

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, August 29, 2012
10 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: August 17, 2012

RE: Closed Session of the Board to be held on August 29, 2012

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.)

1. C AND L BLUE INC., 11-R4D1-2942 AND 11-R4D1-2943 THROUGH 2945
2. CLARK PACIFIC PRECAST, LLC., DONALD G. CLARK CORP. & ROBERT E. CLARK CORP. DBA CLARK PACIFIC, 09-R2D1-0282 AND 0283
3. COMBS CONSTRUCTION, 11-R2D3-2194 AND 2195
4. IN THE POCKET, INC., DBA BRENTWOOD BOWL, 11-R1D3-2272

DECISION AFTER REMAND:

1. CITY OF LOS ANGELES; HOUSING AUTHORITY (HACLA), 05-R4D2-2541

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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. ACCOR NORTH AMERICA CORP DBA MOTEL 6, 11-R2D1-1152
2. ACE ROOFING SUPPLIES, INC., 12-R1D1-0107 THROUGH 0111
3. ADVANCED ENTERPRISES, INC. DBA ALL CLEAR WINDOW CLEANING, 11-R1D1-1097 THROUGH 1099
4. AERODYNE PRECISION MACHINING INC., 11-R3D1-2531 AND 2532
5. AL INDUSTRIES INC., 11-R3D1-2970 THROUGH 2972
6. ALL SEASONS ROOF COATINGS, 12-R2D3-1562 AND 1563
7. AMERICAN COOLING, INC., 11-R6D3-0465 AND 0466
8. ANCON MARINE SERVICE, 11-R2D4-1504 AND 1505
9. KATHLEEN BAN, DDS DBA PARK SARATOGA DENTAL, 12-R1D2-0112 THROUGH 0114
10. BARCELO ENTERPRISES, 11-R6D1-1321 THROUGH 1323
11. BAY FLEET SUPPLY, INC., 12-R6D7-0035 AND 0036
12. CHARLES BOURASSA DBA A.B. AIR CONDITIONING & HEATING, 12-R6D7-0840
13. BRS ROOFING INC., 12-R3D3-1835
14. BRW CONCRETE INC, 10-R2D1-3526 AND 3527
15. CA CORRECTIONS & REHAB HIGH DESERT STATE PRISON, 10-R2D1-4010 THROUGH 4012
16. CA DEPT. OF CORRECTIONS & REHABILITATION, 12-R4D3-0454
17. CAMPBELL SOUP SUPPLY CO., LLC., 10-R2D1-2066 AND 2067
18. CAPISTRANO UNIFIED SCHOOL DISTRICT, 12-R3D1-1494

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19. CHICO SCRAP METAL INC., 11-R2D3-2027 AND 2028
20. CITY OF BENECIA DBA CITY OF BENICIA WATER TREATMENT PLANT,
10-R6D3-3796 THROUGH 3800
21. RONALD CLARK & THOMAS CLARK DBA CLARKLIND FARMS,
10-R2D5-3477
22. CONSTELLATION ENERGY PAC - ULTRAPOWER CHINESE STN,
11-R6D3-3265
23. CURT MANUFACTURING, INC., 12-R6D7-0935 AND 0936
24. DAL PINO QUALITY POOLS INC., 12-R6D7-1056
25. DAVIS CONSTRUCTION PLUMBING, INC., 12-R4D1-0140
26. DEL SECCO DIAMOND CORE & SAW INC., 10-R1D2-3349
27. DURALUM PRODUCTS INC., 12-R3D3-1452 AND 1453
28. EAST BAY MACHINE & HYDRAULICS, INC., 11-R2D1-1410
29. E.E. HALL, INC., 12-R2D4-1385
30. ROBERT EISHOOIE, 11-R6D7-3333
31. ESAU CONCRETE INC., 11-R2D3-2403
32. FARHAN INC. DBA CALIFORNIA TIRE & WHEELS, 11-R6D7-3281
THROUGH 3283
33. FORTUNE FOODS COMPANY, LLC, 12-R6D7-0874
34. FUTURE PLASTERING, INC., 11-R2D1-1733
35. GENOA FARMS, 11-R2D1-2455
36. GOLDEN BROTHERS FLC, 11-R6D7-2837
37. GOLDEN STATE BULB GROWERS, 12-R1D2-0419
38. GO NATIVE, INC., 11-R1D3-3021 THROUGH 3023
39. HALL MANAGEMENT CORP., 12-R2D4-0982

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40. HAYWARD BAKER, 12-R4D3-0968
41. HEALTH DEVICES CORP. DBA DOC JOHNSON ENTERPRISES, 11-R4D3-3242
AND 12-R4D3-0249
42. HERGUTH LABORATORIES, INC., 11-R2D2-2052
43. HOMESTEAD PASTA CO., 12-R6D7-0195
44. HP COMMUNICATIONS INC, 11-R2D1-2703
45. JA FARM LABOR, INC., 11-R6D7-2650 AND 2651
46. JAYCO GROUP INC., 12-R2D3-1591
47. J.F. SHEA CONSTRUCTION, INC, DBA AGGREGATE PRODUCTS,
11-R2D1-0348
48. JMB CONSTRUCTION, INC., 09-R1D5-3301 THROUGH 3304
49. AMARJIT KANDOLA & BIKRAM KANDOLA DBA KANDOLA B,
12-R2D4-0264 AND 0265
50. RIZWAN KANWAL DBA THE CHEESE STEAK RESTAURANT, 12-R6D7-0906
51. KHS & S OF CONCORD, INC., 09-R2D1-3254
52. KNUTH HING CO., INC., 11-R2D1-1151
53. ARIS LAMBIRIS DBA A&M WHEELS TIRE SERVICE, 11-R6D7-1139
54. KANG Y LEE DDS, 10-R2D1-3474 THROUGH 3476
55. LESCURE COMPANY, INC., 12-R1D2-0346
56. LIBERTY UNION HIGH SCHOOL DISTRICT, 11-R2D2-0525
57. LOS ANGELITOS BAKERY, 11-R6D2-3059
58. LUPIN LODGE, 11-R1D2-0536 THROUGH 0539
59. LUPIN LODGE, 11-R1D2-1365
60. MACY'S INC., 11-R1D1-0247
61. PHIL MAKIN DBA NORTH BAY PAINTING & WOOD PRESERVING,

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10-R1D5-0066

62. MANJIT MANN DBA MANN RANCH, 11-R6D7-2589
63. MANPOWER, 11-R1D2-0433
64. MERRITT CONSTRUCTION INC., 11-R6D7-2648
65. MICHAELS/JAY DEE/COLUCCIO JOINT VENTURE, 12-R5D1-0175
66. MIDWAY MUFFLER AND BRAKE, 11-R2D2-2318
67. MODERN AIR MECHANICAL, 12-R2D5-1420
68. MONTEREY MUSHROOMS, INC., 11-R1D2-1488
69. MOUNTANOS BROTHERS COFFEE COMPANY, 12-R6D7-0837
THROUGH 0839
70. MPM BUILDING SERVICES, INC., 12-R4D1-0094
71. NEMATZADEH ENTERPRISES DBA JACK IN THE BOX, 12-R4D1-0143
72. NOR-CAL SCAFFOLDING, INC., 11-R1D1-2019
73. PA-SONS INC., 11-R2D3-2029
74. PEPSICO DBA PEPSI BEVERAGES COMPANY, 12-R1D2-0345
75. PHILLIPS 66 COMPANY, 11-R6D3-2478 THROUGH 2481
76. POLYCELL INTERNATIONAL CORPORATION, 12-R3D6-1121
THROUGH 1126
77. PRESIDENTIAL ROOFING, INC., 11-R1D3-2605 AND 2606
78. PROPARK AMERICA WEST, LLC., 12-R1D4-1558
79. RICHARD N. PUKATCH, 11-R1D4-3164
80. ZAHIR QUDDUS DBA ZAHIR'S, 10-R6D7-4099
81. REPUBLIC BAG INC., 12-R3D3-1265
82. RUDOLPH AND SLETTEN, 12-R1D3-0974

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83. SACRAMENTO FLOORMASTERS, INC., 12-R6D7-1055
84. MANAS & CRUZ SAGHDEJIAN DBA CMC FARMS, 11-R6D7-1808
85. SALINAS FARM LABOR CONTRACTOR, INC., 11-R6D7-2044
86. SALINAS FARM LABOR CONTRACTOR, INC., 11-R6D7-2814
THROUGH 2816
87. SALINAS TOYOTA SCION HYUNDAI, 11-R1D2-1403 THROUGH 1405
88. SAM'S CLUB, 12-R4D1-0015
89. RONALD R SAMUELSON DBA SAMUELSON FARMS, 11-R6D7-2649
90. SAN FRANCISCO WINDOW/DOOR COMPANY INC., 12-R6D7-0145
91. SANTA FE AGGREGATES, INC., 11-R5D1-2909
92. SANTIAGO J. RENTERIA FLC INC., 11-R6D7-1967 AND 1968
93. SF PUBLIC UTILITIES COMMISSION – WASTE WATER ENTERPRISE,
12-R1D1-0258
94. SIERRA PACIFIC INDUSTRIES, 11-R2D1-1731
95. SIERRA PACIFIC RECYCLING, INC., 11-R1D3-1974 THROUGH 1975
96. SIMPLOT GROWER SOLUTIONS BRITZ SIMPLOT GROWER SOLUTIONS
LLC, 12-R6D4-0510
97. LOKPREET SINGH DBA SMOG MASTER, 12-R6D7-0072
98. SKY PARK HEALTH CARE, INC. DBA ACACIA PARK NURSING,
12-R6D1-0243
99. SOCAL PACIFIC CONST. CORP. DBA NATIONAL COATING AND LINING
CO., 12-R1D2-0356 AND 12-R1D2-2294
100. SOUTHLAND/TUTOR PERINI JV, 11-R5D1-1516
101. SOUTHLAND/TUTOR PERINI JV, 11-R5D1-2074
102. SOUTHLAND/TUTOR PERINI JV, 11-R5D1-2446
103. SOUTHLAND/TUTOR PERINI JV, 12-R5D1-0458

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104. SOUTHLAND/TUTOR PERINI JV, 12-R5D1-0617
105. SOUTHLAND/TUTOR PERINI JV, 12-R5D1-1135
106. SOUTHWEST AIRLINES, 11-R1D3-1872
107. SPA LALE INC., 11-R2D1-2500
108. SPECTRUM CARE LANDSCAPE & IRRIGATION MANAGEMENT,
12-R3D1-0484
109. SUBURBAN PROPANE LP, 11-R1D5-3207 AND 3208
110. SUPER SQUIRREL NUT, INC., 10-R2D1-1984 AND 1985
111. SYGMA NETWORK, INC., 11-R4D3-3123
112. TANNER MASONRY, 11-R2D1-1500 THROUGH 1502
113. TEICHERT CONSTRUCTION, 11-R2D1-0047
114. TESTORFF CONSTRUCTION, INC., 12-R1D2-0344
115. THE HOME DEPOT, 11-R2D4-2736
116. THE PRODUCE COMPANY, INC., 12-R6D7-0037 AND 0038
117. TIGER LINES, 11-R2D3-0413
118. TRINET CONSTRUCTION, 12-R5D1-0583
119. UNIVERSITY OF CALIFORNIA, DAVIS, 11-R2D1-1193
120. UNIVERSITY OF CALIFORNIA, MERCED, 11-R2D4-3081 AND 3082
121. USS-POSCO INDUSTRIES, LLC, 11-R2D2-1734
122. VAN ACKER CONSTRUCTION ASSOCIATES, INC., 11-R1D5-0007 AND 0008
123. VAN GRONINGEN & SONS, INC., 11-R6D7-2792
124. AKASH DIRK VON RUEBEN DBA NEW DIMENSION, 11-R1D5-2958
125. WESTECH INDUSTRIES INC., 08-R2D3-2717
126. WOODSMITH ARCHITECTURAL CASEWORK & MILLWORK DBA

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WOODSMITHS, 10-R2D1-2968 AND 2969

127. YIP HOLDINGS, INC., DBA YIP HOLDINGS THREE, 11-R2D1-1046
THROUGH 1048

128. YOUNGRIM KIM, DDS DBA CITY DENTAL, 12-R1D2-0148 THROUGH 0151

129. YUBA RIVER MOULDING AND MILLWORK, INC., 10-R2D3-2890
AND 2891

ORDERS DISMISSING APPEALS:

1. CYCLE GEAR, INC., 10-R1D4-4061
2. SATCO CONSTRUCTION, INC., 11-R1D4-1521 THROUGH 1523

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. GOD BLESS TIRE SHOP, INC., 11-R6D7-0972 & 0973
2. McDINIS RESTAURANT CORPORATION, 12-R6D5-9092
3. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3793
AND 3794
4. NCA ENTERTAINMENT, INC. dba GREG'S RIDES, 11-R3D2-2740
5. NCA ENTERTAINMENT, INC. dba GREG'S RIDES, 11-R3D2-2774

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. PRESTON PIPELINES, INC., 09-R6D7-3345
2. SHIRO SHIOZAWA DBA SHIRO'S AUTO BODY, 12-R6D7-9086

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.)

1. A-1 PROTECTIVE SERVICES, INC., 10-R1D1-1592

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2. ALLIED SALES & DISTRIBUTION, INC., 11-R6D2-0480
3. AC TRANSIT, 08-R1D4-0135
4. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
5. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
6. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
7. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
8. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241
9. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445 AND 3448
10. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
11. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
12. CENTRAL VALLEY ENGINEERING & ASPHALT, INC. 08-R2D1 5001 AND 5002
13. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
14. COMMERCIAL METAL FORMING, 09-R3D1-1592
15. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
16. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
17. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
18. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
19. DENIO'S ROSEVILLE FARMERS MARKET & AUCTION INC. 11-R2D1-2431
20. DISTRIBUTION CENTER MANAGEMENT GROUP (DCMG), 11-R3D3-2896
21. DUKE PACIFIC, INC., 08-R3D3-574
22. ECO BAY SERVICES, INC., 10-R1D1-1233 THROUGH 1236

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23. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
24. EZ MIX, INC., 08-R4D3-1898
25. FORTUNA IRON WORKS 06-R2D3-4222
26. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
27. HOME DEPOT, 10-R3D6-3284
28. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
29. IRWIN INDUSTRIES, 08-R6D4-1454
30. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
31. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
32. LION RAISINS, INC., 08-R2D5-2253 AND 2254
33. MARINE TERMINALS, 08-R6D2-1920
34. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
35. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
36. ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667
37. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
38. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
39. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE
CONTRACTING, INC., 08-R2D1-0025 AND 0026
40. POUK & STEINLE, INC., 09-R3D3-0491
41. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
42. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
43. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-3128 THROUGH 3131
44. SDCCD – CONTINUING EDUCATION N C CENTER, 11-R3D2-1196

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45. SDUSD – PATRICK HENRY HIGH SCHOOL, 11-R3D2-1296 AND 1297
46. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
47. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
48. SMUD, 08-R2D1-4887 THROUGH 4889
49. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR,
08-R2D1-3414 THROUGH 3418
50. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
51. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
52. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
53. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION,
05-R2D4-2650 AND 2651
54. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 09-R4D5-0459
AND 0460

LEGISLATION:

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. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
2. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
3. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
4. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
5. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
6. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047

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7. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
8. SMUD, 34-2010-80000723 (08-R2D1-4887)
9. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
10. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
11. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965
(10-0188~0191)
12. GUILLAUME GRAPEVINE NURSERY, INC., 34-2011-800001010
(08-R2D1-3273)
13. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459
THROUGH 2461)
14. FLATIRON CONSTRUCTION CORP, 34-2012-800001029 (10-R4D1-2789)
15. HOLLANDER HOME FASHION, BS-135444 (10-R4D2-3704)
16. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039
(07-R2D3-0275)
17. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
18. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
19. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
20. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
21. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)

COURT OF APPEAL:

1. JERLANE, INC., D060844 (2007-00056381) (01-4344 and 4345)

PERSONNEL: *(Issues regarding staff.)*

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