

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on December 18, 2025
Sacramento, California
Zoom Platform

Present:

Ed Lowry, Public Member, Chair
Judith Freyman, Management Member
Marvin Kropke, Labor Member
Scott Pease, Interim Executive Officer
Kerry Lewis, Presiding Administrative Law Judge
Sam E. Lucas, Presiding Administrative Law Judge
Christopher Jessup, Administrative Law Judge
Jennie Culjat, Administrative Law Judge
Aaron Jackson, Chief Counsel
Jeffrey Mojcher, Chief Counsel Emeritus
Karen Halbo, Staff Counsel
Maria Rios, Legal Analyst
Beth Reiken, Executive Secretary
Ina Fitzgibbon, Office of Director, DIR
Lisa Brokaw, Staff Counsel, DOSH
Silas Shawver, Staff Counsel, DOSH
Adam Crane, Ogletree Deakins
David Cremins, Staff Counsel, CRLA
Mona F.

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:

Member Marvin Kropke made a motion requesting to attend the January 14th and January 28th Board meetings remotely pursuant to Government Code section 11123.2, subdivision (j)(2)(A).

This motion was seconded by Judith Freyman.

The Board voted to approve the remote attendance request 3-0.

Minutes of December 3, 2025, Meeting:

(Approve or amend minutes of previous Board meeting.)

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Action: The Board voted to approve the minutes for the December 3, 2025, meeting as amended.
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: No report.

Chairperson's Report:

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

Action: Ed Lowry reminded attendees the Stakeholder's Roundtable Discussion will take place on Wednesday, January 7, 2026. Further, he shared that he feels these meetings are a good time to get everyone together, as everyone benefits from the opportunity to make the processes better. Finally, Ed advised that the Stakeholder's Meeting Agenda will be distributed today.

Board Members' Reports:

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

Action: Marvin Kropke and Judith Freyman shared they are both looking forward to the Stakeholder's Roundtable Discussion as they are always impressed by the discussion.

Executive Officer's Report:

(Report regarding administrative matters.)

Action: Scott Pease advised that the Stakeholder's Meeting Agenda is going out today. A second email will go out in January with details on directions, parking, and local food options. He shared the following HR updates: Interviews for the Senior Legal Typist (SLT) position will take place this week and the

interviews for the Attorney III positions is ongoing. The preferred candidate for the Attorney III (LT) position is being finalized by HR. An Attorney I and SSM I position will be opening in January as back fill positions.

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 working with DIR Legal on the texts for both the Appeal Initiation Regulations and the Prehearing and Hearing Regulation packages to move forward to the Director for her signature.

2. Ligation Update

Action: Aaron Jackson provided the following updates: The Board has upcoming hearings in both the GEO Group (1609228) and the Baldi/Arana (1568252) matters in January and February respectively. Both hearings relate to the Board's demurrers. The Board will file a demurrer in the Uber matter (1594663) this week. A hearing has been set on the writ petition in Drill Tech Drilling & Shoring, Inc. (1420923). The hearing is scheduled for May 29, 2026. The Board will file its response to the writ petition in the Metropolitan News Company (1689021) matter next week. Finally, the matter of General Dynamics NASSCO (1300984) is pending before the Court of Appeal.

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: No report.

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

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Decision. The board members review the Decision and decide if they will reconsider the ALJ Decision on their own motion.)

1638538 H Interiors
Action: The Board discussed this matter.

1645828 International Transportation Service LLC
Action: The Board discussed this matter.

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.)

1496831 Jose Luis Perez Hernandez
Action: The Board voted to issue an Order Extending Time to Act on Petition for Reconsideration.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

1469097 Lowe's Home Centers, LLC
Action: The Board voted to issue an order taking the Petition of Reconsideration under submission.
It was moved by Judith Freyman.
It was seconded by Marvin Kropke.
The vote was 3-0

1446266 Creative Packaging
Action: The Board voted to issue an order taking the Petition of Reconsideration under submission.
It was moved by Judith Freyman.
It was seconded by Marvin Kropke.
The vote was 3-0

Orders Dismissing Appeal:

1800079 AT&T Services Inc.
Action: The Board discussed this matter.

1623374 Leo's Bindery, Inc
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.

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| 1296297 | Alliance Diversified Enterprises, Inc.
Whether Employer committed the violations alleged in the citations, including alleged violations of section 1509, subdivision (b) [failure to adopt code of safe practices]; section 1511, subdivision (b) [failure to survey the worksite]; and (3) section 1541.1 [failure to provide adequate protective system in excavation], and whether the Division established the repeat classification for one of the citations. |
| 1573582 | CA Department of Corrections & Rehab
Whether several of the ALJ's findings of fact are supported by the record, and whether those findings support the decision. |
| 1360156 | CA Forest and Fire Protection
<i>Did the Decision of the Administrative Law Judge properly affirm a violation for failure to wear thermal protection for ears and neck during wildland fire fighting.</i> |
| 1545777 | Entact, LLC
<i>Did the Decision of the Administrative Law Judge properly affirm violations for failure to ensure that employees operated industrial trucks in a safe manner by maintaining a safe distance from other vehicles, and for failure to ensure that employees traveled with the load trailing when the load being carried obstructed forward view.</i> |
| 1488312 | Indiana Finish Line, Inc.
<i>Whether the cited employer established procedures adequate to protect employees from COVID-19.</i> |
| 1371294 | KPRS Construction Services, Inc. |

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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.

Action: The Board discussed this matter.

- 1529748 Los Angeles Department of Water & Power
Did the Division cite the correct regulation section when it cited Employer for violating 8 CCR 2940.14, and was it established that under the stipulated facts that Employer violated that section?
- 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.
- 1458699 Primula Mozzarella LLC.
Whether the Employer's petition for reconsideration was timely.
- 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.
- Action: The Board discussed this matter.
- 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.
Did the Decision of the Administrative Law Judge properly find that employees were exposed to the hazard of a failure to provide a swinging gate or equivalent protection at the entrance to a ladder opening on a platform.
- 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)
8. Drill Tech Drilling & Shoring, Inc. N25-1793 (1420923)
9. Metropolitan News Company, 25STCP04455 (1689021)
10. Blue Diamond Growers, 34-2018-80003007 (1040471)

Appellate Court:

1. General Dynamics NASSCO (1300984)
2. Waterproofing and Roofing Solutions, Inc. 24STCP03693 (1690885)

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.)

1816714	Asacrete Inc.
1832174	Bartlett Care Center, LLC
1848155	Batteries Plus
1820823	Berkeley Roof Services, Inc.
1777587	Bernards Bros Inc
1513242	Brookdale Senior Living Communities, Inc.
1820748	Buttonwillow Warehouse Company Inc
1799312	Drake Construction, Inc.
1820773	Fallen Leaf Tree LLC
1826170	Flores AG Services Inc
1796157	FRZ Electrical, Inc.
1774049	Golden Fields Produce Inc.
1826562	Harder Mechanical Contractors, Inc.
1800565	HSH Playa Management CA, LLC
1816241	Humboldt Sawmill Company LLC
1573255	Jarrow Industries, LLC
1817510	Jonathan Club
1828406	Keolis Transit America, Inc.
1817042	KHS&S West- Keenan, Hopkins, Suder and Stowell
1592461	Lowe's Home Centers, LLC
1700802	Mckesson Medical-Surgical Inc.
1770416	Mercer Fraser Company
1718841	Nextcrop, Inc.
1817033	North Market Investments Inc
1794174	Odyssey Agricultural Development
1704749	Onni Properties LLC
1824483	Pacific Pallet Exchange, Inc.
1716661	Pasadena City Fire Department
1663172	Rolling Frito-Lay Sales, LP
1838295	RT Western, Inc.
1819115	Straight Line Roofing and Construction
1829101	Sylvester Roofing Company Inc.
1785480	Takeda Pharmaceuticals America, Inc.
1747043	Trumark Construction Services Inc
1820223	Universal Labor Solutions, Inc.
1814817	West Coast Turf, Inc.

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

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Personnel:

(Issues regarding staff)

The Closed Session adjourned at 11:07 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 11:08 a.m.