

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:

BAJA CONCRETE USA CORP.,
ROBERTRO CONTRERAS, NEWWAY
FORMING, INC., and ANTONIO
MACHADO

From a Final Order of the Decision issued
by the Director, Seattle Office of Labor Standards

Hearing Examiner File:

Nos.:

LS-21-002
LS-21-003
LS-21-004

**APPELLANT NEWWAY FORMING,
INC.'S PRELIMINARY WITNESS
AND EXHIBITS LIST**

Appellant Newway Forming, Inc. (Appellant Newway) may call the following witnesses and offer the following exhibits at the hearing beginning Monday, October 17, 2022. Discovery is ongoing in this case, and Appellant Newway modify the designation of witnesses it calls and exhibits it introduces as discovery proceeds.

Appellant Newway reserves the right to call any witness identified by any other party, or introduce any exhibit identified by any other party, or to timely disclose additional witnesses and/or exhibits after receipt of materials or information from the other Parties herein, or other sources, including but not limited to, Witness and Exhibit Lists, responses to discovery requests, and additional information regarding the case.

I. WITNESS LIST

1. Kwynne Grant

Summary of Expected Testimony: May be called to testify regarding facts pertinent to the Office of Labor Standard' contention that Newway Forming, Inc., is a joint employer of Baja Concrete USA Corp.'s workers at issue.

1 Expected Duration of Testimony: Two Hours.

2 **2. Tom Grant**

3 Summary of Expected Testimony: May be called to testify regarding facts pertinent to
4 the Office of Labor Standard' contention that Newway Forming, Inc., is a joint
5 employer of Baja Concrete USA Corp.'s workers at issue.

6 Expected Duration of Testimony: One Hour.

7 **3. Adam Pilling**

8 Summary of Expected Testimony: May be called to testify regarding facts pertinent to
9 the Office of Labor Standards' contention that Newway Forming, Inc., is a joint
10 employer of Baja Concrete USA Corp.'s workers at issue.

11 Expected Duration of Testimony: One Hour.

12 **4. Antonio Machado**

13 Summary of Expected Testimony: May be called to testify regarding facts pertinent to
14 the Office of Labor Standards' contention that Newway Forming, Inc., is a joint
15 employer of Baja Concrete USA Corp.'s workers at issue.

16 Expected Duration of Testimony: Two Hours.

17 **5. Claudia Penunuri**

18 Summary of Expected Testimony: May be called to testify regarding Baja Concrete
19 USA Corp.'s employment and involvement with workers at the Seattle worksites.

20 Expected Duration of Testimony: One Hour.

21 **6. Mercedes De Armas**

22 Summary of Expected Testimony: May be called to testify regarding Baja Concrete
23 USA Corp.'s employment and involvement with workers at the Seattle worksites.

24 Expected Duration of Testimony: One Hour.

25 **7. Roberto Soto Contreras**

26 Summary of Expected Testimony: May be called to testify regarding his role on the
Seattle worksites, as well as Baja Concrete USA Corp.'s employment and involvement
with workers at the Seattle worksites.

Expected Duration of Testimony: Two Hours.

8. **Unidentified lay witnesses of Newway Forming, Inc. and/or Baja Concrete, USA Ltd. (True identities of these witnesses have been withheld by City of Seattle and as such, Appellant Newway Forming have been unable to ascertain the names of these individuals).**

Summary of Expected Testimony: May be called to testify regarding their personal knowledge relating to their employer, Baja Concrete USA, Corp., as well as Newway Forming Inc., Antonio Machado, and / or Roberto Soto Contreras.

Expected Duration of Testimony: One hour per witness.

9. **Ashley Harrison**

Summary of Expected Testimony: May be called to testify as to all aspects of the Office of Labor Standards' investigation of Appellants, including the interviews with unidentified workers.

Expected Duration of Testimony: Two hours.

10. **Daron Williams**

Summary of Expected Testimony: May be called to testify as to all aspects of the Office of Labor Standards' investigation of Appellants, including the interviews with unidentified workers.

Expected Duration of Testimony: Two hours.

11. **Manuel Camus Valdes**

Summary of Expected Testimony: May be called to testify regarding facts pertinent to the Office of Labor Standards' contention that Newway Forming, Inc., is a joint employer of Baja Concrete USA Corp.'s workers at issue.

Expected Duration of Testimony: One hour.

12. **Patricio Fernandez Borquez**

Summary of Expected Testimony: May be called to testify regarding facts pertinent to the Office of Labor Standards' contention that Newway Forming, Inc., is a joint employer of Baja Concrete USA Corp.'s workers at issue.

Expected Duration of Testimony: One Hour.

II. PRELIMINARY EXHIBIT LIST

Exhibit No.	Description
1	Baja Records of hours worked.
2	Baja Records of payments made to employees, including deductions.
3	Baja requests for payment from Newway for Baja employees and corresponding back up.
4	Materials from the Office of Labor Standard's investigative file.
5	Materials produced in discovery by all parties.

DATED this 18th day of January, 2022.

OLES MORRISON RINKER & BAKER LLP

By: 

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Attorneys for Appellant Newway Forming Inc.

CERTIFICATE OF SERVICE

The undersigned certified under penalty of perjury under the laws of the state of Washington that on this 18th day of January, 2022, I caused true and correct copies of the foregoing document, **Appellant Newway Forming Inc.'s Preliminary Witness and Exhibit List**, to be delivered to the following parties and in the manner indicated below:

Office of the Hearing Examiner The Hon. Ryan Vancil, Hearing Examiner 700 Fifth Avenue, Suite 4000 Seattle, WA 98104	<input checked="" type="checkbox"/> E-File <input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery/Legal Messenger <input type="checkbox"/> Facsimile <input type="checkbox"/> Email: Hearing.Examiner@seattle.gov
Mark D. Kimball Alex T. Larkin MDK Law 777 108 th Ave. NE, Suite 2000 Bellevue, WA 98004 <i>Attorneys for Baja Concrete USA Corp.</i>	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery/Legal Messenger <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email: mark@mdklaw.com alarkin@mdklaw.com
Peter S. Holmes Seattle City Attorney Jeremiah Miller Erica Franklin Derrick De Vera Assistant City Attorney 701 Fifth Avenue, Suite 2050 Seattle, WA 98104-7095 <i>Attorneys for Respondents, The City of Seattle and the Seattle Office of Labor Standards</i>	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery/Legal Messenger <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email: jeremiah.miller@seattle.gov derrick.devera@seattle.gov erica.franklin@seattle.gov sheala.anderson@seattle.gov
Aaron Rocke Sara Kincaid Rocke Law Group, PLLC 500 Union Street, Suite 909 Seattle, WA 98101 <i>Attorneys for Appellant, Antonio Machado</i>	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery/Legal Messenger <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email: aaron@rockelaw.com sara@rockelaw.com service@rockelaw.com

SIGNED at Seattle, Washington this 18th day of January, 2022.



Paul B. Mora