

State of California
Department of Industrial Relations
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
AMENDED CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, November 2, 2011
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: October 21, 2011

RE: Closed Session of the Board to be held on November 2, 2011

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. WHOLESALE PALLETS, 11-R3D6-0390 AND 0391

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. J. KHAIR CONSTRUCTION, INC., 10-R4D1-4074 AND 4075
2. AMERICAN TIRE DEPOT, 11-R4D3-0897
3. AMERICAN WRECKING, INC., 11-R4D2-0061 THROUGH 0063

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4. ANDRADE FARM LABOR, 11-R4D3-0558 THROUGH 0560
5. ANDRADE FARM LABOR, 11-R4D3-0561 THROUGH 0563
6. ANDRADE FARM LABOR, 11-R4D3-0751 AND 0752
7. AREA DEVELOPMENT, INC., 11-R1D1-1081 and 11-R1D1-1257
8. ASSOCIATED FAMILY PHYSICIANS, INC., 11-R2D1-0302 THROUGH 0304
9. BA CONSTRUCTION AND/OR JB HOME BUILDER CO. DBA JB HOMES,
10-R4D1-2722 AND 2723
10. BAY AREA HAULING MAINTENANCE, INC., 10-R1D2-1130 AND 1131
11. BAY COUNTIES WASTE SERVICES (SMART STATION), 11-R1D3-2333
12. BELL CARTER FOODS, INC., 11-R2D1-0252 AND 0253
13. BOSKOVICH FARMS, INC., 11-R4D3-0896
14. C & M FARM LABOR SERVICE, INC., 11-R2D5-0050
15. CABINETS 2000, INC., 10-R6D2-3552 THROUGH 3554
16. CALIFORNIA DAIRIES, INC., TURLOCK, 09-R6D3-2333 AND 2334
17. CALTECH PAINTING CO., 11-R4D1-0325 AND 0326
18. CARNICERIA JALISCO, 09-R2D5-3223
19. CENCAL CNC, 09-R2D5-2580
20. TOMAS CONSECO – INDIVIDUAL, 10-R6D5-2863 THROUGH 2865
21. DAVITA MANZANITA DIALYSIS CENTER, 10-R2D1-3847
22. DARSHAN SINGH DHALIWAL DBA GOLD COUNTRY SERVICE CENTER,
10-R2D1-4105
23. DEL MONTE CAPITAL MEAT CO., INC., 11-R2D1-0146
24. ECOLOGY AUTO PARTS, INC., 11-R3D2-0460
25. FEROZE DIN BATH DBA LOS BANOS FLC, 10-R2D1-2389 AND 2390

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26. GEORGE PERRY & SONS, INC., 10-R6D7-3471
27. GIUMARRA VINEYARDS, 08-R2D5-4357 THROUGH 4359
28. GOLDEN GATE BRIDGE HIGHWAY AND TRANSPORTATION DISTRICT,
11-R1D5-0301
29. HENRY GONZALES DBA AUTOEXACT COLLISION & PAINT, 11-R6D7-1681
AND 1682
30. CRAIG HARRISON DBA CRAIG HARRISON HOMES/WOODFIELD
PROPERTIES, 11-R2D1-0306
31. HOT TOPIC, 11-R3D6-1992
32. JAG'S FARMING AND HARVESTING, 09-R2D1-0793
33. KARL'S CUSTOM FASHION DOORS, 10-R3D1-3399 AND 3400
34. KASHMIR SINGH FARMS DBA K. S. DHAMI FARMS, 09-R2D1-3972
35. MARK KAUFMANN DBA SCREENED PRINTZ, 10-R6D7-0865
36. KING PALLETS, INC., 11-R6D5-1255 AND 1256
37. LION RAISINS, 07-R2D5-5031 THROUGH 5033
38. M. C. ELECTRONICS, 10-R1D2-0030 AND 0031
39. MAGGIORA AND GHILOTTI, INC., 10-R5D1-2272
40. MARRIOTT INTERNATIONAL, INC. DBA S. F. MARRIOTT FISHERMAN'S
WHARF, 10-R1D1-1048
41. McCLONE CONSTRUCTION COMPANY, 09-R2D1-0235
42. LUIS CUEVA MICHEL DBA LUIS C. MICHEL FLC, 09-R2D1-2444
43. MILLER PACIFIC, INC., 10-R2D1-4103 AND 4104
44. MISSION VENTURES, INC., 10-R2D5-3928
45. MORENO VALLEY UNIFIED SCHOOL DISTRICT, 11-R3D3-2325
46. MOUNTAIN CASCADE, INC., 10-R1D1-1348 AND 1349

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47. MOZINGO CONSTRUCTION, INC., 10-R2D4-2392
48. NATIONAL BEEF CALIFORNIA LP DBA NATIONAL BEEF, 10-R3D2-3635
AND 10-R3D2-3840
49. NEW HAVEN UNIFIED SCHOOL DISTRICT – JAMES LOGAN HIGH,
10-R1D4-1886 AND 1887
50. OCEAN FRONT FARMS LLC, 11-R4D3-0964 AND 0965
51. O'NEILL BEVERAGES LLC, 10-R2D5-0209
52. ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667
53. PANDA RESTAURANT GROUP, INC. DBA HIBACHI – SAN JAPANESE
GRILL, 09-R2D1-2762
54. DOUG & JUDY PARKER, 09-R2D3-3672 AND 3673
55. PBY PLASTICS, INC., 11-R3D3-1816
56. PLACER WATER WORKS, INC., 10-R2D1-3973
57. PRODUCTION DRYWALL CO., INC. DBA ADCO, 10-R2D1-1844
58. PUNJAB FARMS, 11-R6D5-1798 THROUGH 1800
59. RANCHO MURIETA COMMUNITY SERVICES DISTRICT, 11-R2D1-0141
60. RANGEER, INC. DBA RANCHO JEEP RECYCLING, 11-R6D7-0684 THROUGH
0686
61. REBENS DORF VINEYARDS, INC., 11-R2D5-1565
62. SAVE MART SUPERMARKETS, 10-R2D2- 1758 AND 1759
63. SELSOR CONSTRUCTION, INC., 11-R2D5-0766 THROUGH 0768
64. SFUSD – ABRAHAM LINCOLN HIGH SCHOOL, 10-R1D1-2217 THROUGH
2219
65. SHAMES CONSTRUCTION LLC, 08-R2D1-4391 AND 4392
66. SODEXO HEALTH CARE, 11-R4D1-0200 AND 0201
67. SOLAR DISTRIBUTORS, INC., 11-R3D3-1813 AND 1814

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68. SONRAY SOLAR, INC. DBA SONRAY CONSTRUCTION, 11-R2D1-0046
69. STYROTECK, INC., 11-R2D5-1530
70. THYSSENKRUPP SAFWAY, INC., 08-R2D1-3890
71. TUAN/TOMMY TRAN DBA EAST BAY AUTO REPAIR & TOWING,
10-R6D7-2704
72. WELK RESORT PROPERTIES, INC. DBA WELK RESORTS SD, 11-R3D2-2414
73. WESTCO IRON WORKS, 10-R1D2-1977
74. WILLIAMS FURNACE COMPANY, 11-R3D3-1934
75. ZIETHING CABINETS, INC., 10-R6D2-3681 THROUGH 3683

ORDERS DISMISSING APPEALS:

1. MAINSTAY BUSINESS SOLUTIONS, 10-R2D5-0902 AND 0902
2. MAINSTAY BUSINESS SOLUTIONS, 10-R1D5-2569

ORDER DENYING LATE APPEAL:

1. CASPER COMPANY, 11-R3D2-9165

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

1. CLASS A POWDERCOAT, INC., 11-R2D1-9174
2. STEELE CANYON GOLF CLUB CORPORATION, 11-R3D2-9190

ORDER ON REMAND:

1. A & C PALLETS, 10-R6D5-1687 AND 1688
2. HARRIS CONSTRUCTION CO., INC., 03-R2D5-3914
3. PRODIGY ELECTRIC INC., 11-R4D3-0898 AND 0899

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.)

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1. MANUEL PAUL RODRIGUEZ DBA SHORELINE COLLISION CENTER,
09-R6D7-3570 AND 3571
2. VIP MOBILE DETAILERS, INC., 11-R2D4-0705

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. MAXIMINO VILLARREAL DBA VILLARREAL TIRE SHOPS, 11-R6D7-9153

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 PALLETS, 10-R6D5-1687 AND 1688
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. AC TRANSIT, 08-R1D4-0135
4. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
5. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
6. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
7. ANNING-JOHNSON COMPANY, 06-R1D3-1976
8. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
9. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
10. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
AND 3448
11. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO.,
09-R6D2-2239 THROUGH 2241
12. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
13. BURRTEC WASTE INDUSTRIES, INC., 10-R3D3-9222
14. BURTON L. SILVA FARMS, 09-R1D2-1498
15. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155

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16. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
17. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
18. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
19. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
20. CITY OF FOSTER CITY, DEPT. OF PUBLIC WORKS, 09-R1D3-4195
21. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
22. CLINE CELLARS, INC., 08-R1D5-2946
23. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR
08-R6D5-3466 AND 3467
24. COMMERCIAL METAL FORMING, 09-R3D1-1592
25. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
26. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
27. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
28. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
29. DESIGN BUILDERS, INC., 08-R4D4-1901
30. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
31. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
32. DUKE PACIFIC, INC., 08-R3D3-574
33. DUININCK BROS., INC., 06-R4D3-2871
34. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
35. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
36. EZ MIX, INC., 08-R4D3-1898
37. FORTUNA IRON WORKS 06-R2D3-4222

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38. G. T. ALDERMAN, INC. 05-R4D3-3513
39. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
40. HB PARKCO, 07-R4D2-1730 AND 1731
41. THE HERRICK CORP., 07-R3D1-495
42. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
43. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
44. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
45. JENSEN PRECAST, 05-R2D1-2377
46. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
47. L & S CONSTRUCTION, 10-R3D2-1822
48. LA MINA CANTINA, 09-R2D5-0039
49. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
50. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
51. LION RAISINS, INC., 08-R2D5-2253 AND 2254
52. L N I CUSTOM MANUFACTURING, 10-R6D2-9154
53. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
54. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
55. MARINE TERMINALS, 08-08-R6D2-1920
56. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
57. MILLENIUM GENERATION, INC., 08-R4D3-5047
58. MOOREFIELD CONSTRUCTION, INC., 10-R3D5-9207
59. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
60. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494

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61. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
62. P G & E CORPORATION DBA PACIFIC GAS & ELECTRIC CO., 11-R4D3-9132
63. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
64. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
65. P G & E CORPORATION DBA PACIFIC GAS & ELECTRIC CO., 11-R4D3-9132
66. POUK & STEINLE, INC., 09-R3D3-0491
67. PRODIGY ELECTRIC, INC., 11-R4D3-0898 AND 0899
68. QYCELL CORPORATION, 11-R3D3-1575 AND 1576
69. RAMON ARANDA dba I & R PALLETS, 10-R6D5-9053
70. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730
71. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
72. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
73. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
74. SHERWOOD MECHANICAL, INC., 08-R3D2-4690 THROUGH 4693
75. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
76. SMUD, 08-R2D1-4887 THROUGH 4889
77. MARTIN J. SOLIS, DBA SOLIS FARM LABOR, 08-R2D1-3415
78. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
79. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
80. SUNOPTA FRUIT GROUP, 09-R3D1-9245
81. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
82. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443

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83. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION,
05-R2D4-2650 AND 2651
84. UNITED PARCEL SERVICE, 07-R3D3-3322
85. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
86. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

OTHER BOARD PROCEEDINGS:

1. BIMBO BAKERIES USA, INC., 10-R6D2-1102 THROUGH 1106

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. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)
2. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)
3. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB),
34-2007-00882192-CU-WM-GDS, (01-3261)
4. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB)
(00-440)
5. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
6. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
7. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
8. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
9. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
10. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-
80000640 (08-R2D1-0027 THROUGH 0030)

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11. EMERSON RUSSELL MAINTENANCE CO., RG-10543219 (08-R1D4-4167)
12. SMUD, 34-2010-80000723 (08-R2D1-4887)
13. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
14. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
15. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965
(10-0188~0191)

COURT OF APPEAL:

PERSONNEL:

(Issues regarding staff)

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