

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on March 11, 2026
Sacramento, California
Zoom Platform

Present:

Ed Lowry, Public Member, Chairperson
Judith Freyman, Management Member
Marvin Kropke, Labor Member
Scott Pease, Executive Officer
Kerry Lewis, Presiding Administrative Law Judge
Rheeah Yoo Avelar, 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
Rocio Reyes, Assistant Chief Counsel, DOSH
Ina Fitzgibbon, Office of Director, DIR
Dana Deane, Staff Counsel, DIR
Jeremy Lawson, Chief of Safety and EMS programs, Cal Fire
David Wiseman, Staff Counsel, Cal Fire
Kita Banks, Staff Counsel, Cal Fire
Jordan Uter, Worksafe
Matt Smylie, Ford Construction Company, Inc.
Adam Crane, Ogletree Deakins
Michelle Henson, Ogletree Deakins
Mona Francois, Staffing Company
Ani Ryder, Housing Authority with the City of Alameda

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.

Minutes of February 25, 2026, Meeting:

(Approve or amend minutes of previous Board meeting.)

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Action: The Board voted to approve the minutes for the February 25, 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: Scott Pease advised that the transcripts from the Stakeholders' Roundtable have been distributed to attendees. He asked if typos or errors are found, to please share with OSHAB so they can be amended.

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 met with the Department of Labor for their first quarter meeting and discussed the fiscal budget. He observed oral arguments in the General Dynamics NASSCO (1300984) hearing. He will be looking to amend the 2026 Board meeting calendar due to scheduling issues.

Board Members' Reports:

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

Action: Marvin Kropke asked a geographical question about the next Stakeholder's Roundtable Discussion.

Executive Officer's Report:

(Report regarding administrative matters.)

Action: Scott Pease reported that our limited term Attorney III, Brian Nichols, was selected as the permanent Attorney III. Interviews for the Attorney I position will take place in March.

He is waiting on applications to be released from HR for the Supervisor I position. Once received, interviews will be scheduled for April. He is waiting on HR to approve the Analyst I position so it can be posted. Interviews will be in April.

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 she is reviewing the transcript from the Stakeholder's Roundtable Discussion and will circulate proposed regulatory amendments amongst the legal team.

2. Ligation Update

Action: Aaron Jackson provided the following updates:
In General Dynamics NASSCO (1300984), the appellate court heard oral arguments on 3/10/2026 and the Board is awaiting an opinion. In Baldi/Arana (1568252), the Board is waiting decision on the demurrer. In Metropolitan News Company (1689021), there will be a hearing on the Board's demurrer on 4/9/2026. Employer's motion for sanctions will be heard on the same day. The hearing on the Board's demurrer in Uber (1594663) is on 4/20/2026. The hearing on the Board's demurrer in The Geo Group (1609228) was moved to 5/29/2026. The Board was made aware that a new Federal lawsuit has been filed naming Ed Lowry and Scott Pease in their professional capacities as defendants. The Board has not yet been served with the complaint.

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 from Jeremy Lawson, Chief of Safety and EMS programs for Cal Fire, regarding respirators and face masks for firefighters fighting wildfires. Rocio

Reyes shared that the Division is hiring three new attorneys who will be starting in March and April.

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.)

1692164 L & S Framing, Inc.
Action: The Board discussed this matter.

1642084 Los Angeles County Probation Department
Action: The Board discussed this matter.

1532781 TSU/Tree Service Unlimited, Inc.
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.)

1844225 Ali Reza Tehranian
Action: The Board voted to issue an Order of Remand.
It was moved by Ed Lowry.
It was seconded by Marvin Kropke.
The vote was 3-0.

1628750 Tad Van Nguyen
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.

1660543 West Coast Drywall & Paint
Action: The Board voted to issue an Order Taking the Petition for Reconsideration Under Submission.
It was moved by Judith Freyman.
It was seconded by Marvin Kropke.
The vote was 3-0.

Orders Dismissing Appeal:

1784241 Bluewater Marine & Dock Specialties, Inc.
Action: The Board discussed this matter.

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1732936 National Builders & Services, Inc.
Action: The Board discussed this matter.

1487570 Raul Mariscal
Action: The Board discussed this matter.

Orders Denying Leave to File Late Appeal:

1741142 Marblewest Stoneworks Inc.
Action: The Board discussed this matter.

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.

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.

1824578 Allied Express Logistics, Inc.

1040471 Blue Diamond Growers
Whether or not the Unforeseeable Extreme Departure Defense applies to vacate 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
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.

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- 1446266 Creative Packaging
Whether the employer violated hazard energy control regulations as alleged.
- 1545777 Entact, LLC
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.
- 1488312 Indiana Finish Line, Inc.
Whether the cited employer established procedures adequate to protect employees from COVID-19.
- 1518442 JT2, Inc.
How should the term "issue" or "issued" as used in Labor Code section 6317, subdivision (e)(1) be interpreted. How should the notice requirements of Labor Code 6319 be interpreted.
- 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.
- Action: The Board voted to issue a Decision After Reconsideration as amended.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.
- 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.
- 1235941 McCarthy Building Companies, Inc.
Whether the Division proved exposure to Valley Fever.
- Action: The Board voted to issue a Decision After Reconsideration as amended.
It was moved by Marvin Kropke.

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

- 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.
- 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)
9. Metropolitan News Company, 25STCP04455 (1689021)
10. Los Angeles Police Department 25STCP05034 (1599318)
11. 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.)

1768228	Air Control Systems
1786083	Alena Foods, Inc.
1835552	AMPAM Parks Mechanical Inc.
1818701	Amrep Manufacturing Company, LLC.
1750546	Atlantic Solutions Group, Inc.
1621493	Ayers Landscape Services, Inc.
1841770	Barrera & Associates Construction, Inc.
1813792	Basin Enterprises, Inc.

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1813792	Blower-Dempsey Corporation
1804742	Broyles Construction & Landscape Inc.
1819022	California Boiler Inc
1816804	California Industrial Refrigerator & Machines,
1824252	California Organic Treatment Center Inc.
1798296	Chedraui USA Inc.
1768221	City of Arcadia
1819846	Coastal Vineyard Care Associated
1809421	Diamond Landscaping LLC
1679242	Elite Show Services, Inc.
1701871	Employbridge LLC
1849181	Esparza Enterprises, Inc.
1510330	FedEx Ground Package System, Inc.
1823980	Fence Factory
1823254	Five Crowns, Inc.
1817030	Fortte Construction Inc.
1835818	Garden Grove Unified School District
1831696	Global AG Harvest, Inc.
1860129	Green AG Management, LLC
1864256	Guy Williams General Contractor
1841347	I.V. Mechanical, Inc.
1864349	JFR Trucking Inc
1827395	JR Construction Adviser, Inc
1827542	Kern Ridge Growers, LLC
1775312	Lakin Tire West, Inc
1822396	Las Montanas Hayward, Inc.
1759837	M&S Construction Services Inc.
1715565	M. B. Herzog Electric, Inc.
1604998	Marques General Engineering, Inc.
1704380	Meyers Constructors, Inc.
1630327	OWB Packers, LLC
1797039	Parron-Hall Corporation
1804920	Platinum Construction Inc
1837957	PMR Construction
1760096	Production Framing, Inc.
1605672	Quick Quack Carwash
1697136	Quiring General LLC
1816786	Rain Gutter Pros Inc.
1653671	Riat Construction, Inc.
1841590	Roxbury Management Co
1760211	S and D Carwash Management, LLC
1644792	Safeway, Inc.
1746154	San Joaquin County
1844342	Santa Clara Water and Sewer Department
1802722	SBR, Inc.
1834976	SG Construction Company

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1756920	Slaton & Son Roofing, Inc.
1616892	SSA Terminals (Oakland), LLC
1717437	Staples, Inc.
1773466	Stone Master Marble & Granite Inc.
1797424	Straub Distributing Company
1738698	Stronghold Climbing LLC
1845129	Sun Pacific Farming Cooperative, Inc.
1641155	Sun Pacific Shippers, L.P.
1619862	Super Center Concepts, Inc.
1810119	Sysco Corporation
1832187	Tight Quarters Inc.
1715536	Torrance Refining Company LLC
1606869	Turner Construction
1667726	United Parcel Service
1853827	Unspotted, Inc.
1685117	VCA Sacramento Veterinary Referral Center
1602107	VCA Westside Animal Hospitals, Inc.
1663967	Vino Farms LLC
1819207	Weighmasters Murphy, Inc.
1685593	Wonderful Citrus Packing LLC
1794024	Wonderful Citrus Packing LLC

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

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 11:08 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 11:09 a.m.