

NOW +

NEXT

OSHA ALERT | NIXON PEABODY LLP

JULY 17, 2020



California Occupational Safety and Health Appeals Board makes the move to remote hearings for the foreseeable future

By Maritza Martin and Benjamin Kim

After months of uncertainty regarding the status of citation appeal hearings due to the coronavirus (COVID-19) pandemic, the California Occupational Safety and Health Appeals Board (Appeals Board) is moving forward with remote video hearings.

In addition, there are some noteworthy enhancements to the Appeals Board's usual procedures as employers litigate workplace safety and health citations on appeal in California.

Now more than ever, the conferences scheduled immediately prior to the hearing will serve as a time to prepare for the actual hearing. According to the Appeals Board, both parties should be prepared to discuss how many witnesses will appear for the hearing as well as how and where they will appear. The Appeals Board is focused on accessibility since there remains the possibility that participants are unable to appear using their own electronic devices. If that is the case, participants will have access to the necessary equipment at an Appeals Board or Division office.

Both parties also must digitally submit all hearing exhibits through OASIS at least ten (10) calendar days prior to the hearing. If a party is not submitting exhibits electronically, then they must ensure that the Appeals Board receives the hardcopy exhibits at least fifteen (15) days before the hearing.

Given this recent determination, employers should not expect relief from motions for continuance based on the inability to be physically present at the hearing.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

- Maritza Martin, 415-984-8350, mmartin@nixonpeabody.com
- Benjamin Kim, 213-629-6090, bkim@nixonpeabody.com