATSS, INC DBA ALL TILE & STONE SERVICE, 08-R6D5-3974 AND 3975
11. BELLANAVE CORPORATION, 08-R6D2-3323 AND 3324
12. BERKELEY UNIFIED SCHOOL DISTRICT, 08-R1D4-0532
13. CAL-WEST NURSERIES, INC., DBA CAL-WEST LANDSCAPE, 08-R6D5-3730
14. CLOUGHERTY PACKING, LLC DBA FARMER JOHN, 09-R6D4-0156 THROUGH 0158
15. COASTAL PACIFIC FOOD DISTRIBUTION, INC., 09-R3D3-0677
16. KEN COOPER DBA KEN COOPER ROOFING & GUTTER SYSTEMS, 08-R1D5-1708
17. D 2 J APPAREL, 08-R6D2-3659 THROUGH 3665
18. EL AGUILA BAKERY CORP., 08-R6D2-4835 THROUGH 4837
19. EL CERRITO, CITY OF, RECYCLING CENTER, 07-R2D2-3239 AND 3240

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20. EZ CUTTING & FUSING, INC., 08-R6D2-4233 THROUGH 4237
21. FARB'S BAKERY, INC., 08-R6D2-4648
22. GOLDEN GATE CONSTRUCTION, 08-R6D5-3726 THROUGH 3729
23. NICK GONZALEZ FARM LABOR SERVICES, 08-R6D2-3456 AND 3457
24. GTO PACKAGING, INC., 08-R6D5-3066 AND 3067
25. HART BROS. ELECTRIC, 08-R3D5-0063 THROUGH 0065
26. J & J PROCESSING, INC., 08-R6D2-4495 THROUGH 4499
27. JASMINE VINEYARDS, INC., 08-R6D4-0185
28. JEMA CONSTRUCTION, INC., 08-R4D1-4793 AND 4794
29. KC INVESTMENT ENTERPRISES, INC. DBA LA CASA DEL PUEBLO, 08-R6D2-0057 THROUGH 0059
30. LANGETWINS, INC. 08-R2D4-1717
31. LAUSD SAN FERNANDO MIDDLE SCHOOL, 08-R4D3-2426
32. LAYMON CANDY COMPANY, INC., 08-R6D2-4642 THROUGH 4647
33. H. LIMA CO., 08-R5D2-2896
34. LIRIO MARBLE & GRANITE, INC. DBA LIRIO MARBLE & GRANITE, 08-R6D2-3776 AND 3777
35. LLOYD PEST CONTROL, 08-R3D2-3049 THROUGH 3051
36. LOMBARDO DIAMOND CORE DRILLING COMPANY, INC., 08-R1D2-1949 AND 1950
37. MEADWESTVACO CORPORATION, 08-R6D2-4976 AND 4977
38. MEZA PALLETS, INC., 08-R6D2-2492 THROUGH 2496
39. NATIONAL RV, INC., 06-R3D3-4770 THROUGH 4772
40. NATIONAL WIRE AND CABLE CORP., 08-R6D2-4413 THROUGH 4419

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41. NOBLE PRIDE ROOFING, 08-R1D2-0658 AND 4674
42. NORLAINE, INC. DBA PATINA-V, 08-R6D2-1649 THROUGH 1661
43. OLDCASTLE PRECAST, INC. DBA CHRISTY CONCRETE PRODUCTS, 05-R1D4-4235
44. ORMAT HEBER 1, 08-R6D4-4238
45. DR. OSBORNE CO., INC., 08-R6D4-4861 THROUGH 4865
46. PACIFIC WEST COMMUNICATIONS, INC., 08-R4D3-1356 AND 1357
47. PALISADE BUILDERS, INC., 08-R1D1-0956 THROUGH 0958
48. PALOMAS TORTILLAS DBA LAS POLAMAS TORTILLAS, 08-R6D2-4639 THROUGH 4641
49. PEEWEE'S PAINT & BODY, 07-R2D5-2588
50. PENTIMENTO CONSTRUCTION, 08-R3D5-1988 THROUGH 1993
51. PEP WEST, INC. DBA PENTAIR ELECTRONIC PACKAGING, 08-R3D2-5178 AND 5180
52. PROGRESS AG SERVICES, INC., 08-R6D2-3237 AND 3238
53. RADONICH CORP. DBA CAL COAST TELECOM, 08-R1D2-1479
54. RAVLICH ENTERPRISE DBA NEUTRONICS STAMPING & PLATING, 08-R6D2-2919 THROUGH 2922
55. RIBEIRO DAIRY FARM, 06-R2D5-5161
56. ROBERTO'S CONCRETE, INC., 08-R3D2-3898
57. ROBERTSON'S TRANSPORT, LTD., 08-R5D2-3010
58. JAVIER RODRIGUEZ FARM LABOR CONTRACTORS, INC., 08-R4D3-4376 AND 4377
59. ROXANNE CAFÉ, 09-R6D5-0651
60. SCRIPPS MERCY HOSPITAL, 08-R3D2-3007
61. SCURRAH'S ROOFING, 08-R3D5-2143 AND 2144

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62. SISTERS OF ST. JOSEPH OF ORANGE DBA SANTA ROSA MEMORIAL HOSPITAL, 08-R1D5-1299
63. STANDARD SOUTHERN CORP. DBA LOS ANGELES COLD STORAGE, 08-R6D4-4093
64. STANDARD SOUTHERN CORP. DBA LOS ANGELES COLD STORAGE, 08-R6D4-4094 THROUGH 4096
65. STANDARD SOUTHERN CORP. DBA LOS ANGELES COLD STORAGE, 08-R6D4-4097 AND 4098
66. STANLEY & SONS, 05-R3D3-4626 AND 4627
67. STRAND ART COMPANY, INC., 08-R6D2-2832 THROUGH 2840
68. SUNWOOD DOORS, INC., 08-R6D2-2342 THROUGH 2345
69. TEBCON CONSTRUCTION, INC., 08-R6D5-2901
70. TRADER DAN'S DBA ROOMS N' COVERS, ETC., 08-R6D2-4978 THROUGH 4980
71. TRI STATE STAFFING, 09-R6D2-0302 THROUGH 0305
72. UNCLE LEE'S TEA, INC., 08-R6D2-4966 AND 4967
73. UNIFIED GROCERS, INC., 08-R6D2-3458 THROUGH 3460
74. UNITED PARCEL SERVICE, INC., 08-R4D2-3737
75. WENTE VINEYARDS, 08-R1D4-0016
76. WINDSOR MANOR REHABILITATION CENTER OF CONCORD, 08-R2D2-0969
77. YAFFE CONSTRUCTION, INC., 08-R4D3-2767 THROUGH 2770

ORDERS DISMISSING APPEALS:

1. ALBERTO ARMENTA, 07-R3D1-1282 THROUGH 1284
2. ASH CONSTRUCTION, 07-R1D2-3637 AND 3638
3. BODHAINE DISCING & GRADING, 07-R1D4-5024

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4. COASTAL TREE SERVICE OF PAUL BUNYAN TREE COMPANY, 07-R1D2-1896 AND 1897
5. FAJARDO'S MEXICAN RESTAURANT & BAR, 08-R6D5-2816 AND 2817
6. MGM CONTRACTING, INC., 06-R3D1-5066

STIPULATIONS

1. HOT DESERT KNIGHTS, 08-R6D2-244 AND 245

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has 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.)

1. BHANDAL BROS. TRUCKING, INC., 09-R6D1-9060
2. CENTRAL VALLEY CONCRETE, INC., 07-R2D4-1375 THROUGH 1378
3. HILTON LOS ANGELES AIRPORT, 07-R4D1-4722 AND 4723
4. NAHID YOUSSEF ZALILEA DBA STAR CAR WASH, 08-R6D5-9468

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS)

1. JERLANE, INC. DBA COMMERCIAL BOX AND PALLET, 08-R3D2-1733
2. PCC LOGISTICS, 09-R1D4-9059

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. AC FRAMERS INC., 03-R2D3-3475
3. AMERICAN REMEDIAL TECHNOLOGIES, 08-R4D2-3154 THROUGH 3156
4. AMISH COUNTY GAZEBOS, INC., 08-R6D2-227
5. ASC PROFILES, INC., 06-R2D1-1181

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6. ANNING-JOHNSON COMPANY, 06-R1D3-1976
7. BART, 03-R1D1-5170
8. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
9. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
10. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
11. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
12. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
13. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
14. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96
15. CALIFORNIA FRESH FARMS, 06-R2D4-4127
16. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
17. COLES CARBIDE CORPORATION, 08-R4D3-2012 THROUGH 2014
18. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
19. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
20. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
21. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
22. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
23. DUKE PACIFIC, INC., 08-R3D3-574
24. DYNALECTRIC, 03-R1D1-4101
25. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
26. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
27. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
28. FORTUNA IRON WORKS 06-R2D3-4222

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29. G.T. ALDERMAN, INC., 05-R4D3-3513
30. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
31. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
32. GLASS PAK, 03-R2D2-750 AND 751
33. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
34. HELPMATES STAFFING SERVICES, 05-R3D3-2239
35. THE HERRICK CORP., 07-R3D1-495
36. HUSSMAN CORPORATION, 03-R3D1-2939
37. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
38. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
39. JENSEN PRECAST, 05-R2D1-2377
40. JOHN LAING HOMES, 04-R3D1-194 AND 195
41. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
42. KELLY SERVICES, INC., 06-R1D2-1024
43. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
44. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
45. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
46. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
47. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
48. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552
THROUGH 1554
49. O & M INDUSTRIES, 04-R1D5-1597
50. PMR RACE CARS, 03-R3D3-1825

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51. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
52. R & L BROSAMER, INC., 03-R1D5-4832
53. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
54. STACY & WITBECK, INC., 05-R1D1-1142
55. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688
THROUGH 1692
56. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
57. A. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT
AGGREGATES, 04-R5D2-850 AND 851
58. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650
AND 2651
56. A. TEICHERT AGGREGATES, 04-R5D1-2982
57. TRIO METAL, 03-R4D4-317
58. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
59. UNITED AIRLINES DBA UNITED AIRLINES SFO SYC, 00-R1D3-2844
60. UNITED PARCEL SERVICE, 07-R3D3-3322
61. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
62. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

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. J.F. SHEA CONSTRUCTION, INC. (DOSH v OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)
4. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
5. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
6. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
7. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (06-2759)
8. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)
9. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)
10. MENDOTA UNIFIED SCHOOL DISTRICT, 08-CE CG 04 324 (07-3572)
11. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
12. INTERNATIONAL TRANSPORTATION SERVICE (07-3824)
13. UNITED AIRLINES, 07CS00331 (00-2844)
14. SOUTHERN CALIFORNIA EDISON COMPANY v CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD, BS 119297, LOS ANGELES SUPERIOR COURT (08-9062)
15. KFM AND DIVISION OF OCCUPATIONAL SAFETY AND HEALTH v OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD, RG 09442652 (06-2452)

APPELLATE COURT:

1. MURRAY COMPANY, BS112469
2. HARRIS CONSTRUCTION COMPANY, INC. 07CS00518 (02-3914)

PERSONNEL (Issues regarding staff.)

NONE.

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