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5 **BEFORE THE HEARING EXAMINER**
6 **CITY OF SEATTLE**

7 In the matter of the Appeal of:

8 Baja Concrete USA Corp., Newway
9 Forming Inc., and Antonio Machado,

10 From a Final Order of the Decision
11 issued by the Director, Seattle Office
12 of Labor Standards.
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Hearing Examiner File:

No.: LS-21-002
LS-21-003
LS-21-004

APPELLANT BAJA CONCRETE USA CORP'S
PRELIMINARY WITNESS AND EXHIBITS LIST

15 TO: THE HON. RYAN VANCIL, HEARING EXAMINER

16 Appellant Baja Concrete USA Corp. (Appellant Baja) intends to call the following witnesses and
17 exhibits during the appeal hearing in this matter.
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19 **I. WITNESS LIST**

20 1. Claudia Penunuri
21 Member of Baja Concrete USA Corp.
22 (215) 205-3989
23 12736 SW 133rd St.
Miami, FL 33186
Claupi528@hotmail.com

24 This witness is expected to testify regarding the business operations of Appellant Baja.
25 Estimated time for direct examination: 60 minutes.

2. Mercedes de Armas
Mercedes Accounting & Associates LLC
(425) 747-0952
12727 Northup Way, Suite 7
Bellevue, WA 98005
Mercedes@mercedesaccounting.com

This witness is expected to provide testimony regarding her Mercedes Accounting's bookkeeping services provided to Appellant Baja, as well invoicing by Appellant Baja to Appellant Newway Forming for services provided which may be relevant to the project sites at issue in this case.

Estimated time for direct examination: 60 minutes.

3. Daron Williams
Senior Investigator
City of Seattle Office of Labor Standards
(206) 733-9969
810 Third Avenue, Suite 375
Seattle, WA 98104
Daron.Williams@seattle.gov

This witness is expected to testify regarding the City of Seattle Office of Labor Standards' investigation in the above-referenced case.

Estimated time for direct examination: 90 minutes.

4. Ashley Harrison
Investigator
City of Seattle Office of Labor Standards
(206) 386-1930
810 Third Avenue, Suite 375
Seattle, WA 98104
Ashley.Harrison@seattle.gov

This witness is expected to testify regarding the City of Seattle Office of Labor Standards' investigation in the above-referenced case.

Estimated time for direct examination: 30 minutes.

5. Appellant Antonio Machado
Superintendent of Appellant Newway Forming
Newway Forming Inc.
1133 164th St. SW, Suite 204
Lynnwood, WA 98087

This witness is expected to testify regarding business activities of Appellant Newway Forming, work activities, assignments, and hours of workers at the project sites at issue in

1 this case, and the recruiting, hiring and termination of such workers. This witness is also
2 expected to testify regarding the business interactions between Appellant Newway
3 Forming and Appellant Baja, in particular to invoices by Appellant Baja Concrete to
4 Appellant Newway Forming.

5 Estimated time for direct examination: 60 minutes.

6 6. Kwynne Grant
7 Project Coordinator of Appellant Newway Forming
8 Newway Forming Inc.
9 1133 164th St. SW, Suite 204
10 Lynnwood, WA 98087
11 kwynne@newwayforming.com

12 This witness is expected to testify regarding certain email exchanges between the witness,
13 Tom Grant and Roberto Soto Contreras, and about the procedures for obtaining workers at
14 project sites and making payments for compensation of such workers.

15 7. Tom Grant
16 Senior Project Coordinator of Appellant Newway Forming
17 Newway Forming Inc.
18 1133 164th St. SW, Suite 204
19 Lynnwood, WA 98087
20 kwynne@newwayforming.com

21 This witness is expected to testify regarding certain email exchanges between the witness,
22 Kwynne Grant and Roberto Soto Contreras, and about the procedures for obtaining workers
23 at project sites and making payments for compensation of such workers.

24 8. Claudio Gamboa
25 6103 South Albion Way, Apt. I-306
Mountlake Terrace, WA 98043

This witness is expected to testify regarding such matters as how they were recruited, who
hired and employed them, how were their wages determined, who directed their work
activities, work locations, working hours, break times, sick leave requests, wage
deductions, all of which are central to the assertions of the City of Seattle Office of Labor
Standards which form the basis for its allegations and claims against Appellant Baja at
issue in this matter.

Estimated time for direct examination: 30 minutes.

9. Cristian Navejas
6103 South Albion Way, Apt. I-306
Mountlake Terrace, WA 98043

1 This witness is expected to testify regarding such matters as how they were recruited, who
2 hired and employed them, how were their wages determined, who directed their work
3 activities, work locations, working hours, break times, sick leave requests, wage
4 deductions, all of which are central to the assertions of the City of Seattle Office of Labor
Standards which form the basis for its allegations and claims against Appellant Baja at
issue in this matter.

Estimated time for direct examination: 30 minutes.

5 10. All employees who testified or were otherwise relied upon during the investigation
6 in this matter, including, without limitation, the individuals listed in Attachment B of the
7 Findings of Fact, Determination and Final Order of the City of Seattle Office of Labor
8 Standards, Case No, CAS-2020-00186, which is the subject of this appeal. As of the date
9 of this preliminary witness list, the identities of specific workers who provided testimony
which were relied on in support of findings of joint employment, unpaid wages, unpaid or
under-compensated sick and safe time, and wage deductions, in the above-referenced
Determination and Final Order have not been disclosed to Appellant Baja.

10 These witnesses are expected to testify regarding such matters as how they were recruited,
11 who hired and employed them, how were their wages determined, who directed their work
12 activities, work locations, working hours, break times, sick leave requests, wage
13 deductions, all of which are central to the assertions of the City of Seattle Office of Labor
Standards which form the basis for its allegations and claims against Appellant Baja at
issue in this matter.

Estimated time for direct examination: 2-4 hours.

14 11. Any witness called by any other party.

15 Respondent Baja reserves the right to amend or supplement this disclosure, including without
16 limitation adding expert witnesses.

17 **II. EXHIBIT LIST**

18 1. Invoices issued by Appellant Baja to Appellant Newway Forming for services provided
19 during 2018.

20 2. Invoices issued by Appellant Baja to Appellant Newway Forming for services provided
21 during 2019.

22 3. Invoices issued by Appellant Baja to Appellant Newway Forming for services provided
23 during 2020.

4. Pay stubs of workers issued during 2018.
5. Pay stubs of workers issued during 2019.
6. Pay stubs of workers issued during 2020.
7. Appellant Baja summary of deductions and contributions for the period of 2017-2020.
8. Appellant Baja's payroll summaries from 2020.
9. Email exchanges between Kwynne Grant of Appellant Newway Forming and Roberto Soto Contreras dated September 16, 2019 and May 1, 2020.
10. Email exchanges among Kwynne Grant of Appellant Newway Forming, Roberto Soto Contreras, and Tom Grant of Newway Forming during 2019.
11. Site safety sheets referring to an incident and a meeting on March 20, 2019.
12. Site safety stand down documents referring to job name "1120 Denny" dated March 21, 2019.

Respondent Baja reserves the right to amend or supplement this disclosure.

Respectfully submitted, January 18, 2020.

MDK LAW

/s/ Alex T. Larkin

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Bellevue, WA 98004

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