

**State of California**  
**California Occupational Safety and Health Appeals Board**  
**Closed Session Agenda**

**Government Code § 11126 (a), (c)(3), (e) and (f)**  
**for**

**Wednesday, July 10, 2024**

**9:30 a.m.**

**Sacramento, California**

**Alternate locations:**

**West Covina, California**

**&**

**Held on Zoom**

**To: Members of the California Occupational Safety & Health Appeal Board**

**From: J. Jeffrey Mojcher, Chief Counsel**

**Date: June 28, 2024**

**RE: Closed Session of the Board to be held on July 10, 2024**

**Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) 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.)*

There are no Decisions submitted for review.

**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.)*

1631420	Bobby Gilbert
1704404	Clete Security Services, Esq.
1499137	Employbridge Holding Company
1417264	Mendez Electric, Inc.
1351361	Priority Workforce, Inc.
1498595	Western Oilfields Supply Company

**Orders Dismissing Appeal:**

- |         |  |
|---------|--|
| 1576200 | Ittella International, LLC                 |
| 1496780 | Norman Industrial Materials, Inc.          |
| 1693812 | Tuong Du                                   |
| 1682182 | United Parcel Service                      |
| 1367994 | Warren Lee Dba Value Plus Global, Valueplu |

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

- |         |                            |
|---------|----------------------------|
| 1704784 | Alstom Transportation Inc. |
| 1681321 | Contractors Wardrobe, Inc. |
| 1614954 | Labor Pro, Inc.            |

**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 the authority provided in Labor Code sections 6620 through 6623.18.

- |         |  |
|---------|--|
| 1431672 | A. Teichert & Son, LLC<br><i>Whether the cited employer was in violation of lockout/tagout requirements.</i>   |
| 1473644 | Amazon.com Services, LLC<br><i>Whether the employer's training program was in compliance with the applicable safety order.</i>   |
| 1398352 | Anheuser-Busch, LLC<br><i>Whether the evidence supports the holding that employer violated lockout/tagout requirements.</i>  |
| 1568252 | Arana Residential and Commercial Painting, Inc.<br><i>Whether the Division violated Employer's due process rights in conducting the inspection leading to issuing citations.</i> |

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- 1399613 BMC West, LLC  
*Whether the Division produced evidence proving the violation, and whether the AJL correctly determined the credibility of a witness.*
- 1466722 Bragg Investment Company, Inc.  
*Whether the Employer violated the crane operating safety order as alleged while repositioning a crane at a construction site.*
- 1420923 Drill Tech Drilling & Shoring, Inc.  
*Whether the Employer failed to enforce its IIPP as required. Whether the Employer violated the lockout/tagout requirements of section 3314 as alleged.*
- 1609228 Geo Group, Inc. dba Golden State Annex (3<sup>RD</sup> PTY PFR)  
*Whether the motion for third party status was properly denied.*
- 1233597 Hampton Tedder Electric (DOSH)  
*Whether the ALJ correctly decided that the Employer violated three high voltage safety orders.*
- 1488312 Indiana Finish Line, Inc.  
*Whether the cited employer established procedures adequate to protect employees from COVID-19.*
- 1436480 Interline Brands, Inc.  
*Whether the employer violated foot protection standards.*
- 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.*
- 1486257 Kroger Company  
*Whether the cited employer adequately trained employees regarding workplace hazards.*
- 1415736 Los Angeles County Probation Dept.  
*Whether the ALJ erred in reclassifying one citation from serious to general.*
- 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.*

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- 1465119 Sun Belt Rentals  
*Whether certain information accepted into evidence was inadmissible hearsay, and whether the evidence supports a finding that Employer violated sections 3203 and 3328, as alleged.*
- 1475491 Sutter Bay Medical Foundation  
*Whether the employer failed to comply with COVID protections as alleged.*
- 1486176 Tutor Perini Corporation and O&G Industries, Inc.  
*Whether Employer committed a serious accident-related violation of section 3328, subdivision (a).*
- 1594663 Uber Technologies, Inc.  
*How Proposition 22 interacts with the Board's statutes and operative regulations.*

**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:**

1. United Parcel Service, Inc. dba UPS, 34-2019-80003174 (1116529)
2. Davis Development Company, 34-2020-80003373 (1226084)
3. Hill Crane Service Inc., 34-2021-80003744 (1135350)
4. USA Waste of California, Inc., 34-2022-80003841 (1384029)
5. General Dynamics NASSCO, 37-2023-00024521 (1300984)
6. S.C. Anderson, Inc., 24WM000039 (1405107)
7. Angelus Block Co., Inc., CIVSB2417796 (1113026)

**Appellate Court:**

There are no cases currently filed with the Appellate Court.

**Other Items:**

1. Discuss title 8, California Code of Regulations section 348, the Board's present regulation which adds five days to the time in which something must be done to account for mailing time.
2. Categorizing the Board's DARs and Denials on the DIR website.
3. Superior Court cases that also involve or relate to appeals pending before the Board.

Lyft, Inc., 30-2023-01368387-CU-MC-CXC (1594664)

Uber Technologies, Inc., 30-2023-01330884-CU-JR-CXC (1594663)

**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 decide if they will reconsider or remand the issued order.)*

1647406	3wire LLC
1605253	Advantex Of California, LLC
1725749	Albertson's Companies Inc
1639608	American Auto Works, LLC
1717911	Bakersfield Renewable Fuels, LLC
1685665	Brown-Pacific, Inc.
1703677	Carmelo Barajas-Ceja
1463623	CBRE, Inc.
1568199	Circle Graphics, Inc.
1670196	Cirks Construction Inc.
1638535	Coit and Hewes, LLC
1683202	Comfort Zone Heating and Air
1676309	Consolidated Electrical Distributors, Inc.
1670685	Contractors Wardrobe, Inc.
1709928	Corona - College Heights Orange And Lemon
1515777	County Of Los Angeles, Public Works
1721596	CTS Fabrication USA, Inc.
1713985	Cupertino Electric, Inc
1522997	David Hernandez
1540059	Davis Stone Incorporated
1705217	Diamond Foods, LLC
1614682	Diversity Hospitality Services
1608442	Double Lucky, Inc.
1557844	Dry Creek Vineyard, Inc.

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1721058	Eaglelift, Inc.
1698502	Ee Hall, Inc.
1653956	Elected Personnel, LLC
1445812	Energy Star Lighting Electric, Inc.
1677551	Ensign Santa Rosa, LLC
1685238	European Automotive Collision Center
1742741	Feather River Recreation & Park District
1685862	Gama Contracting Services, Inc.
1677995	Gary Foster
1718428	Geovest Corporation
1675164	Girard's Fine Foods Inc.
1514240	Gonsalves & Santucci, Inc.
1633374	Hansen Steel Services LLC
1570162	Harper Construction Company, Inc.
1710873	Harrison Drywall Inc
1700385	Hermosa Apparel, Inc.
1644460	Hyatt Corporation
1675287	Hyatt Corporation
1455045	Image Cabinet And Stone, Inc.
1682330	J&H Diversified, Inc.
1726847	Jerry's Pallets Inc.
1733048	Jett Harvest, Inc.
1567459	Kaiser Foundation Hospitals
1673094	Kal Fume Inc
1716954	Kruppa Enterprises, LLC
1567579	La Tortilla Factory, Inc.
1674632	La Tortilla Factory, Inc.
1736215	Lathrop Woodworks
1568455	LMR Wine Estates LLC
1472632	Los Angeles Department of Water And Power
1508489	Lyons Magnus, LLC
1738489	M A Steiner Construction Inc.
1547493	M.A. Medina Farm Labor Services, Inc.
1695012	Manuel De Jesus Medina
1543823	Medina Enterprises, Inc.
1699113	Mid Valley Recycling LLC
1640067	Milicic Farming LLC
1613145	MSE Landscape Professionals, Inc.
1664688	MSI Structural Steel, LLC
1519299	Ontrac, Inc.
1688333	Pacific Bell Telephone Company

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1524556	Pactiv, LLC
1529839	Palomar Health
1724830	Port Of Oakland
1641078	Premium Wood Stakes, Inc.
1581607	Production Framing, Inc.
1636755	Richard Won Kim, An Individual
1623017	Robertson's Ready Mix Ltd, A California Limited
1577814	Royal Paper Box
1642714	Sahara Construction Co., Inc.
1733257	Samuel Macias, An Individual
1744704	Shannon Ranches, Inc.
1653321	Sierra At Tahoe, LLC
1694863	Sierra Pacific Industries
1720736	Sierra Pacific Industries
1723883	Sierra Pacific Industries
1732627	Sierra Roofing and Solar, Inc.
1748233	Skyline Tree Enterprise, Inc.
1718127	Soch Management, LLC.
1552839	Southwest Airlines
1576672	SSA Group, LLC
1660049	Stanford University
1720573	Sunrise Senior Living Services, Inc.
1557491	Super Center Concepts, Inc.
1651492	Super Michelada Corporation
1487971	Sutter Valley Hospitals DbA Sutter Solano Medical
1714169	T-Mobile Us, Inc
1604378	Tashcon Corporation
1451479	The G.B. Group, Inc.
1707789	The Habit Restaurants, LLC
1510739	The Original Mowbray's Tree Service, Inc.
1715268	The Posh Bakery, Inc.
1628696	The RV Pros, Inc.
1610523	Thrifty Payless, Inc.
1667876	Trims Buttons & Dye, Inc.
1692236	UL Construction, Inc.
1552404	United Staffing Associates, LLC
1645149	Wal-Mart Associates Inc.
1690038	Walmart, Inc.
1525433	Watt Electric Corp.
1679876	Wawona Frozen Foods
1642546	West Coast Gasket Co.

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1504467 Westrock Cp, LLC.  
1692199 Workman Communications LLC

**Personnel:**

*(Issues regarding staff.)*

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.