

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**CLOSED SESSION AGENDA**  
**Government Code § 11126 (a), (c)(3), and (e)**  
**for**  
**Thursday, August 5, 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: July 23, 2009**

**RE: Closed Session of the Board to be held on August 5, 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.

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**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. BERBERIAN DESIGN & CABINETS, INC. DBA BERBERIAN KITCHENS & BATHS, 09-R4D2-0048 THROUGH 0052
2. MARINE TERMINALS CORP. DBA EVERGREEN TERMINALS, 08-R6D2-1920
3. PINE CONE LUMBER COMPANY, INC., 08-R1D2-1124 THROUGH 1126
4. WBB CONSTRUCTION, 08-R1D1-2996

**ORDERS OF ADMINISTRATIVE LAW JUDGES:**

*(Written order issued by an Administrative Law Judge after a pre-hearing conference in*

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*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.M. BAIRD ENGINEERING, INC., 09-R2D1-0846
2. AFC TRADING & WHOLESALE, 09-R6D2-0726 THROUGH 0733
3. AHERN RENTALS, 08-R2D4-4007
4. ALLIANT INTERNATIONAL UNIVERSITY, 09-R3D2-2217
5. ARCHITECTURAL AREA LIGHTING, 09-R3D5-0814 AND 0815
6. ARCHITECTURAL CATHODE, 08-R3D3-3522
7. ARROYO FARM LABOR CONTRACTOR, INC., 08-R6D5-4441
8. AYSE ELECTRIC, INC., 08-R3D3-3383 THROUGH 3385
9. ARIEL BADANO DBA ARIEL'S IMPROVEMENTS, 09-R4D2-0610 AND 0611
10. BAY AREA NEWS GROUP, INC., 08-R1D4-1705
11. BED BATH & BEYOND #1054, 08-R2D3-5144
12. BOGHOSIAN RAISIN PACKING CO., INC., 08-R2D5-4035 AND 4036
13. BRADY COMPANY/CENTRAL CALIFORNIA, INC., 08-R1D2-2366 THROUGH 2368
14. BWVT MOTORS, INC. DBA CAPISTRANO DODGE, 09-R3D1-0716
15. CA DEPT. OF CORRECTIONS – SAN QUENTIN, 08-R1D5-0803
16. CA PUBLIC HEALTH, SANITATION AND RADIATION, 09-R4D1-0642
17. CAC FABRICATION, INC., 09-R4D3-2098
18. CALIFORNIA FACILITIES AND EQUIPMENT MAINTENANCE CO., INC., 09-R4D1-1265 THROUGH 1267
19. CALIFORNIA SHEET METAL WORKS, INC., 08-R3D2-4772
20. CALIFORNIA STEEL INDUSTRIES, INC., 09-R3D3-0535
21. RONNEY LEON CARLTON DBA CHB GENERAL CONTRACTOR, 08-R1D5-

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22. BRIAN & LINDA CLAPROOD DBA ESTHER'S TACO HOUSE & CANTINA, 08-R6D5-4666
23. CLOVIS RECYCLING CENTER, 08-R2D5-1589
24. COMMUNITY ACTION PARTNERSHIP OF KERN, 08-R2D5-2381
25. COMPLETE DESIGN SYSTEMS, INC. DBA C.D.S., INC., 09-R6D2-1212 AND 1213
26. COZAD TRAILER SALES, LLC, 07-R2D4-5315 THROUGH 5318
27. D. F. RIOS CONSTRUCTION, 07-R1D3-3752
28. DANIEL'S WESTERN MEAT PACKERS, INC., 09-R3D6-1117 THROUGH 1120
29. DAWSON 76 CAR WASH, 08-R6D4-4106 THROUGH 4108
30. DELFIN DESIGN AND MANUFACTURING, INC., 09-R3D1-0628
31. DELICATO MONTEREY, 08-R6D3-3014 THROUGH 3017
32. DENNIS SHAFFER PAINTING, INC., 08-R4D3-2696 AND 2697
33. DE SILVA GATES CONSTRUCTION, 08-R1D3-3704 AND 3705
34. DE SILVA GATES-BROSAMER, A JOINT VENTURE OF DE SILVA GATES, 08-R1D3-3706 AND 3707
35. DIABLO VALLY MASONRY, INC., 08-R1D4-2904
36. DRYDEN CONSTRUCTION, INC., 08-R1D1-2369 AND 2370
37. EA SERVICES, INC., 08-R3D5-2861
38. EARTHSTONE CONSTRUCTION, INC., 08-R1D5-4997
39. ECKERT COLD STORAGE CO. 09-R6D3-1492 THROUGH 1494
40. EDGE RENTALS, INC., 06-R3D3-4767 THROUGH 4769
41. EE HALL, INC., 09-R4D3-1680
42. FAIR TRADE CORNER, INC., 08-R2D3-2234 THROUGH 2236

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43. FENDER MUSICAL INSTRUMENT, 09R3D3-1007
44. FOREVER 21 RETAIL, INC., 09-R3D5-0382
45. G.V.M.R., INC. DBA FIBERINE, 09-R3D5-1008
46. GOLDEN STATE ERECTORS, INC., 08-R2D2-0968
47. GOLDENWOOD TRUSS CORPORATION, 08-R4D3-4910
48. GRAPHIC PACKAGING INTERNATIONAL, 08-R1D2-4881
49. GROUP F BUILDERS, INC., 09-R4D1-0717 THROUGH 0721
50. RON HAKAKIAN, 09-R4D1-0682 AND 0683
51. HALE GLASS, INC., 09-R3D5-1443
52. HMT TANK SERVICE, INC., 06-R3D7-4146 THROUGH 4149
53. HONEYCUTT TEAR OFF, 08-R4D4-3308 THROUGH 3310
54. D R HORTON, 07-R2D5-4867 AND 09-R2D5-2077
55. INDUSTRIAL MINERALS COMPANY, 08-R5D1-5059 AND 5060
56. INFINITY STRUCTURES, INC., 08-R3D3-3298 AND 3299
57. JAM CONSTRUCTION, 07-R2D5-4853 THROUGH 4858
58. JB TILE & STONE, INC., 08-R1D4-2475 THROUGH 2478
59. KARL'S RV DBA WHOLESALE TRAILER SUPPLY, 08-R2D1-2373
60. KIMOMEX MARKET, INC., 08-R1D2-2037 AND 2038
61. KINDRED HEALTH CARE OPERATING, INC., 08-R1D5-3068
62. KIEWIT PACIFIC COMPANY, 08-R5D1-4232
63. KINGS TIRE AND WHEEL, INC. DBA KINGS DISCOUNT TIRE, 08-R4D4-3359  
THROUGH 3361
64. KONOCTI UNIFIED SCHOOL DISTRICT, 08-R1D5-3091

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65. LA COUNTY OFFICE OF EDUC – WEST COVINA ISS, 08-R4D4-3223
66. LA COUNTY SOCIAL SERVICES, 08-R3D5-3217
67. LEE’S PRECISION TOOLING, 08-R3D5-3109
68. LION RAISINS, 08-R2D5-0164
69. LIXIT CORPORATION, 08-R1D5-5140
70. JUSTIN ZHI XIONG LUO, 09-R1D1-0833 AND 0834
71. MAGGIORA BROTHERS DRILLING, INC., 09-R1D2-1324 AND 1325
72. MARK K. MILLER PAINTING & DECORATING, 08-R2D1-2440
73. MID VALLEY NUT COMPANY, INC., 08-R2D4-1142 AND 1143
74. MIKE BUBALO CONSTRUCTION CO., INC., 09-R3D6-0859
75. MMI SERVICES, 08-R6D3-3325
76. MON MAY, 08-R3D3-3444
77. MORADA FARMING COMPANY, 08-R2D4-4757 AND 4758
78. MORADI CONSTRUCTION, 09-R4D1-0778
79. MOUNTAIN EMPIRE UNIFIED SCHOOL DISTRICT, 09-R3D2-1202
80. NATIONAL AIR DUCT & CLEANING, INC., 09-R3D1-0853
81. PACIFIC INTERNATIONAL RICE MILLS, INC., 08-R2D1-2305
82. PADILLA CONSTRUCTION DBA GARIS PLASTERING, 09-R3D2-1270  
THROUGH 1272
83. PRECISION DRILLING & TAPPING, 08-R4D4-3159 AND 3160
84. PREMIERE PALLETT, INC., 08-R3D3-3520 AND 3521
85. PRINT CONNECTION, 09-R4D4-0420 AND 0421
86. R & S MANUFACTURING OF SOUTHERN CALIFORNIA, INC., 09-R6D2-0614  
THROUGH 0616

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87. JOSE RAMIREZ DBA CENTURY CITY CAR WASH, 08-R6D5-4988
88. RESTORATION HARDWARE, 08-R1D2-4990
89. RASSAC – H & C, INC., 08-R3D3-3211 AND 3212
90. ROCHA’S VALLEY ENTERPRISES, 07-R2D4-5029
91. ROTOMETALS, 08-R1D4-2753 THROUGH 2755
92. MARION RUTHRAUFF, 08-R2D4-2441 THROUGH 2443
93. SACRAMENTO COUNTY WASTE MANAGEMENT, 08-R2D1-0691 THROUGH 0693
94. SIMON SAYS ROOFING, 06-R1D2- 2652
95. SOUTHERN CALIFORNIA VALVE CO., 09-R4D4-0053
96. SOUTHWEST TRAILS, 09-R4D1-0860 THROUGH 0862
97. SPECIALIZED ENVIRONMENTAL, INC., 06-R4D4-2884 THROUGH 2888
98. SPITERI BUILDERS CORP., 08-R1D1-2903
99. SUNSET MOULDING CO., 08-R2D3-0902
100. SUPERIOR CAR WASH, INC., 08-R6D5-4109 THROUGH 4111
101. SUPERVALUE COMPANY DBA ALBERTSON’S, 09-R6D4-1044 THROUGH 1046
102. D.E. SWAFFORD, SR. AND JR. DBA AMERICAN UNDERGROUND CONTRACTORS, 08-R1D4-3753 THROUGH 3757
103. SYSCO FOOD SERVICES OF L.A., INC., 08-R4D4-2895
104. TRUE LEAF FARMS, LLC, 09-R6D1-1410 AND 1411
105. VICKERS CONCRETE SAWING, INC., 08-R1D3-2645
106. VOLT INFORMATION SERVICES, 09-R4D3-0323
107. WASH. ORN. IRON WORKS, INC. DBA WASHINGTON IRON WORKS, 09-R6D2-1051 THROUGH 1056

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108. WEST BUILDERS, INC., 08-R1D1-261 AND 262

109. WEST COAST AEROSPACE, INC., 09-R4D2-0759

110. WESTERN FARM SERVICES, 08-R6D4-3670, 09-R6D4-0394 AND 09-R6D4-0395

111. WESTWAY CONSTRUCTION, INC., 09-R4D3-0017

112. YOUNG IRON WORKS, INC., 09-R6D2-2174 THROUGH 2180

**ORDERS DISMISSING APPEALS:**

1. BOSSCON, INC., 08-R3D1-4011

2. RICKY'S HAND CAR WASH, 09-R4D2-0110 THROUGH 0112

**ORDER GRANTING LATE APPEAL:**

1. SIERRA PACIFIC INDUSTRIES, 09-R2D1-2346 AND 2347

**ORDER DISMISSING LATE APPEAL:**

1. T. BOYER COMPANY, 09-R3D5-9122

**ORDER DENYING LATE APPEAL:**

1. SOUTH VALLEY CONSTRUCTION AND SON, 09-R4D3-9175

**ORDERS DENYING LEAVE TO FILE LATE APPEALS:**

1. CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, 09-R1D5-9186

2. US TEMP SERVICES, 09-R2D4-9187

**ORDER DENYING MOTION FOR LEAVE TO FILE LATE APPEAL:**

1. RISING DOUGH BAKERY, 09-R2D1-9176

**ORDER ON RECONSIDERATION:**

1. CENTRAL VALLEY CONCRETE, INC., 07-R2D4-1375 THROUGH 1378

**PETITION FOR RECONSIDERATION:**

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*(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. SUBWAY SANDWICHES #1561, 08-R2D3-0288

**DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):**

1. CHAMLIAN ENTERPRISES, INC., 08-R2D5-1322 THROUGH 1325
2. CHAMLIAN ENTERPRISES, INC., 08-R2D5-1326 THROUGH 1328
3. CHAMLIAN ENTERPRISES, INC., 08-R2D5-2607
4. CHAMLIAN ENTERPRISES, INC., 08-R2D5-2608 THROUGH 2611
5. CHAMLIAN ENTERPRISES, INC., 08-R2D5-3859
6. WILKEY SHEET METAL, INC., 07-R2D4-4086 AND 4087
7. XL CONSTRUCTION, 08-R1D2-1191 THROUGH 1193

**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. AC FRAMERS INC., 03-R2D3-3475
4. AC TRANSIT, 08-R1D4-0135
5. AMERICAN REMEDIAL TECHNOLOGIES, 08-R4D2-3154 THROUGH 3156
6. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
7. ASC PROFILES, INC., 06-R2D1-1181
8. ANNING-JOHNSON COMPANY, 06-R1D3-1976
9. BART, 03-R1D1-5170

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10. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
11. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
12. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
13. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
14. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
15. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
16. CALIFORNIA FRESH FARMS, 06-R2D4-4127
17. CENTRAL VALLEY CONCRETE, INC., 07-R2D4-1375 THROUGH 1378
18. COLES CARBIDE CORPORATION, 08-R4D3-2012 THROUGH 2014
19. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
20. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
21. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
22. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
23. DESIGN BUILDERS, INC., 08-R4D4-1901
24. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
25. DUKE PACIFIC, INC., 08-R3D3-574
26. DYNALECTRIC, 03-R1D1-4101
27. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
28. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
29. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
30. FORTUNA IRON WORKS 06-R2D3-4222
31. G.T. ALDERMAN, INC., 05-R4D3-3513
32. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784

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33. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
34. GLASS PAK, 03-R2D2-750 AND 751
35. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
36. HB PARKCO, 07-R4D2-1730 AND 1731
37. HELPMATES STAFFING SERVICES, 05-R3D3-2239
38. THE HERRICK CORP., 07-R3D1-495
39. HUSSMAN CORPORATION, 03-R3D1-2939
40. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
41. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
42. JENSEN PRECAST, 05-R2D1-2377
43. JOHN LAING HOMES, 04-R3D1-194 AND 195
44. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
45. KELLY SERVICES, INC., 06-R1D2-1024
46. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
47. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
48. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
49. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
50. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
51. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
52. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
53. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552  
THROUGH 1554
54. O & M INDUSTRIES, 04-R1D5-1597
55. PMR RACE CARS, 03-R3D3-1825

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56. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
57. R & L BROSAMER, INC., 03-R1D5-4832
58. REAL EQUITY DEVELOPMENT, INC., 07-R2D4-4129 AND 4130
59. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
60. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
61. SHANKARA IND. DBA RUSS'S AUTO BODY & REPAIR, 09-R6D5-2135
62. STACY & WITBECK, INC., 05-R1D1-1142
63. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688  
THROUGH 1692
64. DAVID STOUPAKAS DBA DEVORE TRUCKING & AUTO WRECKING, 07-  
R3D3-5185 AND 5186
65. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
66. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT  
AGGREGATES, 04-R5D2-850 AND 851
67. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650  
AND 2651
68. TEICHERT AGGREGATES, 04-R5D1-2982
69. TRADER DAN'S DBA ROOMS N. COVERS, ETC., 08-R6D2-4978 THROUGH  
4980
70. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
71. UNITED PARCEL SERVICE, 07-R3D3-3322
72. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
73. 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.)*

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**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)
11. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
12. INTERNATIONAL TRANSPORTATION SERVICE (07-3824)
13. SOUTHERN CALIFORNIA EDISON COMPANY, BS 119297, LOS ANGELES SUPERIOR COURT (08-9062)
14. UNITED AIRLINES (SFO), 07CS00331
15. UNITED AIRLINES (SFO), 34-2009-80000256

**APPELLATE COURT:**

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

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**PERSONNEL:**

*(Issues regarding staff.)*

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