

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on September 3, 2025
Sacramento, California
Zoom Platform

Present:

Ed Lowry, Public Member, Chair
Judith Freyman, Management Member
Marvin Kropke, Labor Member
Kerry Lewis, Presiding Administrative Law Judge
Sam E. Lucas, Presiding Administrative Law Judge
Christopher Jessup, Administrative Law Judge
Rheeah Yoo Avelar, Administrative Law Judge
Jennie Culjat, Administrative Law Judge
Jeffrey Mojcher, Chief Counsel Emeritus
Elizabeth Clarke, Staff Counsel
Karen Halbo, Staff Counsel
Maria Rios, Legal Analyst
Beth Reiken, Executive Secretary
Luciane Yeh, Staff Counsel, DOSH
Sesilya Saraydarian, Staff Counsel, DOSH
Kathryn Woods, Staff Counsel, DOSH
Keith Mackenzie, Staff Counsel, DOSH
Rachel E. Brill, Staff Attorney, DOSH
John Steve Barnett, Staff Counsel, DOSH
David Wiseman, Staff Counsel, Cal Fire
Ina Fitzgibbon, Office of Director, DIR
Chris Meyer, Office of Legislative and Regulations
Peter Melton, DIR Spokesperson
Kevin D. Bland, Ogletree Deakins
Bruce Wick, Risk Management Director, Housing Contractors of California
Jordan Uter, Worksafe

Notice of remote attendance:

As required by Government Code Section 11123.5, subdivision (d), notice is hereby given that Board member Marvin P. Kropke will be participating remotely pursuant to Government Code Section 11123.2, subdivision (j), paragraph (2), and Board member Judith Freyman will be participating remotely pursuant to Government Code Section 11123.2, subdivision (j), paragraph (1).

Request for remote attendance:

No report.

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Minutes of August 20, 2025, Meeting:

(Approve or amend minutes of previous board meeting.)

Action: The Board voted to approve the minutes for the August 20, 2025, meeting.
This was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

New Business:

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

Action: No Report.

Old Business:

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

Action: No Report.

Legislation:

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

Action: Karen Halbo provided status updates on the following bills in the CA legislature: SB-20, AB-845, SB-470, and AB-1515.

Chairperson's Report:

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

Action: Chairperson Ed Lowry shared that he attended the third quarter meeting with Fed OSHA. David Keeling is the current nominee to be Chief of Fed OSHA. The Attorney III (Limited Term) job position for the Board is being reposted.

Board Members' Reports:

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

Action: Judith Freyman asked if anyone had thoughts to share on the Senate Legislation meeting and heard some attendees share their opinions.

Executive Officer's Report:

(Report regarding administrative matters.)

Action: No report.

Staff Reports:

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

1. Discuss and may take action on proposals for new regulations or proposals for modifications to, or repeal of, existing regulations. In addition, discuss whether any concerns exist with existing regulations.

Action: Karen Halbo is continuing to work with the DIR budget office on the most recent regulations packages. She is expecting to hear back from them in 1-2 weeks.

2. Ligation Update

Action: Jeffrey Mojcher provided the following update: A Case Management Conference is scheduled for December 2, 2025, in the Baldi/Arana Residential matter.

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 comments will be entertained during discussion of each agenda item of the open meeting.)

Action: The Board heard comments on the Board's Settlement Conference process and the use of AI.

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 of Administrative Law Judges

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.)

1545777 Entact, LLC

Action: The Board voted to take this matter under submission.
This motion was moved by Marvin Kropke

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It was seconded by Judith Freyman
The vote was 3-0

1685885 Shoreline Constructors, Inc.

Action: The Board voted to issue a Denial of the Petition for Reconsideration with amendments.
This motion was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0

1628750 Tad Van Nguyen

Action: The Board voted to Issue a Denial of the Petition for Reconsideration with amendments.
This motion was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

Orders Dismissing Appeal:

1811001 Advanced Textile Manufacturing

Action: The Board discussed this matter.

1625542 Cobuild, Inc.

Action: The Board discussed this matter.

1671754 D & M Manufacturing Co.

Action: The Board discussed this matter.

1755671 ISR Painting & Wallcovering, Inc.

Action: The Board discussed this matter.

1758653 Pacific Bell Telephone

Action: The Board discussed this matter.

1726038 Quik, Inc

Action: The Board discussed this matter.

1748958 Rosemead Processing Meats, Inc.

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Action: The Board discussed this matter.

1742141 The Image Group LLC

Action: The Board discussed this matter.

1726406 Three Valley Investments LLC

Action: The Board discussed this matter.

Orders Denying Leave to File Late Appeal:

There are no Orders Denying Leave to File Late Appeal.

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 authority of Labor Code sections 6620 through 6623.

1473644 Amazon.com Services, LLC
Whether the employer's training program was in compliance with the applicable safety order.

Action: The Board discussed this matter.

1466722 Bragg Investment Company, Inc.
Whether the Employer violated the crane operating safety order as alleged while repositioning a crane at a construction site.

Action: The Board discussed this matter.

1360156 CA Forest and Fire Protection

1647115 Concord Farms, Inc.
Whether there was good cause for the late appeal.

Action: The Board discussed this matter.

1488312 Indiana Finish Line, Inc.

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Whether the cited employer established procedures adequate to protect employees from COVID-19.

- 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.
- 1692964 L & S Framing, Inc.
Whether Employer committed the violations alleged in the citations, including alleged violations of section 1704, subdivision (f) [failure to adopt a compliant Code of Safe Practices]; section 1704, subdivision (b)(2) [failure to ensure that nailers and staplers were operated in accordance with manufacturer's recommendations], and section 1704, subdivision (g), 1509, and section 3203 [inadequate safety training on the use of nailers and staplers].
- 1235941 McCarthy Building Companies, Inc.
Whether the Division proved exposure to Valley Fever.
- 1549611 Metcalf, Inc.
Whether Employer committed the violations alleged in the citations, including alleged violations of section 3203, subdivision (a)(6) [failure to correct an unsafe condition]; section 1621, subdivision (b) [failure to provide toeboards on scaffolding]; and (3) section 3276, subdivision (e)(15)(B) [safe use of ladders], and whether Employer established its affirmative defense.
- 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.
- 1475491 Sutter Bay Hospitals dba Mills-Peninsula Medical Center
Was the ALJ correct in granting Employer's appeals of the citations alleging violations of section 342, subdivision (a) and section 5199, subdivision (i)?
- 1703764 The Don Chapin Co., Inc.
- 1454931 Tesla Inc.

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Whether the ALJ properly affirmed the citations and, if so, whether Employer committed a serious accident-related violation of section 3328, subdivision (a).

1486176 Tutor Perini Corporation and O&G Industries, Inc.
Whether the Employer committed a serious accident-related violation of section 3328, subdivisions (a)?

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. USA Waste of California, Inc., 34-2022-80003841 (1384029)
2. Arana Residential and Commercial Painting, Inc. (1568252)
3. Western Oilfields Supply Company, 24WM000169 (1498595)
4. The Geo Group, Inc., 25WM000023 (1609228)
5. Uber Technologies Inc (1594663)
6. Employbridge Holding Company, 25CHCP00143 (1499137)
7. Sun Belt Rentals, 25CU041526C (1465119)

Appellate Court:

1. General Dynamics NASSCO (1300984)

Other Items:

There are no Other Items.

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.)

1799098 ABC Builders Group
1650736 ABM Aviation, Inc.

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1756728	ACCO Engineered Systems, Inc.
1670324	Advanced Construction Technology Inc.
1499408	Agriland Farming Company, Inc.
1806837	Air Tight
1766477	American Tire Recycling, LLC
1756515	APS Industrial Services LLC
1668532	Arizona Pipeline Company
1741433	Armstrong Garden Centers, Inc
1807224	BA2 LLC
1760901	Bay Cities Paving & Grading, Inc.
1713775	Blue Dot Safes Corporation
1613778	Bonduelle Fresh Americans
1771678	Bulwark Construction, Inc.
1718053	C&W Facility Services, Inc.
1793254	Cal-West Concrete Cutting, Inc.
1674882	Canyon Hills Plumbing
1571429	Capstone Logistics, LLC
1620977	Capstone Logistics, LLC
1784747	Castle Rock Environmental
1679862	Central Valley Trailer Repair Inc.
1743518	Centre For Neuro Skills
1750241	Chairs4events
1770930	Chevron U.S.A. Inc.
1787242	CMA Growers, Inc.
1808943	Coachella Valley Water District
1790229	Cobabe Brothers Incorporated
1751153	Cogir Management USA Inc
1778685	Commercial Scaffolding of CA, Inc.
1745355	Cosco Fire Protection, Inc.
1706466	Costco Wholesale Corporation
1766353	Custom Iron Corporation
1768971	CVS Health Corporation
1751887	Domaine Chandon Inc.
1826016	Donald F. Gallino, Inc., General Contractors
1724165	Douglass Truck Bodies, Inc.
1771301	Etxe Trucking, Inc.
1817394	First Pointe Management Group
1809675	Fresno Senior Living, LLC
1731212	Garcia's Meat Distribution Inc.
1753024	General Dynamics NASSCO
1799822	Gold Tunnel Ventures LLC
1721044	Hearst Holdings, Inc./ San Simeon Ranch
1584340	IDX Corporation
1742616	Innovation by Ollin
1800407	Jorgensen & Sons, Inc.
1611732	K's Refrigerated Transport, LLC

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1670781	Keurig Dr Pepper Inc.
1810521	L & W Supply Corporation
1678851	LB3 Enterprises Inc.
1781867	Liftwerx Solutions, Inc.
1670146	Made in Nature, LLC
1633526	Madera Framing, Inc.
1815972	Magnum Drywall Inc
1780007	Mello Marine LLC
1687806	Morrow Meadows Corporation
1808367	North Valley Arbor Management, Inc.
1801076	Pacific Coast Producers
1676174	Pacific Gas and Electric Company
1761070	Pacifica Personnel Inc
1813399	Plumas County Public Works
1763494	Raley's, Production Bakery
1796275	Rancho Valencia Resort Partners LLC
1762952	Republic Waste Services of Southern California
1785630	Rivulis Irrigation, Inc.
1771464	RMP Supply Trim
1771832	rPlanet Earth Los Angeles LLC
1798547	Sequoia Forest Products LLC
1769703	Servexo USA, Inc.
1693440	Solvay USA, Inc.
1773178	Sour Dough Electric Co
1644561	Spinello Infrastructure West, Inc.
1745853	Sun Fast International, LLC
1788807	Sunseri Associates, Inc.
1498332	Tesla, Inc.
1758960	The Regents of the University of California
1718708	Torrance Refining Company LLC
1657800	Tulare County Health & Human Services Agency
1779373	TWA Builders, Inc.
1614409	Unfi DBA Tony's Fine Foods
1794162	Vortex Construction
1765464	Wal-Mart Associates, Inc.
1798531	WDR Restoration, Inc.
1783700	West 89th & Watson LLC
1787313	West Coast Fab, Inc.
1596923	XL Construction Corporation
1719608	XPO Logistics Freight, Inc

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

Personnel:

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(Issues regarding staff)

The Closed Session adjourned at 10:56 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 Board meeting was adjourned at 10:57 a.m.