

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, April 29, 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 17, 2009

RE: Closed Session of the Board on April 29, 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. ALMANOR MANUFACTURING, INC., 07-R2D3-0146 THROUGH 0148
2. SPRINGFIELD MATTRESS CO. dba ROYALTONIC MATTRESS, 08-R4D2-4217 THROUGH 4222
3. TURBO MECHANICAL, INC., 04-R2D5-2344 AND 06-R2D5-1065
4. THE UNDERWORLD OPERA COMPANY, dba OAKLAND OPERA THEATER, 08-R1D4-1198 AND 1199

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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. ADMIRAL TRANSPORTATION, 01-R4D2-4588 THROUGH 4592
2. ALL STATES ENVELOPES, INC., 08-R6D2-4849 THROUGH 4851
3. AMERICAN APPAREL, INC., 08-R4D1-4798 THROUGH 4801
4. AMI METALS, INC., 08-R3D3-1876
5. AUTO KLEEN CAR WASH, 08-R6D5-2974
6. AZTEC HARVESTING, INC., 08-R6D5-3328 THROUGH 3332
7. AZTEC HARVESTING, INC., 08-R6D5-3333 THROUGH 3335
8. BAGEL FACTORY, INC., 08-R6D2-4716 AND 4717
9. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 08-R4D4-2420 AND 2421
10. CALIFORNIA DROP FORGE, INC., 08-R4D1-4796 AND 4797
11. CALIFORNIA DROP FORGE, INC., 09-R4D1-0779
12. RAMON CAMPOS, FLC, 08-R6D5-4242
13. CHARLESTON INTL., INC., 08-R3D5-1881 AND 1882
14. OLIVER DE SILVA dba GALLAGHER & BURKE, INC., 08-R1D4-1491 AND 1492
15. DKS STEEL DOOR & FRAME SYSTEM, INC., 08-R6D2-4832 THROUGH 4834
16. EAST SIDE UNION HIGH SCHOOL DISTRICT, 08-R1D2-1478
17. EXACT STAFF, INC., 08-R4D1-4181
18. FAMILY L PLASTERING, 08-R4D1-4802 AND 4803
19. FOOD MAXX, 07-R1D4-4618 THROUGH 4621
20. FRESH & EASY NEIGHBORHOOD MARKET, INC., 08-R3D5-3959

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21. GARDA CL WEST, INC., 09-R4D1-0540 AND 0541
22. REZIA GHOLAMREZA, 08-R4D5-2870 AND 2871
23. GOGO SPORTS, INC., 07-R1D1-2146 THROUGH 2148
24. GOLDEN GATE TANK REMOVAL, INC., 08-R1D4-800
25. GOLDEN STATE TOOL & DIE, 08-R6D2-3227 THROUGH 3230
26. GONSALVES & SANTUCCI, INC dba CONCO PUMPING, INC., 08-R4D1-3527
27. GREKA OIL & GAS dba GREKA, 08-R4D2-4804 AND 4805
28. NORMAN HARMON dba N.W. HARMON CONCRETE, 08-R1D5-1301
29. HD SUPPLY dba HD SUPPLY REPAIR & REMODEL, 08-R2D1-0384 AND 0385
30. HI-SHEAR CORPORATION dba THE MONADNOCK COMPANY, 09-R6D2-0427 THROUGH 0430
31. JAMBA JUICE, 07-R2D5-1155 THROUGH 1159
32. LA MANO TORTILLERIA, INC., 08-R6D2-4718 THROUGH 4721
33. LIME LITE COACH, INC., 08-R1D2-1378
34. LOS ANGELES COMMUNITY COLLEGE DISTRICT, 08-R4D2-4965
35. LUCKY POON, INC., 08-R6D5-3640
36. M & R WOOD PRODUCTS, INC., 08-R3D3-2090 AND 2091
37. MAINAS FARMS, LLC., 08-R6D5-3250 THROUGH 3252
38. MASONRY SERVICES, INC., 08-R1D3-4082 AND 4083
39. MCA LOGISTICS, 08-R4D4-2017
40. MENGALI CONSTRUCTION CORPORATION, 08-R1D5-1298
41. DAVID MICHAEL DEVELOPMENT, LLC., 08-R4D2-4806 THROUGH 4810
42. MONDO LIRA, INC., 08-R6D5-3464 AND 3465
43. NEW AMERICA, INC. dba FOUR STAR PAINTING, 08-R4D1-4625 THROUGH

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44. CHARLES PANKOW BUILDERS, LTD., 09-R1D4-0097
45. PANKOW SPECIAL PROJECTS, INC., 08-R1D1-1821
46. PRESS FORGE CO., 08-R4D4-2115
47. R & L CONTRACTING, 08-R4D2-5039 AND 5040
48. RANCHO PARAISO, LP, 09-R1D2-0374 AND 0375
49. RENAISSANCE CONSTRUCTION COMPANY, 08-R4D3-1009
50. J. REZAI CONSTRUCTION, INC., 08-R4D3-1012 AND 1013
51. ROCHA NUEZ ABDOH CONSTRUCTION, INC., 08-R4D1-4900
52. ROSENDIN ELECTRIC, INC., 08-R1D1-0355 AND 0356
53. SAQ PALLETS REPAIR, INC., 08-R6D2-2346 THROUGH 2352
54. SDJJ 454 PROPERTIES, LLC, 08-R4D1-4901
55. SEYMOURS LANDSCAPE, 08-R6D2-4060 THROUGH 4064
56. SIGNATURE FLEXIBLE PACKAGING, INC., 08-R4D2-5034 THROUGH 5038
57. SUN PACIFIC SHIPPERS, 08-R6D4-4859 AND 4860
58. SUPERSHUTTLE LOS ANGELES, INC., 07-R3D5-4420 AND 4421
59. SWISSPORT USA, INC., 08-R4D1-4588 THROUGH 4590
60. UCI CONSTRUCTION, 08-R4D3-2112 THROUGH 2114
61. VH ENTERPRISES dba V.H. ENTERPRISES, INC., 07-R1D2-2873 THROUGH 2879
62. PETER WAGNER dba WAGNER CONSTRUCTION, 08-R3D3-2314 AND 2315
63. WALDEN STRUCTURES CONSTRUCTION, 08-R3D3-3105 AND 3106
64. WEBCOR CONSTRUCTION, INC. dba WEBCOR BUILDERS, 07-R1D1-3905
65. WESTSIDE CAPITAL, LLC dba TLC CAR WASH, 08-R6D5-3754

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66. WHITMOR PLASTIC WIRE & CABLE CORP. dba WHITMOR/WIRENETICS,
08-R6D2-3912 AND 3913 and 08-R6D2-4603 AND 4604

67. YOON FASHION, 08-R6D5-2973

ORDER DISMISSING APPEAL:

1. VICTOR MANUEL GODINEZ, 07-R6D5-5251 THROUGH 5253

ORDER DENYING LEAVE TO FILE LATE APPEAL:

1. J & W CONSTRUCTION SPECIALTIES, 09-R4D4-9091

STIPULATIONS:

1. HOT DESERT KNIGHTS, 08-R6D2-244 AND 245
2. KIEWIT/FCI/MANSON (KFM), A JOINT VENTURE, 06-R1D4-2452 AND 2453
3. MOUNTAIN CASCADE, INC., 05-R5D1-2012
4. PACIFIC COAST PRODUCERS, INC., 07-R2D3-0641
5. RUIZ FOODS, 06-R2D5-2582
6. STRATFORD GROWERS, INC., 07-R2D5-0952
7. WEST COAST INFRASTRUCTURE, INC., 05-R2D5-3504 AND 3595

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. GOLDEN WEST INDUSTRIES, INC., 08-R6D2-244 AND 245
4. HILTON LOS ANGELES AIRPORT, 07-R4D1-4722 AND 4723
5. MICHELS CORPORATION dba MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274

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6. DAVID STOUPAKIS dba DEVORE TRUCK AND AUTO WRECKING, 07-R3D3-5185 AND 5186

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
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

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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
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. HB PARKCO, 07-R4D2-1730 AND 1731
35. HELPMATES STAFFING SERVICES, 05-R3D3-2239
36. THE HERRICK CORP., 07-R3D1-495
37. HUSSMAN CORPORATION, 03-R3D1-2939
38. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
39. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
40. JENSEN PRECAST, 05-R2D1-2377
41. JOHN LAING HOMES, 04-R3D1-194 AND 195
42. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968

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43. KELLY SERVICES, INC., 06-R1D2-1024
44. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
45. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
46. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
47. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
48. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
49. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552 THROUGH 1554
50. O & M INDUSTRIES, 04-R1D5-1597
51. PMR RACE CARS, 03-R3D3-1825
52. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
53. R & L BROSAMER, INC., 03-R1D5-4832
54. REAL PARTY DEVELOPMENT, INC., 07-R2D4-4129 AND 4130
55. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
56. STACY & WITBECK, INC., 05-R1D1-1142
57. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688 THROUGH 1692
58. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
59. A. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
60. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
56. A. TEICHERT AGGREGATES, 04-R5D1-2982
57. TRADER DAN'S DBA ROOMS N. COVERS, ETC., 08-R6D2-4978 THROUGH 4980

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58. TRIO METAL, 03-R4D4-317
59. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
60. UNITED AIRLINES DBA UNITED AIRLINES SFO SYC, 00-R1D3-2844
61. UNITED PARCEL SERVICE, 07-R3D3-3322
62. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
63. 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)
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)

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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.*)

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