

**State Of California**  
**California Occupational Safety and Health Appeals Board**  
**Minutes of the Public Meeting & Closed Session**

**Held on June 16, 2022**

**Sacramento, California**

**West Covina, California**

**Zoom Platform**

**Present:**

Ed Lowry, Chair, Public Member. Chair

Judith Freyman, Management Member

Marvin Kropke, Labor Member

Patricia Hapgood, Acting Executive Officer

Jeff Mojcher, Chief Counsel

Kevin Reedy, Supervising Judge

Sam Lucas, Supervising Judge

Aaron Jackson, Industrial Relations Counsel

Elizabeth Clarke, Staff Attorney

Vincent Mersich, Staff Attorney

Meghan Zapata, Staff Services Manager

Janis Jonas, Executive Secretary

Christopher Jessup, Administrative Law Judge

Kumani Armstrong, Special Counsel, Office of the Director

Jora Trang, Chief of Staff & Equity, Worksafe

Megan Shaked, Attorney, Conn Maciel Carey LLP

Linette Davis, Ethics Officer and Senior Editor, DIR Office of the Director

Matthew Lugo, DIR Analyst, DIR Office of Director

Jorge Otano, Deputy City Attorney, City of Los Angeles

Dan Lucido, Chief Counsel, DOSH

Rocio Reyes, Assistant Chief Counsel, DOSH

Clara Hill-Williams, Staff Counsel DOSH

Michelle Gastil, Staff Counsel, DOSH

Cynthia Perez, Staff Counsel, DOSH

Manuel Arambula, Staff Counsel, DOSH

Lisa Wong, Staff Counsel, DOSH

Mark Licker, Staff Counsel, DOSH

**Minutes of June 2, 2022 Meeting:**

(Approve or amend minutes of previous board meeting.)

Action: The Board approved the minutes of the June 2, 2022 Board meeting.  
Moved: Marvin Kropke  
Seconded: Judith Freyman  
The vote was 2-0

**New Business:**

*(The appeals Board hears and discusses new reports presented by staff.)*

1. Public meeting and comments on proposed regulatory amendments to California Code of Regulations, title 8, sections 372.6, 372.8, 376, and 376.8, as discussed in the "Notice of OSHAB Proposed Rulemaking Modifying Regulation Concerning Time and Place of Hearing." The proposed amendments will, among other things, govern, address and permit the occurrence of Board hearings via videoconference, and clean-up small issues from prior rulemakings. Any person may present statements orally or in writing relating to the proposed action. The aforementioned notice and associated rulemaking documents may be found posted on the Board's website.

Action: The Board heard public comments to the proposed amendments to California Code of Regulations, title 8, sections 372.6, 372.8, 376, and 376.8, as discussed in the "Notice of OSHAB Proposed Rulemaking Modifying Regulation Concerning Time and Place of Hearing." The Board's responses to the public comments will be submitted in writing at a later date.

**Old Business:**

*(The appeals Board hears and/or discusses matters on a follow-up basis.)*

1. Discussion of hearing schedules and ALJ availability pilot program.

Action: Sam Lucas updated the Board on progress regarding the pilot program for scheduling ALJ for hearings which will begin September 1, 2022.

2. Update of DOSH eAttorney system interfacing with OASIS.

Action: Chair Lowry reported on discussions regarding the interfacing between DOSH and OSHAB programs.

**Legislation:**

*(Review and discuss current legislation which may affect the appeals Board.)*

Action: Elizabeth Clarke updated the Board on current Legislation.

**Chairperson's Report:**

*(Hear report from the Chairperson on activities and issues affecting the Appeals Board.)*

Action: Chair Lowry informed the Board that Mark Webb is the new Cal/OSHA Reporter Decision Editor.

**Board Members Reports:**

*(Hear reports from Board members on activities and issues affecting the Appeals Board.)*

Action: No report.

**Executive Officer's Report:**

*(Report regarding administrative matters.)*

Action: Patricia Hapgood reported on hiring staff for current open positions.

The Sacramento office conference room is being redesigned. The bookcases will be removed and a 65-inch monitor will be installed.

Code system to enter the Sacramento office will be changed to a key card system.

**Staff Reports:**

*(Reports from the presiding ALJ and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)*

1. Discuss whether there are any proposals for new regulations or proposals for modifications to existing regulations. In addition, discuss whether any concerns exist with existing regulations.

Action: No report.

2. Discuss status of Video Hearings.

Action: No report.

3. Discuss recent appeals filed related to the current COVID-19 pandemic.

Action: No report.

4. Litigation update:

Action: Chief Counsel, Jeff Mojcher updated the Board on current court cases.

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.

**Public Comment:**

*(Public comment will be entertained during discussion of each agenda item of the open meeting.)*

Action: No additional public comments were made. All comments were received during the discussion regarding amendments to the Regulations under New Business.

The board recessed to its 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 scheduled for review.

**Petitions for Reconsideration:**

*(The Division of Occupational Safety & Health and the Employer each have 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.)*

1321137 Michael Roberts Construction, Inc.  
Action: This petition is being held for the July 7, 2022 Board meeting.

**Orders Dismissing Appeal:**

1404795 Cordoba Construction Corp.  
Action: The Board reviewed this Order.

1369788 Homestead Pasta Company  
Action: The Board reviewed this Order.

1466274 Sierra Transport LLC  
Action: The Board reviewed this Order.

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

1515486 AHMC San Gabriel Valley Medical Center, LP  
Action: The Board reviewed this Order.

1483912 Emanate Health  
Action: The Board reviewed this Order.

1532874 Golden State Construction & Framing, Inc.  
Action: The Board reviewed this Order.

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1537746 Tomas Guindon  
Action: Reinstated the appeal.  
Moved: Marvin Kropke  
Seconded: Judith Freyman  
Vote: 3-0

1553701 West Stanislaus County Fire Protection District  
Action: The Board reviewed this Order.

**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 so as 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 authority of Labor Code sections 6620 through 6623.*

1300984 General Dynamics NASSCO

1332867 Guy F. Atkinson Construction, LLC  
*Whether the Division proved the alleged violation.*

Action: The Board discussed this matter.

1410726 Hathaway Dinwiddie Construction Co.  
*Whether the Division proved the alleged violation.*

Action: The Board discussed this matter.

1291481 Sierra Pacific Forest Products  
*Whether Employer was in compliance with the cited safety order.*

1155042 Signal Energy LLC  
*Whether Employer appropriately oversaw the actions of the subcontractors.*

1192534 Shimmick Construction Company Inc.  
*Whether the employer committed the violation alleged.*

1303461 SSA Terminals (Oakland), LLC DBA SSA Marine Terminals  
*Whether Employer violated section 3212(a)(2)(A) as alleged.*

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1461476 Walmart, Inc.  
Whether Walmart was an employer citable for the alleged violation.

**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. Key Energy Service, LLC (12004280)
2. Barnard Impregilo Healy, JV, CPF 17-515575, (317134021)
3. Ashley Furniture Industries, 34-2017-800002750 (1016514)
4. United Parcel Service, Inc. DBA UPS, 34-2019-80003174 (1116529)
5. Shimmick Construction Company, Inc., 34-2019-80003191 (1059365)
6. Process Cooling International, 34-2019-80003220 (1232555)
7. Davis Development Company, 34-2020-80003373 (1226084)
8. MWL Solutions, 34-2020-80003549 (1436014)
9. Hampton Tedder Electric, 34-2020-80003562 (1233597)
10. BMW West, LLC, 34-2021-80003574 (1399613)
11. Southern California Edison, 34-2021-80003580 (1320327)
12. L&S Framing, Inc., SCV-0046603 (1173183)
13. Granite Construction, 34-2021-80003634 (1235643)
14. Pacific Utility Installation, Inc., 30-2021-01201020 (1321161)
15. Grimmway Enterprises, Inc., BCV-21-101503 (1477159)
16. Grimmway Enterprises, Inc., BCV-21-101554 (1238985)
17. RND Contractors, Inc., CIV SB 2119442 (1436785)
18. Sunview Vineyards of California, Inc. RG21111733 (1153101)
19. Hill Crane Service Inc., 34-2021-80003744 (1135350)

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20. Amazon.com Services, LLC dba Amazon Warehouse LGB3, 22STCP00403 (1473644)
21. Sierra Forest Products, VCU290996 (1291481)
22. USA Waste of California, Inc., 34-2022-80003841 (1384029)

**Appellate Court:**

1. Interline Brands, Inc., CIVDS2021813 (1251604)

**Other Items:**

1. New and/or interlocutory petitions for reconsideration not filed in time to be agendaized.

Action: No report.

2. Categorizing the Board's DARs and Denials on the DIR website.

Action: No report.

3. Staff attorneys to provide legal analysis, advice and counsel regarding COVID-19 cases.

Action: No report.

4. Discussion of DOSH Proposal to have their eAttorney system interface with OASIS.

Action: No report.

**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.)*

1411357	Acme Demo Corp.
1422013	Advanced Automatic Sprinkler, Inc.
1579130	Alpha & Omega Displays, Inc.
1547142	Approved Staffing, LLC
1522283	Architectural Renewal Services, Inc.
1551415	Arribavista Ranch, Inc.
1417470	ATL Logistics, Inc.
1537739	Brazil Quality Roofing, Inc.
1267450	BYD Coach & Bus, LLC

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1375650	CA Corrections & Rehabilitation-California
1509786	CA Motor Vehicles
1535903	CA Motor Vehicles
1575181	California Waste Solutions, Inc.
1556218	Capital Logistics & Warehousing West, Inc.
1483625	Cardenas Market
1522978	Cass Enterprises, Inc.
1576436	CBG Building Company, LLC
1509584	CDS Cabinets, Inc.
1497537	CF Watsonville West, LLC
1553167	City of Davis
1474698	City of Santa Clarita-Santa Clarita Transit
1493774	Compass Group USA, Inc.
1551018	Cortech West Staffing, LLC
1482170	Crandall Roofing Inc.
1490986	Cream of the Crop AG Service, Inc.
1505377	Crestwood Behavioral Health, Inc.
1532642	Crownview Co-Occurring Institute Incorporated
1531786	Del Mar Food Products Corp.
1497573	Department of Motor Vehicles - DMV
1535099	Department of Motor Vehicles - Rancho
1506148	Dolores Borquez
1574051	DPCC
1523235	Ecoological LLC
1395912	General Dynamics Nassco
1565978	Gonsalves & Santucci, Inc.
1539030	Grocery Outlet #450
1559985	Hamel Contracting, Inc.
1405893	Hardy Window Company
1491812	Hart Brothers Construction, Inc.
1565262	Harvard Label, LLC
1438594	Interstate Management Company, LLC
1552385	J. H. Fitzmaurice, Inc.
1523771	JBR Management Company, LLC
1556214	JD Koi, LLC
1484364	La Vina Packing, Inc.
1495754	Langer Farms LLC
1581379	Le Belge Chocolatier
1495244	Lightway Industries
1445703	LMC Construction, LLC



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1394170	Los Angeles Apparel, Inc.
1555432	Los Angeles Turf Club, Incorporated
1391055	M & G Hauling, Inc.
1483379	Marin Senior Coordinating Council
1523328	Mason Electric Company
1324039	Mastec Network Solutions, Inc.
1448232	Mccarthy Building Companies
1569725	MFIB CA, LLC
1553037	Millie and Severson, Inc.
1526522	Nor-Cal Beverage Co., Inc.
1505656	O'Reilly Auto Enterprises, LLC
1472704	Olam International
1395496	Partners Personnel
1516975	PML Hardware And Supply, Inc.
1528891	POM Wonderful Holdings, LLC
1479470	Prime Healthcare Anaheim, LLC
1493663	Princeton Manor Healthcare Center, LLC
1530761	R.C. Wendt Painting, Inc.
1531790	Real Wood Contracting, LLC
1514704	Robic Refrigeration, Inc.
1550334	San Gabriel Valley Habitat for Humanity, Inc.
1488532	Select Electric, Inc.
1547198	Sierra Foothills Construction Company
1489479	State Of California - Department of Motor Vehicles
1519641	Straight Shot Logistics
1530889	Sutter Bay Medical Foundation DBA Sutter East Bay
1525136	Teasdale Latin Foods Inc.
1541077	Traverso Tree Service Inc.
1555955	True North Constructors, Inc.
1561233	United Pallet Services, Inc.
1515668	Vivalon
1566449	West-Cal Concrete, Inc.
1573877	Westflex, Inc
1534126	Westside AGG. II, Inc.
1563570	WHP, Inc.

Action: The Board reviewed and discussed the Settlement Orders issued by the Administrative Law Judges.

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**Personnel:**

*(Issues regarding staff)*

Action:           No report.

The Closed Session adjourned at 11:23 a.m. and the Board returned to the Public Meeting. The Appeals Board incorporated by reference its actions in the Closed Session, as indicated above. The meeting adjourned at 11:24 a.m.