

DEPOSITION: Tuesday, April 26, 2022

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:) Hearing Examiner File:
) No.: **LS-21-002**
BAJA CONCRETE USA CORP., ROBERTO) **LS-21-003**
CONTRERAS, NEWWAY FORMING INC.,) **LS-21-004**
and ANTONIO MACHADO)
) DEPOSITION SUBPOENA
from a Final Order of the Decision issued by)
the Director, Seattle Office of Labor Standards)
_____)

TO: Appellant, Newway Forming Inc., by and through its counsel of record, *Jason R. Wandler and Nicole Wolfe, Oles Morrison Rinker & Baker LLP*; Appellant, Baja Concrete USA Corp., by and through its counsel of record, *Mark D. Kimball and Alex T. Larkin, MDK Law*; Appellant Antonio Machado, by and through his counsel of record, *Aaron Rocke and Sara Kincaid of Rocke Law Group, PLLC*; and

TO: THE OFFICE OF THE HEARING EXAMINER

(X) YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case, said method of recording the testimony to be **(X)** Oral; () Written; () Videotaped.

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. CRLJ 26.

PLACE OF DEPOSITION	DATE AND TIME
Remotely	04/26/22

() **YOU ARE COMMANDED** to produce and permit inspection and copying of the following documents or tangible things at the place, date and time specified below (list documents or objects):

PLACE	DATE AND TIME
-------	---------------

() **YOU ARE COMMANDED** to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

ISSUING OFFICER'S SIGNATURE AND TITLE <i>/s/ Lorna S. Sylvester, Assistant City Attorney</i>	DATE April 12, 2022
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER LORNA S. SYLVESTER, WSBA #29146 Seattle City Attorney's Office 701 Fifth Avenue, Suite 2050 Seattle, WA 98104 (206) 684-8200	ATTORNEY FOR RESPONDENT, CITY OF SEATTLE

PROOF OF SERVICE

NAME OF PERSON SERVED Mercedes De Armas	MANNER OF SERVICE Email: alarkin@mdklaw.com
PLACE OF SERVICE Seattle, Washington	DATE OF SERVICE April 14, 2022
TITLE OF PERSON SERVED (IF SERVICE IS UPON BUSINESS OR ORGANIZATION)	
SERVED BY (PRINT NAME) Sheala Anderson	TITLE OF PERSON SERVING Legal Assistant to City of Seattle Law Dept.

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the State of Washington that I am a suitable person over the age of 18 and that the foregoing information contained in the Proof of Service is true and correct.

EXECUTED ON THE DATE OF April 14, 2022	PLACE Seattle, Washington
SIGNATURE OF SERVER <i>/s/ Sheala Anderson</i>	
PRINTED NAME AND ADDRESS OF SERVER Sheala Anderson: 701 Fifth Avenue, Suite 2050. Seattle, WA 98104-7095	PHONE 206-615-1982

Pursuant to CRLJ 45, Sections (c) & (d) follows:

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and services of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to subsection (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

(ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden, provided that, the court may condition denial of the motion upon a requirement that the subpoenaing party advance the

reasonable cost of producing the books, papers, documents, or tangible things.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information in camera to the court for a determination of the claim. The person responding to the subpoena must preserve the information until the claim is resolved.