

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on January 28, 2026
Sacramento, California
Zoom Platform

Present:

Ed Lowry, Public Member, Chair
Judith Freyman, Management Member
Marvin Kropke, Labor Member
Scott Pease, Executive Officer
Kerry Lewis, Presiding Administrative Law Judge
Sam E. Lucas, Presiding Administrative Law Judge
Christopher Jessup, Administrative Law Judge
Aaron Jackson, Chief Counsel
Jeffrey Mojcher, Chief Counsel Emeritus
Karen Halbo, Staff Counsel
Brian Nichols, Staff Counsel
Maria Rios, Legal Analyst
Beth Reiken, Executive Secretary
Denise Cardoso, Assistant Chief Counsel, DOSH
Rocio Reyes, Assistant Chief Counsel, DOSH
Katera Rutledge, Staff Counsel, DOSH
Ramesses Surban, Staff Counsel, DOSH
Ina Fitzgibbon, Office of Director, DIR
Kita Banks, Staff Counsel, Cal Fire
Jordan Uter, Worksafe
Bruce Wick, Risk Management Director, Housing Contractors of California
Matt Smylie, Ford Construction
Catherine Baldi

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 February 11th and February 25th Board meetings remotely pursuant to Government Code section 11123.2, subdivision (j)(2)(A).
This motion was seconded by Ed Lowry.
The Board voted to approve the remote attendance request 3-0.

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Minutes of January 14, 2026, Meeting:

(Approve or amend minutes of previous Board meeting.)

Action: The Board voted to approve the minutes for the January 14, 2026, 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.)

1. Discussion of comments received at the Stakeholder's Roundtable.

Action: Ed Lowry advised that once the transcripts from the Stakeholder's Roundtable is received, future discussion will take place.

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: No report.

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: Scott Pease reported that the transcript from the Stakeholder's Roundtable Discussion will be available soon for distribution. The new Senior Legal Typist (SLT) will be starting on 2/2/2026. The Attorney III interviews are scheduled for 1/29/2026. The Attorney I position is posted until 2/6/2026 with interviews planned for the end of

February along with the Supervisor I position (formally titled SSM I).

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 shared that the Office of Legislative and Regulatory Affairs (OLRA) has moved both the Appeal Initiation Regulations and the Pre-hearing and Hearing Regulations rulemaking documents to the DIR Director for signatures. Once signed, OLRA will forward the documents to the Labor Agency for review.

Presiding Judge Sam E. Lucas shared that the Administrative Law Judges (ALJs) have met regarding the comments at the Stakeholder's Roundtable. The ALJs have been very busy since the New Year and Sam shared his appreciation to all parties who have been attending their pre-hearings and status conferences.

2. Ligation Update

Action: Aaron Jackson provided the following updates:
In the Uber matter (1594663), there was a hearing on January 26th on Uber's motion to stay. The court has taken the motion under submission. The Board's reply in the Baldi/Arana (1568252) matter is due on February 2nd. The hearing on the Board's demurrer in The Geo Group (1609228) matter will be heard on March 6th. In the General Dynamics NASSCO case (1300984), the court will hear oral arguments on March 11th.

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: Members of the public expressed appreciation to the Board for hosting the Stakeholder's Roundtable Discussion,

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requested transcripts, and are monitoring any changes that may come from the event. The Board heard comments suggesting the Board consider implementing a process similar to the California Civil Rights Department's mediation process. The Division acknowledged Presiding Judge Sam E. Lucas' comments regarding the busy calendar, and they are working to get their new staff trained to keep up with the pace.

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.)

1660543 West Coast Drywall & Paint
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.)

1778959 Chedraui USA Inc.
Action: The Board voted to issue a Denial of Petition for Reconsideration as amended.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

1784640 Innovation Construction Inc
Action: The Board discussed this matter.

1719334 One Source Plumbing & Rooter Inc.
Action: The Board voted to issue an Order taking the Petition for Reconsideration under submission.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

Orders Dismissing Appeal:

1641431 Gold Valley Floors, Inc.
Action: The Board discussed this matter.

1778181 JLF Stone Tile Works 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> |
| 1446266 | Creative Packaging
Whether the employer violated hazard energy control regulations as alleged. |
| 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> |

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- 1488312 Indiana Finish Line, Inc.
Whether the cited employer established procedures adequate to protect employees from COVID-19.
- 1518442 JT2, Inc.
- 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.
- 1692964 L & S Framing, Inc.
- 1469097 Lowe's Home Centers, LLC
Whether there was exposure to foot injuries from falling objects, crushing, or penetrating actions. If so, whether the employer required appropriate foot protection.
- 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?
- 1581944 Marques General Engineering, Inc.
Whether to permit a post-submission amendment of the citation.
- 1235941 McCarthy Building Companies, Inc.
Whether the Division proved exposure to Valley Fever.
- Action: The Board discussed this matter.
- 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

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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.
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.
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)

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9. Metropolitan News Company, 25STCP04455 (1689021)
10. Blue Diamond Growers, 34-2018-80003007 (1040471)
11. Los Angeles Police Department 25STCP05034 (1599318)
12. L & S Framing, Inc. (1692964)

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.)

1813182	Abacus Business Capital, Inc
ART-202201	Action Time, LLC
1789047	Award Roofing Inc.
1831340	Bay Cities Tin Shop, Inc.
1818719	BDS Plumbing Inc.
1827718	Beit T'Shuvah
1799332	Bergelectric Corporation
1616882	Blue Apron, LLC
1804613	Bogard Construction, Inc.
1819233	Cabrillo Boat Shop
1822787	CAL/OES
1832773	Canus Corporation
1689968	Central Cal Water Works, Inc.
1672387	Clark Construction Group California LP
1794454	Coast Personnel Services
1825365	Comet Electric Inc
1797656	CRCD Enterprises
1835558	Delta Space Corp.
1783086	DMJS, Inc.
1780127	E. Landscaping Services
1759971	Eagle Eye Express LLC Corp
1801333	Emilio Rojo
1638760	Employbridge

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1654874	Employbridge, LLC
1677866	Erickson Framing CA LLC
1738863	Firstservice Residential
1830983	Fresnius Medical Care Irvine LLC
1802564	Garcias Pallets Inc
1854672	GM AG Services
1796352	Gold Star Insulation LP
1830194	Heartwood Professional Tree Management, Inc.
1598336	Hollywood Tree Service
1781700	Home License Inc.
1785888	IV Welding & Mechanical Inc
1791871	JJ&S Asbestos Removal, Inc.
1813619	John Paul Company Inc.
1415782	Kenneth Leon
1843198	Leonard's Molded Products Inc
1817696	Linde Welding Gas & Equipment Center
1829715	Lodi Iron Works, Inc.
1666115	Matrix Service Inc.
1820422	Oakland Pallet Company, Inc.
1464673	Overhill Farms, Inc.
1842740	Perfection Roofing Company
1826367	Performance Food Group Inc.
1823773	Phillips 66 Company
1786312	Pressler Properties & Construction LLC
1821628	Prism Team Services, Inc.
1722702	R & R Framing, Inc.
1819243	Rafa Construction
1795077	Real Team Staffing
1851199	Robert L. Silva
1779011	Safeway Stores Inc. Store #3011
1803770	San Diego County Water Authority
1836057	SEFNCO Communications Inc
1686847	SRI International
1775660	TRG Construction Inc.
1696302	Tutor Perini Corporation and O & G Industries, Inc.
1837605	Verde Vineyards, LLC
1559888	Walmart Stores, Inc.
1835713	Wells Plumbing Heating and Air, Inc
1647400	Womack Heating & Air

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

Personnel:

(Issues regarding staff)

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The Closed Session adjourned at 11:02 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 11:03 a.m.