

2/1/2022 Deposition Excerpts:  
Antonio Machado

**EXHIBIT B**  
**TO DECLARATION OF CINDI WILLIAMS**

BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

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In the Matter of the Appeal	)	
of:	)	
	)	No.: LS-21-002
	)	LS-21-003
	)	LS-21-004
BAJA CONCRETE USA CORP., ROBERTO	)	
CONTRERAS, NEWWAY FORMING INC.,	)	
and ANTONIO MACHADO,	)	
	)	

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Videotaped Deposition Upon Oral Examination  
of  
ANTONIO MACHADO

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Taken at Remotely via Zoom

DATE: Tuesday, February 1, 2022

REPORTED BY: Jamie Booker, RPR, CCR 3281

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<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 For Respondent City of Seattle:</p> <p>4 JEREMIAH MILLER</p> <p>5 ERICA R. FRANKLIN</p> <p>6 SEATTLE CITY ATTORNEY</p> <p>7 701 Fifth Avenue, Suite 2050</p> <p>8 Seattle, WA 98104-7095</p> <p>9 jeremiah.miller@seattle.gov</p> <p>10 erica.franklin@seattle.gov</p> <p>11</p> <p>12 For Appellant Newway Forming, Inc.:</p> <p>13 JASON R. WANDLER</p> <p>14 OLES MORRISON RINKER &amp; BAKER LLP</p> <p>15 701 Pike Street, Suite 1700</p> <p>16 Seattle, WA 98101</p> <p>17 wandler@oles.com</p> <p>18</p> <p>19 For Appellant Baja Concrete:</p> <p>20 ALEX T. LARKIN</p> <p>21 MDK LAW</p> <p>22 777 108th Ave NE, Suite 2000</p> <p>23 Bellevue, WA 98004</p> <p>24 Alarkin@mdklaw.com</p> <p>25</p> <p>19 For Appellant Antonio Machado:</p> <p>20 SARA KINCAID</p> <p>21 ROCKE LAW GROUP, PLLC</p> <p>22 101 Yesler Way, Suite 603</p> <p>23 Seattle, WA 98104</p> <p>24 sara@rockelaw.com</p> <p>25</p> <p>Also Present: CLAUDIA PENUNURI</p>	<p>1 I N D E X</p> <p>2 EXAMINATION BY: PAGE</p> <p>3</p> <p>4 ERICA FRANKLIN 6</p> <p>5 SARA KINCAID 40</p> <p>6 ERICA FRANKLIN 41</p> <p>7 ALEX LARKIN 126</p> <p>8 SARA KINCAID 163</p> <p>9 * * *</p> <p>10 EXHIBIT DESCRIPTION FOR I.D.</p> <p>11</p> <p>12 Exhibit 1 APPBAJA 0386-0400 89</p> <p>13 Exhibit 2 APPBAJA0002 97</p> <p>14 Exhibit 3 Alejandro Fiol 97</p> <p>15 Exhibit 4 APPBAJA0003 98</p> <p>16 Exhibit 5 BCUSA Employee Information 101</p> <p>17 (APPBAJA0004-0007)</p> <p>18 Exhibit 6 BCUSA PR Summ 061320 to 063020 105</p> <p>19 (APPBAJA0131)</p> <p>20 Exhibit 7 Check to Antonio Machado 118</p> <p>21 Exhibit 8 Time Cards 1 Machado Dep 136</p> <p>22 Exhibit 9 Time Cards 2 Machado Dep 137</p> <p>23 Exhibit 10 OLS Letter to Newway Machado 138</p> <p>24 Dep</p> <p>25 Exhibit 11 Safety Stand Down Machado Dep 141</p> <p>Exhibit 12 Newway Org Chart Machado Dep 157</p>
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<p>1 REMOTELY VIA ZOOM; TUESDAY, FEBRUARY 1, 2022</p> <p>2 9:00 A.M.</p> <p>3 --oOo--</p> <p>4</p> <p>5 VIDEOGRAPHER: Good morning. We are now on the</p> <p>6 record. The time now is 9:03 a.m. on Tuesday, February 1,</p> <p>7 2022.</p> <p>8 This is Volume I, Media Unit I of the</p> <p>9 video-recorded deposition of Antonio Machado in the matter</p> <p>10 of the Appeal of Baja Concrete USA Corporation, Roberto</p> <p>11 Contreras, Newway Forming Incorporated, and Antonio</p> <p>12 Machado from a final order of the decision issued by the</p> <p>13 Director Seattle Office of the Labor Standards. The case</p> <p>14 number -- the case number is LS-21-004.</p> <p>15 This deposition is being held via Zoom. My name</p> <p>16 is Allison Borgida. I am the videographer today from B&amp;A</p> <p>17 Litigation Services. The court reporter is Jamie Booker,</p> <p>18 also from B&amp;A Litigation Services.</p> <p>19 Will counsel and all present please note their</p> <p>20 appearances and affiliations for the record, and then the</p> <p>21 court reporter may swear in the witness.</p> <p>22 ERICA FRANKLIN: Good morning. Erica Franklin</p> <p>23 for the City of Seattle.</p> <p>24 JEREMIAH MILLER: Jeremiah Miller for the City</p> <p>25 of Seattle.</p>	<p>1 SARA KINCAID: Good morning. This is Sara</p> <p>2 Kincaid.</p> <p>3 JASON WANDLER: Sorry.</p> <p>4 VIDEOGRAPHER: Go ahead, Jason --</p> <p>5 JASON WANDLER: Jason Wandler her for Newway</p> <p>6 Forming.</p> <p>7 ALEX LARKIN: And Alex Larkin for Baja Concrete</p> <p>8 USA Corp.</p> <p>9 VIDEOGRAPHER: And, Sara, you might want to say</p> <p>10 yours again just because he was the same time.</p> <p>11 SARA KINCAID: Yeah. Sorry. I didn't want to</p> <p>12 interrupt anybody again.</p> <p>13 This is Sara Kincaid for Antonio Machado.</p> <p>14 VIDEOGRAPHER: All right.</p> <p>15 Jamie.</p> <p>16 COURT REPORTER: We have someone named Claudia.</p> <p>17 VIDEOGRAPHER: Oh, yep.</p> <p>18 Claudia, if you could just introduce yourself</p> <p>19 for the record. Or if someone wants to introduce her.</p> <p>20 ALEX LARKIN: Claudia Penunuri. She's the --</p> <p>21 the governor or the owner of Baja Concrete USA Corp. A</p> <p>22 member, not the owner. Sorry.</p> <p>23</p> <p>24 ANTONIO MACHADO, deponent herein, being</p> <p>25 first duly sworn on oath,</p>

<p style="text-align: right;">Page 6</p> <p>1 was examined and testified 2 as follows: 3 4 VIDEOGRAPHER: Ms. Franklin, you are muted, just 5 FYI. 6 ERICA FRANKLIN: Sure. So let's get started. 7 8 EXAMINATION 9 BY ERICA FRANKLIN: 10 Q. Good morning. Could you please state your full 11 name and address for the record. 12 VIDEOGRAPHER: Mr. Machado, are you able to hear 13 us? 14 THE WITNESS: Yes. Yes. Go ahead. 15 VIDEOGRAPHER: Okay. 16 BY ERICA FRANKLIN: 17 Q. Mr. Machado, can you please state your full name 18 and address for the record. 19 A. So can you repeat? I -- I can't hear too good. 20 I'm going to turn the volume up a little bit. 21 Q. Thank you. 22 Can you please state -- what is your full name? 23 A. My full name is Antonio Fernando DaSilva 24 Machado. 25 Q. Thank you.</p>	<p style="text-align: right;">Page 7</p> <p>1 ERICA FRANKLIN: Ms. Booker, do you need any of 2 that spelled? 3 COURT REPORTER: Yes. 4 BY ERICA FRANKLIN: 5 Q. Can you go ahead and please spell your first 6 name and your middle names and your last name. 7 A. Okay. My first name is Antonio, my middle name 8 is Fernando, and my last name, it's Machado. 9 COURT REPORTER: I'm sorry, sir. There was 10 another name you said before Machado. 11 THE WITNESS: Oh, you know, us -- you know, 12 Portuguese, we have a little name. It's Antonio Fernando 13 DaSilva Machado. You know, that's my full name. 14 COURT REPORTER: Could you spell that DaSilva, 15 please. 16 THE WITNESS: Can I spell -- spell the -- the 17 whole name is Antonio Fernando DaSilva Machado. 18 COURT REPORTER: Can you spell DaSilva, please. 19 THE WITNESS: Yes. D-a-S-i-l-v-a. 20 COURT REPORTER: Thank you. 21 THE WITNESS: That's my mom's, you know, before 22 she got married; so. 23 BY ERICA FRANKLIN: 24 Q. Thank you, Mr. Machado. 25 My name is Erica Franklin, and I am an attorney</p>
<p style="text-align: right;">Page 8</p> <p>1 for the City of Seattle. And I am here to take your 2 deposition today. 3 A. Okay. 4 Q. Is there any reason, such as stress or a 5 physical or mental condition or the influences of 6 substances that would prevent you from testifying 7 truthfully today? 8 A. I can barely hear you. You know, you broke up. 9 I'm going to turn the volume on again. Okay. 10 You want to try again, please? 11 Q. Is there any reason that would prevent you from 12 telling the truth today such as substance or a physical 13 condition or a mental condition? 14 A. What do you mean by -- is there any reason 15 for -- physical -- physical conditions? That -- that's 16 what you mean? 17 Q. Is there anything today that would make it so 18 you couldn't tell the truth in your deposition? 19 A. I'm -- I'm -- I'm going to tell you nothing but 20 the truth. Any questions you guys asking me, I'll tell 21 you nothing but the truth. 22 Q. Thank you. I appreciate it. 23 And are there others in the room with you today? 24 A. Anybody in the room? No, I'm -- I'm by myself. 25 Q. Thank you.</p>	<p style="text-align: right;">Page 9</p> <p>1 Have you ever been deposed before? 2 A. Where in the police before? 3 Q. Have you ever been in a deposition like this 4 before? 5 A. No. I'm -- 6 Q. -- this your first time? 7 A. I never had any problem with the law or -- 8 never, ever in my life. Never. 9 Q. And so let me just give you a -- a little 10 overview of how a deposition works. 11 A. Okay. 12 Q. So we're here today so that I can find out about 13 what you know about this case. So I am going to ask you 14 questions, and you will need to provide answers to them 15 that are direct and the answer the full question. 16 A. Okay. 17 Q. So, if you will recall, you were put under oath 18 which means that you are required to provide truthful 19 answers to each of my questions. 20 And this -- a deposition is a little bit 21 different than a regular conversation. 22 A. Okay. 23 Q. In a -- in a regular conversation, it's common 24 for people to talk over one another, to interrupt each 25 other.</p>

<p style="text-align: right;">Page 18</p> <p>1 Newway Forming?</p> <p>2 A. What -- I was a superintendent in there -- you</p> <p>3 know, I'm still a super -- a superintendent for Newway</p> <p>4 Forming.</p> <p>5 Q. Okay. And are there others who are</p> <p>6 superintendents, or are you the only one?</p> <p>7 A. No. We are at the -- a PM -- a project manager.</p> <p>8 Actually, we went through three of them. Was Chris Birch,</p> <p>9 then Craig, then Tom Grant.</p> <p>10 Tom Grant is the one who been there for most of</p> <p>11 the time. He's a senior project manager.</p> <p>12 Q. Okay. What is the difference between a project</p> <p>13 manager and a superintendent?</p> <p>14 A. Project manager is dealing -- it's, like, almost</p> <p>15 like a CO. He's the one who deals, you know, with the</p> <p>16 money, and sometimes with the PM from -- from the other</p> <p>17 party -- from the other company.</p> <p>18 Like, we were doing a job for Onni. Tom Grant</p> <p>19 would go have a meetings with -- how do you call them?</p> <p>20 With the PM from Onni.</p> <p>21 And my scope of work -- my expertise, it's in</p> <p>22 the field, you know, working with the guys, make sure, you</p> <p>23 know, they do a good job, they work safe, they work safe</p> <p>24 and they do a -- you know, a good job that -- and, you</p> <p>25 know, that's pretty much what I was doing.</p>	<p style="text-align: right;">Page 19</p> <p>1 (Reporter clarification.)</p> <p>2 BY ERICA FRANKLIN:</p> <p>3 Q. Is it Onni? O-n-n-i?</p> <p>4 A. Oh, the company's the owner. That's the</p> <p>5 builder -- you know, the builders, it's Onni. We were</p> <p>6 doing the job for Onni. Onni, yeah.</p> <p>7 Q. So I understand -- so what you're saying -- let</p> <p>8 me just make sure I understand.</p> <p>9 So there were multiple PMs there at that time --</p> <p>10 at -- at the construction site; is that right?</p> <p>11 A. I mean, Newway had -- at the beginning was -- we</p> <p>12 had a Chris Birch, and then after that was Craig. I can't</p> <p>13 remember his last name. And was a seniors superintendent</p> <p>14 which is the one who start before I got there. His name</p> <p>15 was Joe Regal.</p> <p>16 Q. Okay. Was he there at the same time as you?</p> <p>17 A. Sorry?</p> <p>18 Q. Was the senior and superintendent was he there</p> <p>19 at the same time --</p> <p>20 A. Yeah.</p> <p>21 Q. -- you were --</p> <p>22 A. Yeah.</p> <p>23 Q. -- there?</p> <p>24 A. Yeah. He was -- he was there at the beginning.</p> <p>25 Then, when I came from the yard on site, yes, he was</p>
<p style="text-align: right;">Page 20</p> <p>1 there. Joe Regal. He was in charge of a -- that job</p> <p>2 before I got there. Then they was in charge with another</p> <p>3 job in Bellevue for Boza.</p> <p>4 Q. Okay. And you -- you told me that, for the PMs,</p> <p>5 one would come and then another -- and they would leave</p> <p>6 and then another would come. Correct?</p> <p>7 A. Tom -- Tom was the last one. He probably --</p> <p>8 Q. Okay.</p> <p>9 A. -- was it for over two year. Maybe two and a</p> <p>10 half years.</p> <p>11 Q. Okay. So it sounds like, while you were there,</p> <p>12 during time period February 2018 through August 2020,</p> <p>13 there were PMs, there's a site superintendent, and there</p> <p>14 was you -- the -- the senior superintendent --</p> <p>15 A. Joe Regal --</p> <p>16 COURT REPORTER: I'm sorry --</p> <p>17 THE WITNESS: Sorry. Joe Reg was already -- I</p> <p>18 got there probably, I would say, September -- end of</p> <p>19 September beginning of October part. Joe Reg only last</p> <p>20 till Christmas. And then Christmas -- I don't know what</p> <p>21 happened to him. He decide, you know, to leave the</p> <p>22 company. And he went -- he moved back to Canada.</p> <p>23 BY ERICA FRANKLIN:</p> <p>24 Q. Okay. And, at Christmas, were you the only</p> <p>25 superintendent at 1120 Denny Way?</p>	<p style="text-align: right;">Page 21</p> <p>1 A. After he left, yes. Then I -- you know, I took</p> <p>2 his place. Yes.</p> <p>3 Q. Okay. Thank you. Now I understand.</p> <p>4 Are there any -- so you've told me about PMs.</p> <p>5 You've told me about the senior superintendent and</p> <p>6 yourself. Was there anyone else at Newway who has a</p> <p>7 managerial role?</p> <p>8 A. No. Like -- like I said, I had a Tom. And then</p> <p>9 it was a -- after that was me. And then I had a foreman.</p> <p>10 I had a cement finish foreman. I had a three carpenter</p> <p>11 foremans, and I had a labor foreman.</p> <p>12 Q. Okay. Any other -- anyone else with -- who was</p> <p>13 a manager?</p> <p>14 A. As a -- no, not as a manager.</p> <p>15 Then we had another guy -- his name is Connor.</p> <p>16 Connor. He was the -- you know, in charge of a -- the</p> <p>17 safety. But he spend most of his time, you know, in</p> <p>18 the -- in the office.</p> <p>19 Q. Okay. So can you explain to me what -- what you</p> <p>20 did as a superintendent? What -- what your job was.</p> <p>21 A. Okay. My job was, you know, once in a week, we</p> <p>22 have all -- you know, all -- how do you call -- all</p> <p>23 trades. We get together -- the plumber, electrician, the</p> <p>24 mechanical guys, rebar guys. We get altogether, you know.</p> <p>25 They calm them a weekly meeting. So we get together, try</p>

<p style="text-align: right;">Page 22</p> <p>1 to put a schedule together, you know, for the -- for the 2 whole week for the project. 3 And then, we had a more meetings. You know, we 4 had a more meetings, you know, a lot of times with 5 planning. And then they had an issue. For example, they 6 mention a plumbing inspection. They mention an electrical 7 inspection. Sometimes the rebar -- you know, how do you 8 call -- the detailer will miss something. 9 So then we have to change, you know, the pour -- 10 you know, the pours on the floor or the -- even on the 11 walls. You know, whatever we were doing. If there were 12 issues, then we will move on, go, you know, work in 13 another area. 14 And so then that's when I communicate with my 15 foremans. You know, every time we doing -- we doing a 16 pour, I got to communicate, you know, with a cement finish 17 foreman and with a labor foreman. 18 So, if the morning we going to do a slab, let's 19 say, at 4:00 or 5:00 a.m., so we will call the labor crew, 20 you know, to help the guys pouring the concrete. 21 And then same thing with the carpenters. I will 22 go to the carpenter foreman and let them know we doing the 23 slab tomorrow. After that, we going to do vertical; for 24 example columns, walls, you know. So that -- that's 25 pretty much I was communicate with the foreman, let them</p>	<p style="text-align: right;">Page 23</p> <p>1 know what's going on. 2 And then, as I would walking around, I will make 3 sure, you know, the guys they working safe because it -- 4 then I will get in trouble with the -- you know, with the 5 owner. 6 I got to make sure the guy steps -- you know, 7 stands on top of a ladder. I got to make sure it's, you 8 know, tied off. So everything we do, we got to make 9 sure -- we got to comply, you know, with the safe because 10 our goal -- Newway goal, the most important thing is safe 11 because we want to make sure everybody go home safe, you 12 know, at night. 13 And then, if I see any issues, like guy, you 14 know, do something unsafe, I will call the foreman. And 15 the foreman will talk to him and, you know, show him the 16 proper way to, you know -- you know, to do things. 17 And same thing -- every morning, you know, it's 18 by law. We have to do a little warmup -- you know, little 19 exercise. And there same time, we will have a little talk 20 about safety. 21 You know, my safety guy will keep -- and then we 22 will do a little warmup. And then I will talk to the 23 foremans -- you know, the cement finisher, the -- how do 24 you call -- the labor foreman, the carpenter foreman. 25 Will let them know what are we going to do, you know,</p>
<p style="text-align: right;">Page 24</p> <p>1 during the day. 2 So that's pretty much, you know -- and that was 3 going -- sometimes there is -- you know, like I said 4 sometimes there's little change that the general 5 contractor or the developer will call me. Tom, we going 6 to have a meeting. We got the change, you know, some 7 things because we cannot get them done, you know, on time. 8 So that's pretty much my job. That's what I was 9 doing. 10 Q. Okay. Is there anything else that you -- that 11 you left out? 12 A. No. No. That's pretty much -- you know, pretty 13 much what I was doing. 14 Q. Okay. So where did you spend most of your time? 15 In an office? In a construction site? 16 (Reporter clarification.) 17 ERICA FRANKLIN: Let me repeat the question. 18 Where did you spend you time? For example, in 19 an office or at the construction site? 20 A. 99 percent or 95, it's on a construction site, 21 involved, you know -- you know, with a job. 22 The five percent I will be all -- you know, in a 23 meetings. You know, I spend there 40 years. I will be 24 five percent in a meetings or -- but 95 percent of time, I 25 will be on the job site all the time.</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. Okay. How much of the -- so let me just back 2 up. 3 The people who were -- who were working -- who 4 were not managers, who were just actually doing the 5 work -- forgive me for my ignorance -- but is that called 6 a line worker? What is that called in your industry? 7 A. Sorry. I -- I -- I missed the story. Can you 8 repeat, please. 9 Q. What's the name of the -- what do you call the 10 worker? Just a person who's -- they report to the 11 foreman. They're -- they're -- they're not a supervisor, 12 just -- just a worker who's -- 13 A. No. I -- I will talk most of -- like I said, 14 there's to my supervisors. 15 But, if I see some -- you know, someone doing 16 something wrong on site, I will stop them. And then, you 17 know, I will call the foreman and so the foreman he could 18 correct him. 19 Q. What if -- if the -- do you ever speak directly 20 to the worker in that case, if you see a worker doing 21 something wrong or dangerous? 22 A. No. I will stop them. I say -- I will tell 23 them, you know, "Hold on till your foreman comes here 24 because this is not safe." Because if he -- anything they 25 do wrong, then I get blamed for it, you know, from that --</p>

<p style="text-align: right;">Page 26</p> <p>1 from the owner, from the developer. So I got to make 2 sure. Like I said, our goal was make sure, you know, 3 everybody goes home at night safe. So we want to make 4 sure everybody work, you know -- obey the law. 5 Q. So if you -- if you saw a problem and you needed 6 to find the foreman, were there every times where you 7 couldn't find the foreman? 8 A. Sorry? The -- 9 Q. Did -- were there ever times where you could not 10 find the foreman? 11 A. Oh, I have -- I contact him with a radio or -- 12 or with a phone. With a telephone or with it -- you know, 13 radio. 14 Q. Okay. And so what would you -- what would you 15 tell the foreman if there was a safety problem, for 16 example? 17 A. If it's a minor thing, I said, "Oh, you know, 18 make sure, you know, this won't happen," because he can 19 lose his job. 20 I mean, Onni -- Onni, some of the guys there -- 21 Onni, they -- they fire them. First you give them a 22 warning, and then the second time they -- you know, they 23 send you home. And the -- depends on where -- on where it 24 is. 25 I mean, I saw guys there, you know, they didn't</p>	<p style="text-align: right;">Page 27</p> <p>1 tied up, for example, a ladder. A wind came, and the 2 ladder came down -- I believe it -- probably 30, 35 3 floors. Can't imagine if that ladder will hit somebody or 4 will be killed. So that guy had hide away -- Onni, they 5 -- they dismiss him. They fired him. They don't want him 6 any longer on the job site. 7 Like I said, every morning, we are a meeting 8 talking about safety. So we cannot tolerate those things 9 because somebody could die. 10 Q. Okay. When you would talk to the person's 11 foreman, would you give the foreman specific instructions 12 about what needed to happen? 13 A. Like, if it's a minor thing, yeah, I will say. 14 But, if it's a bigger thing, then my safety guy, which I 15 had, you know, a -- a guy, you know -- Onni there, they're 16 safe so then he would correct him. And then sometimes 17 even, you know, give him more training. Because every 18 person was then, before we hired, we give them, you know, 19 a -- you know, some kind of training. 20 Q. And who gives them that training? 21 A. Was Connor -- Connor. He was in charge of 22 safety. 23 Q. And did you have any role in -- in that training 24 or in Colin's work? 25 A. Sorry? Do I have what?</p>
<p style="text-align: right;">Page 28</p> <p>1 Q. Did you play any part in Colin's safety 2 training? 3 A. No. No. 4 SARA KINCAID: I'm sorry. I'm just going to 5 object to the question. I think you misstated the name of 6 the worker too. 7 BY ERICA FRANKLIN: 8 Q. Oh, so the person who -- so I'm asking about the 9 person who -- who provided the trainings and wondering if 10 you -- you worked with that person at all on the 11 trainings. 12 A. No. Him was, like, in the office. Every time 13 you hire a person, first they will go to the office. They 14 will check his background, Newway's office. 15 Then when he comes to the site, then Connor 16 would, you know, give him a trainer -- a training, you 17 know, on site, you know, with a Newway rules, with a 18 Washington state, you know, law and stuff like that. 19 But I wasn't part of that. We are a Connor -- 20 his job was -- full-time job just to look after safety. 21 Q. Okay. So let's go back for a moment. 22 You were telling me how, if you -- if you saw a 23 safety issue, for example, you would contact the person's 24 foreman. 25 Would you follow up later to see if the issue</p>	<p style="text-align: right;">Page 29</p> <p>1 had been resolved? 2 A. Yes. And then the foreman would speak to 3 Connor, you know, that safety guy. So every -- everything 4 that happened on that job, it's got to be all, you know, 5 right -- you know, in the records. Yes. 6 Q. Okay. Did you see the workers working 7 throughout the day? Were you physically there watching? 8 A. No. Like I said, you know, nothing were like 9 three hour, two 44s, and the one 13. All I -- all I do 10 all day long is going back and forth and, you know -- and 11 make sure everybody was working safe. 12 Q. Okay. How many different companies were working 13 at the job site during the -- the time period we're 14 talking about -- February 20 -- 15 A. You mean -- 16 Q. -- 18 to the August 2020? 17 A. How many companies there were in -- on that 18 project? Like -- 19 Q. Yeah, if you know. 20 A. Yeah. It was electrical company, structural 21 company, plumbing company, rebar company -- rebar company, 22 and then was another one -- there were pouring the floors 23 for us. I can't remember they -- the name now. 24 You know what? I would say probably six, seven, 25 eight companies.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. Okay. And how many Newway workers were there 2 during this time period? 3 A. How many what? Sorry. 4 Q. How many workers were working for Newway at the 5 Denny -- 1120 Denny during this time period, if you know 6 approximately? 7 A. We had a prob -- I will say 70 people to work -- 8 not right at the beginning but probably a halfway up or 9 a -- or quarter of a way up we probably -- yeah. At least 10 I will say seven -- probably 70 people. 11 Q. Seventy? 12 A. Yes. 7-0. 13 Q. Okay. And were there Baja Concrete employees on 14 the site while you were there? 15 ALEX LARKIN: Object to the form of the 16 question. 17 Go ahead. 18 ERICA FRANKLIN: Sorry. Objection as to the 19 form? 20 ALEX LARKIN: Form of question. Just preserving 21 the objection -- 22 ERICA FRANKLIN: Thank you. 23 BY ERICA FRANKLIN: 24 Q. So between February 2018 and August 2020, were 25 there Baja Concrete -- people who worked for the Baja</p>	<p style="text-align: right;">Page 31</p> <p>1 Concrete on the site? 2 A. From when -- from February 7th -- 3 Q. February -- February 2018 through August '20, in 4 that time period -- yes -- were there Baja workers? 5 A. Yes. There were some workers there, yes. 6 Q. Do you know how many approximately? 7 A. I'll be honest with you. I don't know the 8 exactly amount, no. I -- 9 Q. Okay. That's -- I appreciate your honesty. 10 And so what work were these Baja workers 11 performing? 12 A. They had some labors and some cement finishers. 13 Q. And can you explain how this fits into Newway's 14 work? Like, what piece of the puzzle were the Baja 15 workers doing? 16 SARA KINCAID: Objection to the form of the 17 question. 18 Sorry. Tony, you can go ahead and answer. 19 BY ERICA FRANKLIN: 20 Q. Well, maybe let me rephrase. 21 Were the -- were workers working for Baja, were 22 they doing the same work as other workers working for 23 new -- Newway? 24 ALEX LARKIN: Object to the form of the question 25 again.</p>
<p style="text-align: right;">Page 32</p> <p>1 BY ERICA FRANKLIN: 2 Q. You can still go ahead and answer. 3 Maybe -- let me rephrase to be more clear. 4 Let -- let's just switch gears for a moment. 5 Let -- I have some questions for you about worker hiring. 6 How many -- how are people hired by Newway in 7 general? How -- can you just walk me through how worker 8 hiring works at Newway? 9 A. Sorry. Can you repeat? 10 Q. Sure. Can you please walk me through the hiring 11 process at Newway? How -- how do workers come on board? 12 A. How they -- how they -- I'll be honest with you. 13 I -- I never ever hire one of a Baja guys. And the hire 14 -- you know, Tom Grant will communicate with Roberto Soto, 15 you know, when he needs, you know, guys. 16 I didn't hire not even one person on that -- not 17 even my carpenter -- the carpenter that will come from the 18 union hall, I never did any hire then. Never, ever did 19 any hire them. 20 Q. Okay. Do you -- even if you weren't personally 21 involved, do you know how workers were hired to work at 22 the -- at 1120 Denny? 23 A. No. I don't know how they did get hired, no. 24 Like I said, my expertise was make sure, you know, we get 25 the job safe and done on time, you know, on schedule. I</p>	<p style="text-align: right;">Page 33</p> <p>1 never -- that is part of the management. 2 Q. Okay. Do you know who would know about how 3 workers were hired? 4 A. No. No, I -- no, I do not. 5 Q. Just -- just one moment, please. 6 So who -- who did you report to at 1120 Denny 7 Way? 8 A. Who do I report to? 9 Q. Who's your boss? 10 A. Who do -- I -- I was communicating with Tom 11 Grant, which is the PM, the project manager. 12 Q. Okay. Was he your boss? 13 A. Is what my boss? 14 Q. Yeah. Just -- 15 A. Yeah. I consider him my boss -- as a boss, yes. 16 Q. Okay. 17 COURT REPORTER: Just for the record, I don't 18 have, counsel, whatever you just said because you spoke at 19 the same time as the witness so it's not on record. 20 ERICA FRANKLIN: I apologize. Let me just ask 21 one more time. 22 BY ERICA FRANKLIN: 23 Q. Was Tom Brown your boss? 24 A. Tom Grant, yes. 25 Q. And what was your relationship like with</p>



<p style="text-align: right;">Page 38</p> <p>1 A. No. Mr. Grant, every time, you know, needs 2 something done, he will call Roberto -- Roberto Soto. 3 And -- if he needs guys. But then, you know, I had a 4 cement finish foreman. His -- his name is Mario. He's 5 the one who was communicate, you know, with the -- with 6 the finisher from Ba. 7 Q. Can you spell his name, please? 8 A. Sorry? 9 Q. Could you please spell his name for the record. 10 The cement foreman. 11 A. You mean Mario? 12 Q. Yeah. What -- how do you spell that? 13 A. I don't know his last name. It's M-a-r-i-o. 14 Mario. 15 Q. Okay. So how would Mr. Grant find out what was 16 going on with the Baja workers? 17 ALEX LARKIN: Object to the form. 18 Go ahead, Mr. Machado. 19 BY ERICA FRANKLIN: 20 Q. You can still answer the question. 21 A. How -- sorry? Can you repeat? How Mr. Grant? 22 Q. How did Mr. Brown -- Mr. Grant find out what the 23 Baja workers were up to? 24 ALEX LARKIN: Object to form. 25 And, Ms. Franklin, if you could --</p>	<p style="text-align: right;">Page 39</p> <p>1 THE WITNESS: I -- I don't know. 2 ALEX LARKIN: If you could -- if you could 3 phrase your questions in a different way rather than 4 referring to workers or employees of Baja, Ms. Franklin, 5 as that is disputed in the appeal. 6 ERICA FRANKLIN: Understood. Thank you. 7 UNIDENTIFIED SPEAKER: Hey, Alex -- 8 BY ERICA FRANKLIN: 9 Q. Mr. Machado, did -- did Mr. Grant communicate 10 directly with Mr. Soto? 11 A. Sorry. I -- I didn't understand. Mr. Grant 12 communicate what? Sorry. 13 Q. With Mr. Soto. 14 A. Yes. 15 Q. And were you involved in those communications? 16 A. No. Like -- like I said at -- I never got 17 involved with the Baja, no -- with the Baja workers. 18 Mr. Grant would call and tell them, you know, 19 every time he needs people. But I got nothing to do with 20 that. It's only Mr. Soto and Mr. Tom Grant. 21 Q. Were the Baja workers doing something 22 differently from the other workers working for Newway? 23 ALEX LARKIN: Object to the form. 24 BY ERICA FRANKLIN: 25 Q. You can still answer.</p>
<p style="text-align: right;">Page 40</p> <p>1 So, Mr. Machado, if there's an objection, unless 2 your attorney tells you that you can't answer, you can 3 still just go ahead and answer the question. 4 So -- let me just get my train of thought back. 5 (Record read.) 6 THE WITNESS: No. I don't see any -- anything 7 different. I mean, I don't see anything different. 8 BY ERICA FRANKLIN: 9 Q. Thank you. Let's -- just one moment. Sure. 10 Let's take a five-minute break, please, and then 11 we can go back on the record. 12 VIDEOGRAPHER: Okay. All right. We are 13 going -- we are going off record. The time now is 14 9:50 a.m. 15 (Recess.) 16 VIDEOGRAPHER: We are back on record. The time 17 now is 9:58 a.m. 18 E X A M I N A T I O N 19 BY SARA KINCAID: 20 Q. Mr. Machado, this is Sara Kincaid. I just 21 wanted to clarify briefly. 22 Ms. Franklin had asked you earlier if you had 23 spoken with anyone in preparation for your deposition 24 today. 25 Did you speak with me prior to your deposition?</p>	<p style="text-align: right;">Page 41</p> <p>1 A. Yes. I been reading your emails. And, yes, 2 I -- yeah. I spoke with you, yes. 3 Q. Okay. Thank you. I just wanted to clarify that 4 for the record. 5 ERICA FRANKLIN: Thank you, Ms. Kincaid. I 6 appreciate it. 7 E X A M I N A T I O N 8 BY ERICA FRANKLIN: 9 Q. Okay. So I just wanted to clarify something as 10 well. 11 While -- were there workers at 1120 Denny Way 12 who were paid by Baja Concrete? 13 A. There were workers -- I mean, I'm pretty sure, 14 you know, Baja Concrete -- Baja Concrete was paying -- 15 paying its workers, not Newway. 16 Q. Okay. So for the sake of clarity, for the rest 17 of this deposition, I'm going to refer to the workers who 18 were being paid by Baja Concrete as the Baja workers. 19 Okay? 20 ALEX LARKIN: And, for the record, I -- I'll 21 just say I have a standing objection to the 22 characterization of them as Baja workers. 23 ERICA FRANKLIN: Okay. 24 ALEX LARKIN: So that -- that objection stands 25 throughout the deposition.</p>

<p style="text-align: right;">Page 42</p> <p>1 ERICA FRANKLIN: Thank you. I think hopefully 2 that will streamline things a little bit. 3 BY ERICA FRANKLIN: 4 Q. Who gives the workers at 1120 Denny instructions 5 on their day-to-day tasks? 6 A. On the -- on the daily basis was, you know, my 7 cement finish foreman and my labor foreman. 8 Q. And how does -- how does it work giving them 9 instructions? Is it on a task-by-task basis or beginning 10 of the workweek, beginning of the day? 11 A. I mean, when they -- you know, in the morning, 12 like I said, I used talk to my foreman. And then my 13 foremans will grab whatever -- you know, whatever was on 14 site and get their working done. That -- that's all. 15 Q. So for the foremen who gave the workers 16 instructions, did they get those instructions from you? 17 A. In the morning, I talk to my foremen. And I 18 tell them what -- you know, through the day what -- what 19 you have to be done; right? To the finisher, to the 20 carpenters, to the -- to the labor foreman. 21 Q. And do those -- do your instructions get passed 22 on to the workers by those foremen? 23 A. Yes. I only -- I don't give them no 24 instructions to my workers. I only go up to my foremans. 25 Q. You only go up to your foremen you said.</p>	<p style="text-align: right;">Page 43</p> <p>1 A. Yes. Yes. 2 Q. And who monitors the performance of the workers 3 to make sure they're doing what they were asked to do? 4 A. My foremen would walk around and, you know, 5 super-- supervising the. 6 Q. And you were walking around as well also 7 supervising? 8 A. Yeah. But I was more, like, with the -- like, 9 you know, carpentry and stuff like that. 10 But then, like I said, if I see -- pretty 11 simple -- a cement finisher is grinding without a vacuum, 12 then I will stop him. If I see a labor chipping 13 something, for example, with no safety glasses, no 14 earplugs, I will stop him again. You know, and then will 15 call his foreman and let him know. 16 But most of the stuff, me, I was involved, you 17 know, with the carpentries. 18 Q. What if you saw something -- it wasn't -- say 19 you saw a worker doing something that wasn't a safety 20 problem but they were doing the job wrong in some ways; 21 would you intervene? 22 A. No. My foreman actually -- he was pretty good. 23 He was, you know, in control of everything. My labor 24 foreman or my cement finish foreman. 25 Q. How much id you talk to your labor foreman</p>
<p style="text-align: right;">Page 44</p> <p>1 throughout the day? 2 A. You know, in a morning. Then, if few plans 3 change, I was go talk to him. 4 I will come down. We all sat in, you know, for 5 lunch. If he has any concerns, he will talk to me. But, 6 you know, like I said, I -- I keep touching, you know, 7 bases with my foremans all the time. 8 Q. So if plans changed and you communicated that to 9 your foreman, would the foreman than communicate that to 10 his workers -- the change in plans? 11 A. Yes. If it is a change on a plan, like I said, 12 lot -- lot of times, we supposed to be pouring the floor 13 let's say tomorrow morning. And then in the middle of the 14 afternoon, I receive an email or a phone call, Tony, 15 the -- the pour is canceled. Respond. 16 So then I got to go tell my foreman, oh, we 17 change the plan. We no pouring the -- this slab, for 18 example, at 5:00 a.m. We going to do the slab at 19 9:00 a.m. Or sometimes, you know, we going to do the slab 20 next day. 21 All depends, you know, how big -- how big the 22 issues they were. 23 Q. Okay. And, when you went to a -- to a foreman 24 and changed plans, did the foreman have to -- have to 25 listen to you and go with the change of plans?</p>	<p style="text-align: right;">Page 45</p> <p>1 A. Yeah. He's got to listen. He's got to listen 2 -- you know, he's got to listen to me, my foremans, yes. 3 Q. And what if a worker had questions or concerns 4 about the work they were being asked to do? Who would 5 they go to? 6 A. If the workers they have any -- 7 Q. Any questions or concerns about the work that 8 they're being asked to do? 9 A. They talk to the foreman. 10 Q. Okay. Would they ever talk directly to you? 11 A. No. To the -- my foremans. 12 Q. And what if -- what if a foreman has a question 13 about what needs to be done? What -- what would the 14 foreman do? 15 A. Well, the foreman lot of times, you know, if he 16 doesn't -- he will ask me. Wants make sure, you know, we 17 get them done, you know, right. 18 Q. So who tells workers when it's time to leave on 19 a given day? 20 A. Well, we were based on eight hours day. But 21 then you get the concrete crews. Sometimes -- you know, 22 Seattle was a busy industry. We order so many concrete -- 23 meters of concrete in an hour. 24 And sometimes, because of the traffic or it -- 25 any issues, last things steady takes six, seven hours;</p>

<p style="text-align: right;">Page 46</p> <p>1 sometimes will take ten, eleven hours. So the guys, they 2 were involve only -- you know, they were involve on -- on 3 a concrete, they have to stay there until, you know, they 4 finish. 5 Q. Who would make the decision that an eight-hour 6 day needed to be extended to a longer day? 7 A. I mean -- 8 Q. Whose decision was that? 9 A. The rule, you know, it's eight -- you know, you 10 working eight hours. But, like I said, lot -- lot of 11 times, you -- things change. You stay, you know, ten, 11 12 to sometimes even 12 hours. 13 Q. Right. So who decided whether it would be an 14 eight-hour day or a ten- or 11-hour day? Who made that 15 decision? 16 A. Who made -- I -- I -- I did lot of times. You 17 know, if you need the guys to stay an hour or two, I 18 always go to foreman, "Oh, today we got to stay a little 19 late. We got to get, you know, this or that done." You 20 know what I'm saying? So -- 21 Q. And did the foreman have any choice? 22 A. In the foreman what? 23 Q. If you asked -- if you told the foreman that his 24 workers needed to stay late, did the foreman have any 25 choice? Or did the workers have to stay late?</p>	<p style="text-align: right;">Page 47</p> <p>1 A. No. No. Most -- most of the guys, you send 2 them home eight hours, they were begging, you know, "I 3 want to stay longer. I need the overtime." No. They 4 never complain because they have to stay late. No. 5 Q. And was a -- was a foreman able to decide he 6 didn't want his workers working late that day? Or did a 7 foreman have to listen -- 8 A. Oh -- 9 Q. -- to you? 10 A. The foreman, he will talk to the guys. 11 Sometimes lot of guys they have a -- "Oh, today I cannot 12 stay late. I have a plan." So he will go to a different 13 guy. You know what I mean? We don't force them to stay. 14 Q. But -- but somebody on that site has to stay if 15 there's more work to be done and it's already been eight 16 hours; is that right? 17 A. Yes. Sometimes. I mean, we cannot all walk 18 away from the job sites. 19 Q. Okay. Let's -- let's talk a little bit more -- 20 let's talk about injuries on the job. 21 What happens if a worker gets injured on the job 22 at 1120 Denny? 23 A. If the worker gets injured -- 24 Q. Yes. 25 A. -- yeah, a couple times. I saw the ambulance</p>
<p style="text-align: right;">Page 48</p> <p>1 came and took him to the hospital. 2 Q. Is there a protocol that you have to follow if a 3 person gets injured on the job? 4 A. Yes. I mean, we -- we have -- we have to 5 report, you know, to -- to the general contractor, to -- 6 the law provides everything is in -- every accident we 7 have, we have everything, you know, in record. 8 Again, that is my -- our safety guy. He puts, 9 you know -- he puts everything on record, all -- you know, 10 all the accidents, incidents. 11 Q. And who -- are you involved when somebody gets 12 injured? 13 A. If -- if -- no. It's my safety, my safety guy. 14 Q. And for every single injury, is your safety 15 person involved? 16 A. So -- 17 Q. Does your safety person get involved every time 18 a worker gets injured? 19 A. Yeah. 20 Can you repeat, please? I -- I missed 21 something. 22 Q. Sure. Does your safety person get involved for 23 everything single worker -- 24 A. Yes. 25 Q. -- injury?</p>	<p style="text-align: right;">Page 49</p> <p>1 A. Yes. Yes. Yes. It's law. That's why he's -- 2 we hired him on site. Yes. 3 Q. So how does the safety person know that a worker 4 got injured? 5 A. How they know? Like I said, we have a phones 6 and radios so we communicate. Like, couple times we need 7 the crane evacuation, which it's a box -- you know, 8 somebody gets hurt doing it up on a crane. And sometimes 9 you even bring, you know, the paramedics inside the box to 10 assist, you know, the patient. Whatever. Depends how 11 badly you get hurt. 12 Q. Okay. Does a foreman have to notify the safety 13 person if someone gets hurt? 14 A. Yes. They will call the safety guy. Like, like 15 I said, he had a radio or a phone or they call me. So we 16 were in communication all together something happened. 17 Even if it is an evacuation, you know, which happened 18 couple times, everybody have to evacuate. So we got to 19 know how many people we have on site. 20 And then they all stand together, and you got to 21 call every -- you know, everyone's name, make sure, you 22 know, we have, you know, everybody out of the site. 23 Q. Did anyone at -- actually, let me rephrase my 24 question. 25 Who supervised the -- the people we're calling</p>

<p style="text-align: right;">Page 50</p> <p>1 Baja worker who were paid by Baja Concrete?</p> <p>2 A. Who was supervising?</p> <p>3 Q. Who was supervising those workers?</p> <p>4 A. My foremans.</p> <p>5 Q. Were those --</p> <p>6 A. My labor --</p> <p>7 Q. Did anyone who was being paid by Baja supervise</p> <p>8 those workers?</p> <p>9 A. No. Was my foreman supervised --</p> <p>10 Q. Okay.</p> <p>11 A. -- them.</p> <p>12 Q. And so let's talk about Mr. Soto for a moment.</p> <p>13 Did he -- did he drop off workers on the site?</p> <p>14 A. Who me?</p> <p>15 Q. Mr. Soto.</p> <p>16 A. I -- I don't know.</p> <p>17 I'll be honest with you. I start very early in</p> <p>18 the morning and leave late at night. I don't know who's</p> <p>19 transport them to be honest.</p> <p>20 Q. Okay. Do you know if Mr. Soto would -- would</p> <p>21 stay on site throughout the day?</p> <p>22 A. I -- I see him once in a while there. But,</p> <p>23 again, I was busy going back and forth from one place to</p> <p>24 another. You know, I -- I couldn't tell if he was there</p> <p>25 the full time the whole day. I -- I couldn't tell that.</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. Okay. Do you remember a person named Padro --</p> <p>2 A. Pay --</p> <p>3 Q. -- Garuvacova --</p> <p>4 A. Yes. Padro used to be my cement finish foreman,</p> <p>5 yes.</p> <p>6 Q. And did he supervisor the workers we're calling</p> <p>7 Baja workers?</p> <p>8 A. Yes. He did some at the beginning, yes.</p> <p>9 Q. And did you work closely with -- with Padro?</p> <p>10 A. Do -- do I what? Sorry.</p> <p>11 Q. Did you work closely with Padro?</p> <p>12 A. Did I work with -- yeah. Padro was -- yes, he</p> <p>13 was there same time I was. Yes.</p> <p>14 Q. Okay. And did you communicate with Padro</p> <p>15 instructions that he was supposed to give the Baja worker?</p> <p>16 A. No. I -- yes. I was still appeared was in</p> <p>17 charge. And I tell him, you know, what it's got to be</p> <p>18 done. And then -- and then him was do it -- you know, we</p> <p>19 do his job -- would do his job, yes.</p> <p>20 Q. And just to clarify, the -- you said that Newway</p> <p>21 foreman were supervising the Baja workers.</p> <p>22 A. Yeah. My --</p> <p>23 Q. Were you --</p> <p>24 A. Yeah, my foremans, they were supervising Baja,</p> <p>25 yes.</p>
<p style="text-align: right;">Page 52</p> <p>1 Q. And were you telling those foremen how to</p> <p>2 supervise the Baja workers and what to -- what to ask the</p> <p>3 Baja workers to do?</p> <p>4 A. Yeah. My foremans would tell them what to do,</p> <p>5 yes.</p> <p>6 Q. Right. And you told those foreman what to tell</p> <p>7 the --</p> <p>8 A. Yeah. And --</p> <p>9 Q. -- Baja workers --</p> <p>10 A. Yeah.</p> <p>11 Q. -- to do.</p> <p>12 A. No. No. I don't -- I just tell my foreman,</p> <p>13 "This got to be done today." Sometimes wasn't, you know,</p> <p>14 part of finishers. Newway had some of their own people</p> <p>15 too.</p> <p>16 Then it's up to the foreman to choose which</p> <p>17 one -- you know, which ones's going to do this or do that.</p> <p>18 You know what I'm say?</p> <p>19 So I would only relate -- relate to my foreman.</p> <p>20 And then it was his choice to work with his own guys or</p> <p>21 with the Baja guys. You know what I'm saying?</p> <p>22 Q. Okay. So who set the day-to-day schedule for</p> <p>23 the workers?</p> <p>24 A. Who give the -- the schedule for workers?</p> <p>25 Q. Who -- who determined what that day-to-day</p>	<p style="text-align: right;">Page 53</p> <p>1 schedule would be? I guess when it would depart from the</p> <p>2 usual eight-hour day.</p> <p>3 A. I mean, like I -- we -- you know, we every</p> <p>4 day -- every day we plan, you know, the -- the job, you</p> <p>5 know, from one day to the next.</p> <p>6 Like, finishing towards the end for the last</p> <p>7 year was Tom Grant involved with the -- you know, with the</p> <p>8 cement finishers.</p> <p>9 But me, I was involved more with the labors</p> <p>10 and -- and carpenters. Like, on a daily basis, I would</p> <p>11 let him know what's going on, you know. But then you</p> <p>12 get -- it is a time when you get the typical. It's always</p> <p>13 same routine. We put in the floor every week so every day</p> <p>14 it's the same. You know what I'm say? So it's a routine.</p> <p>15 Q. Who decided what time workers needed to come in</p> <p>16 the morning? How -- how would you figure that out?</p> <p>17 A. What -- what time we start in the morning?</p> <p>18 Q. Yes.</p> <p>19 A. I mean, on a -- daily hours, we start at seven</p> <p>20 o'clock, work till the -- you know, three o'clock.</p> <p>21 And the days we were pouring slabs and, you</p> <p>22 know, doing concrete, then I will be come, you know,</p> <p>23 4:00 -- start 4:00, five o'clock in the morning.</p> <p>24 Then we would go home sometimes, you know --</p> <p>25 some, they will go home after eight hours. Some they will</p>

<p style="text-align: right;">Page 54</p> <p>1 stay ten, 12 hours. You know, all depends on the -- you 2 know, how the day goes or how the job went. 3 Q. Okay. Who would decide that a day needed to 4 start at 4:00 a.m. rather than the usual 7:00? 5 A. It was -- what's his name? Onni. They want to 6 start early because so we could get concrete on time. 7 Because if you -- if you go late, then with a rush hour 8 and a lot of traffic on the -- you know, in the streets. 9 So that's why -- but every company -- most of 10 the company, they do that. They want to start pouring 11 concrete early in the morning to avoid the -- the rush 12 hour -- you know, the traffic and stuff like that. 13 Q. Okay. So when Onni wanted the work to start 14 early on a given day, how would that -- how would that 15 instruction be given to the workers? How would that get 16 communicated down to worker? 17 A. I will -- I will go to my foreman, and I let 18 them know, Tomorrow, we going to start repouring concrete 19 at 4:00 or 5:00 or sometimes even the 6:00 a.m. because -- 20 I will tell -- and then him will choose his -- you know, 21 would choose the guys he wants bring with him. 22 Q. Okay. Who determined when -- when it was time 23 for the workers to take a break? 24 A. They -- they -- they do it on their own. 25 You know, that whole crew, when I start there --</p>	<p style="text-align: right;">Page 55</p> <p>1 when I came -- you know, when I came on site, I guess most 2 of the time they make an agreement. They get all 3 together. So they had a break at 10:00 a.m. -- 10:00 till 4 1030. And then I believe it's from 1:00 till 1:30. Each 5 time, a half an hour. 6 Q. And what if -- what if workers wanted to take a 7 break outside of those established times? 8 A. If you -- they want to take a break out of what? 9 Sorry. 10 Q. If they wanted to take a break at a different 11 time. For some reason they needed a break but it wasn't 12 the official break time, what would happen? 13 A. Oh, we never stop anybody take a break. Like, 14 for example, sometimes we were doing slab -- they all 15 taking breaks, but then they alternate. You know, instead 16 he probably -- instead, yeah, I go at one o'clock. I go 17 at 12:30. I come back at 1:00, and then the next one. 18 So they -- they communicate together. You know, 19 everybody takes a break, gets along. 20 Q. So does Newway have a sick -- a sick leave 21 policy? 22 A. A what? Sorry. 23 Q. If -- if workers are sick at New -- at Newway, 24 what's -- what's the policy? 25 A. If your guy -- if he gets sick?</p>
<p style="text-align: right;">Page 56</p> <p>1 Q. Yeah. If a person is sick -- 2 A. I mean, we had a lot of guys that -- some of 3 them, they will go to the doctor. Even bring, you know -- 4 I mean, but I -- if you are sick, it's not -- you know, 5 most of the guys, they will call you and let you know, 6 "Hey, Tony, I don't feel -- I don't feel so good today," 7 or they will call their foreman, you know, and talking, 8 you know, are not employees. 9 And -- or sometimes a guy miss. You know, I 10 will ask the foreman, "Where is this guy?" "Oh, he sick. 11 He call me." Okay. No problem. 12 And some of the guys sometimes, you know, if 13 they are really sick, they will go to the doctor and bring 14 a -- a piece of paper or something. But that's all I 15 could. 16 Q. Okay. So if -- so if a worker got sick, would 17 they sometimes -- they would communicate directly with 18 you, and sometimes it would be with their foreman? Is 19 that what you're saying? 20 A. Yeah. Most of them, they were -- they were with 21 a foreman. The guys, you know, they were with Newway for 22 a long time. Not too many. One or two, sometimes they 23 will call the foreman and -- and call me too, said, "Hey, 24 Tony, I'm -- you know, I'm very sick. I'm real sick." I 25 said, "That's okay. No problem. I'll see you tomorrow,</p>	<p style="text-align: right;">Page 57</p> <p>1 next day." 2 Sometimes you get the flu. Sometimes you stay 3 two days, three days. You know, all depends on, you 4 know -- 5 Q. If a -- 6 A. All depend how bad it was. 7 Q. If a worker contacted you because they were 8 sick, did you have to check with their foreman? Or did 9 you have authority to just let them stay home? 10 A. No. We will communicate with the foreman. You 11 know, with the foreman we -- we will communicate. I said 12 oh, Joe or Mario or whatever, he called this morning. And 13 then I will tell him, "Oh, by the way, he called me too. 14 He told me, you know, he's very sick." 15 Q. Okay. And so the workers were calling -- Baja 16 workers who were paid by Baja, were -- would they ever 17 reach out to you directly if they needed -- 18 A. No. Never. 19 Q. Okay. Were you aware if a Baja worker was -- 20 was sick? 21 A. No. 22 Q. You just had no idea? 23 A. No. No idea, no. No. 24 Q. How were you able to -- to make sure the Baja 25 workers were getting the -- the right work done if you</p>

<p style="text-align: right;">Page 58</p> <p>1 didn't know who was -- who was there and who wasn't there?</p> <p>2 SARA KINCAID: Objection to the form of the</p> <p>3 question.</p> <p>4 You can go ahead and answer --</p> <p>5 BY ERICA FRANKLIN:</p> <p>6 Q. Go ahead and answer, Mr. Machado.</p> <p>7 So if you -- if you didn't know that a worker</p> <p>8 was sick or not, did that prevent you from supervising the</p> <p>9 work of the Baja workers?</p> <p>10 A. If I didn't know what -- they was -- I don't</p> <p>11 know because I wasn't involved with the Ba -- with the</p> <p>12 Baja employees, no. I --</p> <p>13 Q. Did -- who did a Baja worker go to if they</p> <p>14 needed to take time off because they were sick?</p> <p>15 A. I guess Roberto's got a -- has to communicate</p> <p>16 with a Tom Grant or -- I don't know. I wasn't involved</p> <p>17 with it -- with those things. I don't know anything.</p> <p>18 Q. Okay. Were you involved in -- in disciplining</p> <p>19 employees?</p> <p>20 A. Discipline employ -- no.</p> <p>21 Q. So what if -- what if someone did something</p> <p>22 really bad? It didn't seem like they should be a</p> <p>23 construction worker anymore. What happened with that</p> <p>24 person?</p> <p>25 A. It -- sorry. Can you -- if a guy what? So --</p>	<p style="text-align: right;">Page 59</p> <p>1 Q. So if there's a worker who just has really,</p> <p>2 really bad performance --</p> <p>3 A. Yeah.</p> <p>4 Q. -- and -- and you observed this, would anything</p> <p>5 happen?</p> <p>6 A. That was between my -- my foremans -- you know,</p> <p>7 my foremen, they were the -- I don't know -- communicate</p> <p>8 with the Robert -- I don't know the -- like I -- if -- if</p> <p>9 it was an issue, they -- they will solve the problem</p> <p>10 between them and my foremans.</p> <p>11 Like I said, I never got involved with it --</p> <p>12 anybody from Baja.</p> <p>13 Q. So were you responsible for quality control</p> <p>14 throughout the -- throughout the work site? The</p> <p>15 construction site. Making sure the job was done well.</p> <p>16 A. Yes.</p> <p>17 Q. And how did you -- what did you do to make sure</p> <p>18 that the work was progressing on schedule?</p> <p>19 A. I mean, I been doing this for many years. And</p> <p>20 then we have a meeting before I -- I agreed with the</p> <p>21 schedule. Before I -- I -- before I agreed with the</p> <p>22 schedule, I got to make sure I get them done on time.</p> <p>23 Otherwise, I -- I would ask, you know, for a extra time.</p> <p>24 You know -- you know what I'm saying?</p> <p>25 Q. Okay. What would happen if the work that the</p>
<p style="text-align: right;">Page 60</p> <p>1 Baja workers was doing didn't get done on time?</p> <p>2 A. They didn't do -- again, my foremans, they never</p> <p>3 complained. They mix, you know, Baja guys with, you</p> <p>4 know -- with our guys. So I guess they -- they were work</p> <p>5 fine working together.</p> <p>6 Q. I'm sorry. Can you repeat that last thing you</p> <p>7 said?</p> <p>8 A. You know, my foremen, they never complained. If</p> <p>9 they need something done, they will mix, you know, guys</p> <p>10 with a Baja with our guys; right? So to make sure they</p> <p>11 get them done.</p> <p>12 I mean, we wouldn't -- we wouldn't separate for</p> <p>13 the guy -- the Baja guys in one -- you know, one side and</p> <p>14 our employees on the other. No. They were working</p> <p>15 together.</p> <p>16 Q. So they -- would you say they were sort of</p> <p>17 interchangeable in terms of the work they were doing?</p> <p>18 SARA KINCAID: Objection to the form of the</p> <p>19 question.</p> <p>20 You can go ahead and answer.</p> <p>21 THE WITNESS: Sorry. Go ahead again.</p> <p>22 BY ERICA FRANKLIN:</p> <p>23 Q. Would you say that the Baja workers and the --</p> <p>24 A. Newway.</p> <p>25 Q. -- New -- the other workers were -- were doing</p>	<p style="text-align: right;">Page 61</p> <p>1 the same -- capable of doing the same type of work?</p> <p>2 A. Yes. Yes. They were working together, yes.</p> <p>3 Q. So would it be a problem if the work that the</p> <p>4 Baja workers were doing got off schedule -- if they got</p> <p>5 behind?</p> <p>6 A. Oh, I never -- I never heard any complaints</p> <p>7 or -- I can't, you know, give you any -- any -- you know,</p> <p>8 any -- I never heard, you know, complain, "They don't work</p> <p>9 together." Or I -- you know, I -- I couldn't answer that.</p> <p>10 Q. Okay. But was it important that they stayed on</p> <p>11 track -- the work that the Baja workers were doing?</p> <p>12 A. Every -- everybody's important. I mean, we got</p> <p>13 to get our job done, you know, on time.</p> <p>14 Q. Whose -- whose job was it to make sure that the</p> <p>15 Baja workers were getting their work done on time?</p> <p>16 A. A foreman.</p> <p>17 If he had any issues -- you know, I ask him, can</p> <p>18 we -- can we get this done, you know, this week? Depends</p> <p>19 how big the job was. And, if he was any issues, my</p> <p>20 foreman will come and report to me. But he never did.</p> <p>21 He never came and report to me, "Oh, Baja, they</p> <p>22 don't want to do," or, "Our guys, they don't want to" -- I</p> <p>23 never heard any complains.</p> <p>24 Q. Okay. But you would communicate your</p> <p>25 expectations to the Baja foreman -- to the foreman</p>

<p style="text-align: right;">Page 62</p> <p>1 supervising the Baja workers.</p> <p>2 A. Who me?</p> <p>3 Q. You would communicates your expectation about</p> <p>4 when a job need to be done by; is that correct?</p> <p>5 A. No, I --</p> <p>6 SARA KINCAID: Objection to the form of the</p> <p>7 question.</p> <p>8 Sorry. Tony, you can go ahead.</p> <p>9 THE WITNESS: I will talk to my foremen. Like</p> <p>10 I -- I never got involved with the Bajas. Never. And if</p> <p>11 he, my foreman, has an issue, then it would relate to me.</p> <p>12 But he never came and, you know, relayed any issues so I</p> <p>13 guess everything was fine.</p> <p>14 BY ERICA FRANKLIN:</p> <p>15 Q. Okay. So I understand you didn't communicate</p> <p>16 directly with the Baja workers, but you did communicate</p> <p>17 with the foreman supervising them about the timelines that</p> <p>18 they needed to -- to work on; right?</p> <p>19 A. Yes. My foreman -- I will go to him on many</p> <p>20 days. You need -- and then it would put okay. We got to</p> <p>21 get this done, you know, in that time. Again, was my</p> <p>22 foremans all the time.</p> <p>23 Q. Okay. And did you communicate with the foremen</p> <p>24 who were supervising the Baja workers about how a task was</p> <p>25 supposed to be done to make sure it was done correctly?</p>	<p style="text-align: right;">Page 63</p> <p>1 A. No. I dont' know</p> <p>2 SARA KINCAID: Objection to the form.</p> <p>3 Sorry, Tony. You can go ahead.</p> <p>4 THE WITNESS: I don't know. I will talk only to</p> <p>5 my foremen. And then my foremen was communicate with him.</p> <p>6 I don't know what they -- they were talking between the --</p> <p>7 you know, between -- I -- I mean, I understand little bit</p> <p>8 Spanish, not 100 percent.</p> <p>9 But, again, I talk to my foreman. If he had any</p> <p>10 issues with -- relate to me. But I don't know what they</p> <p>11 talk, you know, between them -- you know, he just grab the</p> <p>12 guys and go get his work done, and that's pretty much.</p> <p>13 BY ERICA FRANKLIN:</p> <p>14 Q. So let me make sure I understand. There were</p> <p>15 some foremen on the site who was supervising the workers</p> <p>16 we're calling Baja workers -- worker who are being paid by</p> <p>17 Baja, and they were --</p> <p>18 A. My foremen.</p> <p>19 SARA KINCAID: Objection.</p> <p>20 Sorry. Go ahead.</p> <p>21 ERICA FRANKLIN: +And there were other foremen</p> <p>22 who were supervising workers being paid by Newway; is that</p> <p>23 correct?</p> <p>24 SARA KINCAID: Objection to the form of the</p> <p>25 question.</p>
<p style="text-align: right;">Page 64</p> <p>1 Tony, you can answer.</p> <p>2 THE WITNESS: Yes. My foremen was paid by</p> <p>3 Newway, and they was supervising the Bajas, yes.</p> <p>4 BY ERICA FRANKLIN:</p> <p>5 Q. Okay. So some foremen were supervise Baja</p> <p>6 workers, and some were supervising workers being paid by</p> <p>7 Newway; is that --</p> <p>8 SARA KINCAID: Objection.</p> <p>9 BY ERICA FRANKLIN:</p> <p>10 Q. -- make sure I understand.</p> <p>11 SARA KINCAID: Sorry. Objection to the form of</p> <p>12 the question.</p> <p>13 BY ERICA FRANKLIN:</p> <p>14 Q. You can go ahead and answer.</p> <p>15 A. Yes. Was --</p> <p>16 Q. Okay.</p> <p>17 A. -- paid by -- he was paid by Newway, yes.</p> <p>18 Supervising the Bajas, yes.</p> <p>19 Q. Did you have a different relationship with the</p> <p>20 workers -- with the foremen who were supervising workers</p> <p>21 paid by Baja from the relationship you had with the</p> <p>22 worker -- the supervisors supervising working paid by</p> <p>23 Newway?</p> <p>24 SARA KINCAID: Objection to the form of the</p> <p>25 question.</p>	<p style="text-align: right;">Page 65</p> <p>1 Tony, you can answer.</p> <p>2 THE WITNESS: I have a good relationship with --</p> <p>3 with everybody. You know, when I been all other the West,</p> <p>4 all over Canada, I -- I been -- I been well respect by</p> <p>5 every -- you know, everybody. So --</p> <p>6 Q. That's great.</p> <p>7 A. -- I don't have any -- I don't have anything</p> <p>8 against the Baja. I don't have anything against anybody,</p> <p>9 anyone.</p> <p>10 Q. Did you give -- did you supervise the -- so I'm</p> <p>11 comparing the workers -- the foremen who were supervising</p> <p>12 Baja workers with the foremen who were supervising workers</p> <p>13 paid by Newway.</p> <p>14 So I'm wondering if you -- the way that you</p> <p>15 instructed those foremen was similar, or if there's a</p> <p>16 difference.</p> <p>17 ALEX LARKIN: Object to the form of the</p> <p>18 question.</p> <p>19 SARA KINCAID: I'll join in that objection.</p> <p>20 Tony, you can answer.</p> <p>21 THE WITNESS: No. I don't have any difference,</p> <p>22 you know, between my foremans because of Baja or any --</p> <p>23 no. They all get treat, you know, the same. They all --</p> <p>24 they are all -- are respect.</p> <p>25</p>

<p style="text-align: right;">Page 66</p> <p>1 BY ERICA FRANKLIN:</p> <p>2 Q. Okay. In other words, when you were giving a</p> <p>3 foreman instructions, did it matter whether the workers</p> <p>4 they were supervising were paid by Newway or --</p> <p>5 A. No.</p> <p>6 Q. -- Baja?</p> <p>7 A. No. To me, it is no. No. No problem.</p> <p>8 Q. You give them the same set of instructions.</p> <p>9 A. No. No. I have no problems, you know. You are</p> <p>10 what you are.</p> <p>11 Q. And --</p> <p>12 A. Excuse me.</p> <p>13 Q. Just -- just a moment. Hang on.</p> <p>14 So, when we -- when we talked previously, you</p> <p>15 would walk around the work site. And, if you saw</p> <p>16 problems, you would notify the foremen; correct?</p> <p>17 A. Yes.</p> <p>18 Q. So --</p> <p>19 A. De -- depend --</p> <p>20 Q. Is that also with -- if it was a foreman who was</p> <p>21 supervising workers paid by Baja?</p> <p>22 SARA KINCAID: Objection to the form of the</p> <p>23 question.</p> <p>24 BY ERICA FRANKLIN:</p> <p>25 Q. You can answer.</p>	<p style="text-align: right;">Page 67</p> <p>1 A. Like I said, all -- all depends how big was for</p> <p>2 me to stop. If it's a big thing, then I got to call my</p> <p>3 safety guy. If it's a minor thing, I will call the</p> <p>4 foreman and make sure, you know, correct -- correct them.</p> <p>5 That's all.</p> <p>6 But at the end point -- if it's a near miss, if</p> <p>7 you're putting your life in jeopardy, then I got to -- I</p> <p>8 got to stop, I got to call my safety guy, I got to grab my</p> <p>9 form, and I got to grab everybody and have a meeting, make</p> <p>10 sure that it does not happen again because I can't lose my</p> <p>11 job because of that.</p> <p>12 Q. Okay. And, if you -- if a job was being done</p> <p>13 incorrectly or too slowly, would you also get involved</p> <p>14 with the foreman and talk to the foreman about the issue?</p> <p>15 A. I would be -- I would -- if it is a problem, I</p> <p>16 will stick around and see that solve -- solve the problem,</p> <p>17 see what's -- you know, what went wrong or what's going --</p> <p>18 you know, what's going on. You know what I'm say?</p> <p>19 I will stay there, not yelling, no scream. You</p> <p>20 know, as a human being, you know, try to correct what --</p> <p>21 you know, get done -- see what it's wrong so we can do it</p> <p>22 perfect. That's --</p> <p>23 Q. Okay.</p> <p>24 A. That's what I would do.</p> <p>25 Q. And you would do that in the case of a foreman</p>
<p style="text-align: right;">Page 68</p> <p>1 supervising workers paid by Baja; correct?</p> <p>2 A. What --</p> <p>3 SARA KINCAID: Objection to the form of the</p> <p>4 question.</p> <p>5 BY ERICA FRANKLIN:</p> <p>6 Q. So what you just described, talking to the</p> <p>7 foremen about the issue, would you do that if the foremen</p> <p>8 were supervising Baja workers?</p> <p>9 A. My fore --</p> <p>10 SARA KINCAID: Same objection.</p> <p>11 BY ERICA FRANKLIN:</p> <p>12 Q. You can answer.</p> <p>13 A. My -- I mean, that -- I been mention, my</p> <p>14 foremans, they were supervising Bajas, the labors, and the</p> <p>15 cement finishers; right? So, I mean, if there is an issue</p> <p>16 there, I don't care if they are Baja or Newway. If there</p> <p>17 is an issue, I got to help. I got to help. I got to do</p> <p>18 whatever it takes, you know, to make everybody look good;</p> <p>19 right?</p> <p>20 Q. Okay. Let's switch gears a little bit.</p> <p>21 Do you know if there's a formal relationship</p> <p>22 between Baja Concrete and Newway?</p> <p>23 A. Sorry? Is there a what?</p> <p>24 Q. A formal relationship between Baja Concrete and</p> <p>25 Newway --</p>	<p style="text-align: right;">Page 69</p> <p>1 SARA KINCAID: Objection --</p> <p>2 JASON WANDLER: I'm going to object to the form</p> <p>3 of the question.</p> <p>4 SARA KINCAID: Same objection.</p> <p>5 BY ERICA FRANKLIN:</p> <p>6 Q. Let me just -- actually, I think I can rephrase</p> <p>7 this one a little bit.</p> <p>8 So tell me about the relationship between Baja</p> <p>9 Concrete USA Corp and Newway Forming.</p> <p>10 A. I -- I don't know. I met Baja. I met Baja 1985</p> <p>11 in a north of Canada. No --</p> <p>12 Q. What did you mean --</p> <p>13 A. So I met 19 -- 1995. Seven years ago. Or</p> <p>14 2000 -- no. 2015. Sorry. I'm -- I met him in 2015 in --</p> <p>15 in Edmonton, Canada.</p> <p>16 One of our superintendents, Mike Keith --</p> <p>17 actually, he's an American. And he wants take a holiday.</p> <p>18 He was working in a north of Canada. And he ask me if you</p> <p>19 want to go there, you know, for sometime because he wants</p> <p>20 take a break.</p> <p>21 Then his -- his wife, she got sick. Then I end</p> <p>22 up stay there seven months. But I -- when I went there --</p> <p>23 when I got there, they were there already in site -- on</p> <p>24 site -- Baja. Baja Concrete, they were there. That's</p> <p>25 when I met the Carlos Ibarra.</p>



<p style="text-align: right;">Page 82</p> <p>1 agreement.</p> <p>2 We don't make them to work and then, you know,</p> <p>3 pay them -- no. Before they start, you know, they ask,</p> <p>4 you know, how much they going to get paid in an hour.</p> <p>5 Q. Was that true for all workers at 1120 Denny?</p> <p>6 A. Yes. Yeah. People they -- you know, they go to</p> <p>7 the office. They apply for a job. They do a check -- you</p> <p>8 know, check on them, make sure -- I don't know -- if they</p> <p>9 have any criminal records or, you know, whatever. And</p> <p>10 then this -- you know, they -- they tell them how much</p> <p>11 they will pay in an hour.</p> <p>12 Q. And --</p> <p>13 A. -- whatever --</p> <p>14 SARA KINCAID: Oh, I'm sorry. Tony, you can go</p> <p>15 ahead and finish your answer.</p> <p>16 THE WITNESS: No. That's -- that's pretty much,</p> <p>17 you know -- before they start working, they -- they ask,</p> <p>18 you know, how much they pay. And then they fee agreed,</p> <p>19 they can work. You know, if they don't agree, they can</p> <p>20 move on.</p> <p>21 SARA KINCAID: And, Erica, I just wanted to jump</p> <p>22 in. I don't -- I'm not sure Tony understands if you're</p> <p>23 making a distinction between workers paid by Newway or</p> <p>24 workers paid by Baja.</p> <p>25 THE WITNESS: Baja, I don't know how much they</p>	<p style="text-align: right;">Page 83</p> <p>1 were making.</p> <p>2 Now I know how much Newway were -- would paying</p> <p>3 them after all this going on. Before -- before I didn't</p> <p>4 know anything about it.</p> <p>5 BY ERICA FRANKLIN:</p> <p>6 Q. Okay. Who determined how -- how many hours</p> <p>7 workers -- workers who worked in order to figure out</p> <p>8 how -- how much -- how much to -- to pay them?</p> <p>9 SARA KINCAID: And I'm -- I'm just going to jump</p> <p>10 in and object to the form of the question.</p> <p>11 I -- I think, you know, Erica, there's some</p> <p>12 confusion when you're saying "workers" who you're lumping</p> <p>13 into that category.</p> <p>14 BY ERICA FRANKLIN:</p> <p>15 Q. So, Mr. Machado, is -- when -- when I say --</p> <p>16 when I ask you about workers, do you -- do you understand</p> <p>17 who I'm referring to?</p> <p>18 A. Yep. I mean, when you talk worker -- I'm</p> <p>19 talking on behalf of Newway; right? You know what I'm</p> <p>20 saying? Newway's employees.</p> <p>21 Q. Okay. So for Newway employees, how -- how did</p> <p>22 Newway figure out how much they -- how many hours they had</p> <p>23 worked?</p> <p>24 A. How -- how many -- they clock in, you know, with</p> <p>25 a cellphone. They got the -- you know, a thing -- how do</p>
<p style="text-align: right;">Page 84</p> <p>1 call -- a website -- whatever you want to call that. You</p> <p>2 clock in when -- when you get to the job site on the</p> <p>3 phone, and then you clock out when you leave the job site.</p> <p>4 Q. Okay. And did anyone -- and -- and then what</p> <p>5 happened?</p> <p>6 So they had the time records from clocking in</p> <p>7 and out. And then what was done with?</p> <p>8 A. Yes. And then I think -- you know, I -- I'm an</p> <p>9 old-fashioned. I don't know much about computers. So</p> <p>10 they have a -- a computer on site. Then -- okay. Tony</p> <p>11 Machado starting, you know -- I -- I clock in when I come</p> <p>12 in. I clock out. And then, they do their hours, you</p> <p>13 know, there -- I never heard anybody complain they missing</p> <p>14 hours or anything so don't -- that's what -- that's what</p> <p>15 they were doing.</p> <p>16 And then the -- those hours, they go to the head</p> <p>17 office and they -- you know, they make a paycheck for</p> <p>18 them.</p> <p>19 Q. Okay. Did anyone verify the hours?</p> <p>20 A. Yes. Which is --</p> <p>21 Q. -- before they went to the main office?</p> <p>22 A. Con -- Connor was verified with that -- you</p> <p>23 know, on the computer on the laptop.</p> <p>24 Q. And did you -- did you have to sign off? Were</p> <p>25 you involved in this process?</p>	<p style="text-align: right;">Page 85</p> <p>1 A. No. No. Tom Grant -- again, like I -- was all</p> <p>2 the, you know, management.</p> <p>3 Q. And was there a change sometime between</p> <p>4 February 2020 and August 2020 in -- in how workers tracked</p> <p>5 their hours?</p> <p>6 A. Any change? What do you mean?</p> <p>7 Q. Was -- was the process the same throughout that</p> <p>8 whole period?</p> <p>9 A. No, I don't -- I -- no one -- no one told me was</p> <p>10 any change.</p> <p>11 Q. Okay. So now let's talk specifically about the</p> <p>12 workers who were paid by Baja. How were their hours</p> <p>13 tracked?</p> <p>14 A. When they start there, they have a time -- how</p> <p>15 do you call -- timecard. Whatever. And then the Connor</p> <p>16 would be there, you know, every day. Connor or -- yeah.</p> <p>17 Connor.</p> <p>18 And then he had an -- I can't remember his name.</p> <p>19 He had -- he had an assistant. Either Connor or him, they</p> <p>20 would track, you know, Baja guys, you know, what time they</p> <p>21 start with a timecard and then when they leave a night.</p> <p>22 And then, later on, they changed to a clock.</p> <p>23 You know, you punch in, and you punch out.</p> <p>24 Q. Okay. So can you just clarify what was Connor's</p> <p>25 role in this process?</p>

<p style="text-align: right;">Page 106</p> <p>1 Q. Correct?</p> <p>2 A. Yes.</p> <p>3 Q. And who determined what your salary was?</p> <p>4 A. Who what? The owner of the company. When I --</p> <p>5 I made a deal with him, you know. When I was in San</p> <p>6 Diego, I came to Seattle. We made a deal.</p> <p>7 Newway has two shareholders: The president is</p> <p>8 Ezio Bortolussi, and the vice president it is -- what's</p> <p>9 his -- Sal Giantomaso. So we made a deal with the owners,</p> <p>10 you know, with the shareholders.</p> <p>11 Q. And did your salary change at any time between</p> <p>12 February 2020 and -- February 2018 and August 2020?</p> <p>13 A. Yes. It same salary, same money I was making in</p> <p>14 the -- you know, the San Diego. It's same thing.</p> <p>15 Q. Okay. Tell me what factors went into the pay</p> <p>16 that you negotiated when -- when you negotiated your pay</p> <p>17 with Newway.</p> <p>18 A. Sorry. Can you repeat?</p> <p>19 Q. So when you negotiated your pay with Newway --</p> <p>20 A. Yes.</p> <p>21 Q. -- what determined what that pay is? What that</p> <p>22 pay was.</p> <p>23 A. You want -- you want me tell you? I was making</p> <p>24 \$160,000 a year on my --</p> <p>25 Q. And how did --</p>	<p style="text-align: right;">Page 107</p> <p>1 A. -- salary.</p> <p>2 Q. How did you and Newway determine that that was</p> <p>3 an appropriate amount?</p> <p>4 A. I mean, I been with the -- with the -- with the</p> <p>5 company. I help built this company for so many years.</p> <p>6 Actually, they offer me that -- that salary. You know, he</p> <p>7 said -- so they were the ones, you know, who offered me</p> <p>8 that, you know, that salary. I said, "Thank you very</p> <p>9 much."</p> <p>10 Q. Okay. And who -- where did your -- did you --</p> <p>11 did you receive paychecks? Direct deposit? How are you</p> <p>12 paid?</p> <p>13 A. By checks were what -- yeah. I get paid -- I</p> <p>14 was getting paid every week.</p> <p>15 Q. Okay. In what -- in what form?</p> <p>16 A. What -- with a -- what do you mean what -- a</p> <p>17 paycheck.</p> <p>18 Q. Were you receiving a paycheck? Were you</p> <p>19 receiving direct deposit into a bank account?</p> <p>20 A. No. I was receiving the paycheck with the --</p> <p>21 with the -- the deduction -- you know, the deductions off,</p> <p>22 you know.</p> <p>23 Q. Okay. And where did that paycheck from come</p> <p>24 from?</p> <p>25 A. Where the pay -- from the payroll company,</p>
<p style="text-align: right;">Page 108</p> <p>1 whatever -- you know, whatever is doing the payroll.</p> <p>2 Q. And you receive -- you said you receive direct</p> <p>3 deposit --</p> <p>4 A. No.</p> <p>5 Q. -- weekly.</p> <p>6 Did you -- were there ever any other direct</p> <p>7 deposits other than those --</p> <p>8 Q. Through --</p> <p>9 Q. -- weekly deposits?</p> <p>10 A. -- Newway? No. No. No. Not from Newway, no.</p> <p>11 Q. Where -- did you receive payment from anyone</p> <p>12 other than Newway?</p> <p>13 A. What -- what -- I got paid to Ba -- Baja, yes.</p> <p>14 I lend them some money. And they paid me, yes.</p> <p>15 Q. How much money did you lend Baja?</p> <p>16 A. All -- you know, I could be wrong. I was</p> <p>17 talking even to -- to my lawyer. I could be wrong. It</p> <p>18 could be -- it wasn't all in one -- all at once.</p> <p>19 I lend the -- what's his name -- Carlos Ibarra.</p> <p>20 I lend him some money. You know, 3,000 one time, another</p> <p>21 time 2,000, then 1500, then 1,000. Altogether, I would</p> <p>22 say -- before I -- I -- I said maybe 20,000, but it wasn't</p> <p>23 20,000. I would say maybe 12, 13,000.</p> <p>24 But he paid me everything. He doesn't owe me</p> <p>25 anything.</p>	<p style="text-align: right;">Page 109</p> <p>1 Q. Okay. And this was Carlos Ibarra.</p> <p>2 A. Yes. To Carlo, yes.</p> <p>3 Q. Okay. Is there anything in writing showing</p> <p>4 what --</p> <p>5 A. No. I don't have -- I -- like I said, I'm</p> <p>6 honest -- honest to god. I'm honest person.</p> <p>7 When this thing going on, I could have get a</p> <p>8 document and -- with a dates. But, again, I didn't -- I</p> <p>9 didn't get any -- I didn't give him a check. I don't have</p> <p>10 a checkbook to be honest with you. And I don't have any</p> <p>11 document. This is -- you know, it's between me and him,</p> <p>12 you know, the word. But that's what -- that's what I did.</p> <p>13 I don't want to fake because, if he had fake, I</p> <p>14 would be lying to you, even to my bosses, even to myself.</p> <p>15 No. I -- I lend him the money. He give me one</p> <p>16 time 4,000 something, and then they give me another two</p> <p>17 checks. Altogether, like I said, it's probably 12,000</p> <p>18 something -- 12,000, 13,000.</p> <p>19 Q. Okay. And --</p> <p>20 A. If he go to the accountant, she can give you all</p> <p>21 the -- the information.</p> <p>22 Q. Okay. So the money that you loaned when you</p> <p>23 gave Mr. Ibarra money, was that in the form of cash?</p> <p>24 A. Yes. Was cash, yes. Yes.</p> <p>25 Q. And, when he paid you back, what form was that</p>

<p style="text-align: right;">Page 110</p> <p>1 in?</p> <p>2 A. He gave me a check from the company, and then</p> <p>3 twice they wired to me.</p> <p>4 But they -- like I said, I did this normal</p> <p>5 relation because, if you know I'm going to get caught, I</p> <p>6 want to -- but I have nothing to hide.</p> <p>7 This was a true, you know, that -- a true thing</p> <p>8 I did. I help so many to all -- to all my -- through all</p> <p>9 my life. I helped so many people. I never get -- you</p> <p>10 know, they pay me.</p> <p>11 When I was young, if you need the help here and</p> <p>12 there, you know, on my early days, people would help me.</p> <p>13 So, like I said, I did that to him.</p> <p>14 If I know you well, I would do it for you. Not</p> <p>15 a million dollars, not \$100,000. We talking, you know, 2,</p> <p>16 3, 4, 5,000. He pay me, then I lend him money back again.</p> <p>17 I don't think it's a big deal. You know what</p> <p>18 I'm saying? That's way I look at it.</p> <p>19 Q. Okay. So tell me what you loaned him money for?</p> <p>20 ALEX LARKIN: Object to the form of the</p> <p>21 question.</p> <p>22 SARA KINCAID: I'll join in that objection.</p> <p>23 BY ERICA FRANKLIN:</p> <p>24 Q. You can answer.</p> <p>25 A. Carlos, he call me one time. He said, "Tony, I</p>	<p style="text-align: right;">Page 111</p> <p>1 have some guys working down in Seattle. I gotta rent</p> <p>2 someplace. I got to get a van and the car. I have</p> <p>3 money."</p> <p>4 I know he has money. I don't talk to him now</p> <p>5 for the longest time. He still on -- it's still going on</p> <p>6 yet, you know, in Canada. I'm working in Canada.</p> <p>7 And he says, "Tony, I have money, but I don't</p> <p>8 have American money. Can you lend me some money?"</p> <p>9 I said, "How much?"</p> <p>10 "\$3,000." Okay.</p> <p>11 Then he says, "I will put it in envelope.</p> <p>12 Herberto will come." Okay.</p> <p>13 Then two weeks later, "Tony, I need another</p> <p>14 \$1500." Then, Tony, "I need a \$1,000." So -- and then so</p> <p>15 he send me a check. You know, that's the check, you know,</p> <p>16 they send me.</p> <p>17 But, again, I did this without malicion.</p> <p>18 Because I could tell him, you know -- to me, I lend him</p> <p>19 money. You pay me with a check. You pay me with a credit</p> <p>20 card. I don't care as long as I gets my money back.</p> <p>21 That's all I want.</p> <p>22 So I lend him money, not all at once, little bit</p> <p>23 here, little bit there. So he paid me -- I cannot say --</p> <p>24 I cannot say anything bad about him. He paid me.</p> <p>25 Q. Did he pay you exactly what you had paid him?</p>
<p style="text-align: right;">Page 112</p> <p>1 A. Yes.</p> <p>2 ALEX LARKIN: Same objection.</p> <p>3 BY ERICA FRANKLIN:</p> <p>4 Q. How do you know?</p> <p>5 How do you know that he paid you the same amount</p> <p>6 that you paid to him?</p> <p>7 ALEX LARKIN: Same objection.</p> <p>8 BY ERICA FRANKLIN:</p> <p>9 Q. You can answer.</p> <p>10 A. Yes. Whatever I lended to him, he paid -- he</p> <p>11 paid me. No more, no less. No interest. No. No. No.</p> <p>12 Whatever, you know, I lended to him, that's what he paid</p> <p>13 me.</p> <p>14 Q. How did you two keep track of how much he owed</p> <p>15 you?</p> <p>16 ALEX LARKIN: Same objection.</p> <p>17 BY ERICA FRANKLIN:</p> <p>18 Q. You can answer.</p> <p>19 A. I mean, when I lend money, I mean, you mark it</p> <p>20 down; right? I mean, you have to have a track of -- of</p> <p>21 your money.</p> <p>22 Q. Oh, do you have that -- do you have that marked</p> <p>23 down somewhere?</p> <p>24 A. Do I have the -- no. You mark on your head. I</p> <p>25 mean, I give you cash, \$1,000, 1500 -- I mean, 1500,</p>	<p style="text-align: right;">Page 113</p> <p>1 1,000, 3,000, it's easy to -- to figure it.</p> <p>2 You know, I don't mark it down, you know, on a</p> <p>3 piece of paper or on my phone, no.</p> <p>4 Q. Okay. So the money that you lent him, did</p> <p>5 you -- you lent it directly to Carlos, not to his company;</p> <p>6 is that correct?</p> <p>7 ALEX LARKIN: Same objection.</p> <p>8 BY ERICA FRANKLIN:</p> <p>9 Q. You can answer.</p> <p>10 A. Robert, gave him cash in envelope, and he</p> <p>11 would -- he would take it, you know, to do whatever</p> <p>12 after --</p> <p>13 Q. And when he paid you back, did that money come</p> <p>14 from him personally, or did it come from Baja Concrete?</p> <p>15 ALEX LARKIN: Same objection.</p> <p>16 BY ERICA FRANKLIN:</p> <p>17 Q. I'm sorry. You can answer.</p> <p>18 A. From Baja.</p> <p>19 Q. Okay. So it sounds like you -- just to review,</p> <p>20 it sounds like you received pay in the form of your salary</p> <p>21 from Newway, and you received pay from Baja in return for</p> <p>22 your loans to Carlos.</p> <p>23 ALEX LARKIN: Same objection.</p> <p>24 BY ERICA FRANKLIN:</p> <p>25 Q. Did you have pay from any -- any other sources?</p>

<p style="text-align: right;">Page 114</p> <p>1 A. Pay from -- I didn't get paid for a -- he paid 2 me money -- he pay me just that. And plus, yes, I have 3 a -- a paycheck every week from the way which it's my 4 salary. 5 Q. Okay. So I'm just trying to figure out if there 6 are any other sources of pay you received besides the 7 money from Baja -- 8 A. No. No. Just the -- was from Baja. That's the 9 only money. They pay me the money they owe me. 10 Q. Okay. So -- and is all the money that you 11 received from Baja, was all of that money that you had 12 paid Carlos? 13 ALEX LARKIN: Same objection. 14 BY ERICA FRANKLIN: 15 Q. I'm just trying to figure out what -- so I want 16 to make sure I understand. 17 From the payments you -- of the payments you 18 received from Baja, I want to make sure I understand what 19 those payments were for. 20 You told me that some of those payments were 21 from -- were money that you had lent to Carlos. Is 22 anything else? 23 ALEX LARKIN: Object to the form of the 24 question. 25 SARA KINCAID: I'm going to join in that</p>	<p style="text-align: right;">Page 115</p> <p>1 objection. 2 Tony, you can go ahead and answer. 3 THE WITNESS: I -- I didn't understand the 4 last -- so you said the money I received? Yes. I 5 received -- the money I received from Baja is to pay me 6 the money I lent to them, yes. 7 BY ERICA FRANKLIN: 8 Q. Okay. Did you receive any other money from 9 Baja? That's what I'm trying to find out. 10 A. Never. Honor. No. I swear to the -- no. 11 Never. Not one penny. Never. 12 Q. Okay. And did you have any -- so when -- when 13 Baja cut you a check, did you have any role in processing 14 that check? 15 A. Any what -- 16 ALEX LARKIN: Object to the form of the 17 question. 18 JASON WANDLER: I'll join. 19 SARA KINCAID: I'm going to join as well. 20 BY ERICA FRANKLIN: 21 Q. You can answer. 22 A. Can you repeat? When I receive the check? I 23 mean, if I'm giving you a check, pay it. All I did, I 24 grabbed the check. I deposit, you know, in a bank. 25 That's all. That's all.</p>
<p style="text-align: right;">Page 116</p> <p>1 Q. Did you have a role in -- in creating that 2 check? 3 ALEX LARKIN: Same objection. 4 BY ERICA FRANKLIN: 5 Q. Were you involved in that process? 6 SARA KINCAID: Same objection. 7 JASON WANDLER: Join. 8 THE WITNESS: I don't have any role. I don't 9 have anything. No. I don't have nothing. 10 BY ERICA FRANKLIN: 11 Q. Did the amount of money that you received from 12 Baja depend on how many employees Roberto Soto Contreras 13 had? 14 ALEX LARKIN: Same objection. 15 SARA KINCAID: I'll join in that objection. 16 JASON WANDLER: Same for me. 17 THE WITNESS: I don't know how many employees, 18 no. I don't. I don't know how many employees they -- 19 they had on -- I don't. 20 Like I said, I don't have access to it, to his 21 business or with him discuss, you know, personal business 22 between me and him. I -- like I said, I wasn't -- I 23 wasn't part of Baja so I don't know anything. 24 BY ERICA FRANKLIN: 25 Q. Okay. But I'm asking something slightly</p>	<p style="text-align: right;">Page 117</p> <p>1 different which is -- I know you don't know how many 2 employees, but did the amount of employees that he had 3 affect your pay from Baja? 4 ALEX LARKIN: Same objection. 5 JASON WANDLER: Object. 6 BY ERICA FRANKLIN: 7 Q. You can answer. 8 A. Said affect my pay? Baja -- you -- you said the 9 amount of employees he affect me pay? Like I -- I haven't 10 -- I had nothing to do with it -- with Baja. I don't 11 know. 12 Q. Okay. Did -- did anything Mr. Soto did have any 13 effect on the pay that you received from Baja? 14 ALEX LARKIN: Same objection. 15 SARA KINCAID: I'll join. 16 JASON WANDLER: Join. 17 BY ERICA FRANKLIN: 18 Q. You can answer. 19 A. I -- I don't quite understand. 20 Like I said, I don't know anything about Baja or 21 their business. I don't know how much their invoice. I 22 don't know anything. I don't -- believe me, I'm telling, 23 I don't know nothing about Baja. 24 Q. Okay. 25 ERICA FRANKLIN: If -- if we could please pull</p>

<p style="text-align: right;">Page 114</p> <p>1 A. Pay from -- I didn't get paid for a -- he paid 2 me money -- he pay me just that. And plus, yes, I have 3 a -- a paycheck every week from the way which it's my 4 salary. 5 Q. Okay. So I'm just trying to figure out if there 6 are any other sources of pay you received besides the 7 money from Baja -- 8 A. No. No. Just the -- was from Baja. That's the 9 only money. They pay me the money they owe me. 10 Q. Okay. So -- and is all the money that you 11 received from Baja, was all of that money that you had 12 paid Carlos? 13 ALEX LARKIN: Same objection. 14 BY ERICA FRANKLIN: 15 Q. I'm just trying to figure out what -- so I want 16 to make sure I understand. 17 From the payments you -- of the payments you 18 received from Baja, I want to make sure I understand what 19 those payments were for. 20 You told me that some of those payments were 21 from -- were money that you had lent to Carlos. Is 22 anything else? 23 ALEX LARKIN: Object to the form of the 24 question. 25 SARA KINCAID: I'm going to join in that</p>	<p style="text-align: right;">Page 115</p> <p>1 objection. 2 Tony, you can go ahead and answer. 3 THE WITNESS: I -- I didn't understand the 4 last -- so you said the money I received? Yes. I 5 received -- the money I received from Baja is to pay me 6 the money I lent to them, yes. 7 BY ERICA FRANKLIN: 8 Q. Okay. Did you receive any other money from 9 Baja? That's what I'm trying to find out. 10 A. Never. Honor. No. I swear to the -- no. 11 Never. Not one penny. Never. 12 Q. Okay. And did you have any -- so when -- when 13 Baja cut you a check, did you have any role in processing 14 that check? 15 A. Any what -- 16 ALEX LARKIN: Object to the form of the 17 question. 18 JASON WANDLER: I'll join. 19 SARA KINCAID: I'm going to join as well. 20 BY ERICA FRANKLIN: 21 Q. You can answer. 22 A. Can you repeat? When I receive the check? I 23 mean, if I'm giving you a check, pay it. All I did, I 24 grabbed the check. I deposit, you know, in a bank. 25 That's all. That's all.</p>
<p style="text-align: right;">Page 116</p> <p>1 Q. Did you have a role in -- in creating that 2 check? 3 ALEX LARKIN: Same objection. 4 BY ERICA FRANKLIN: 5 Q. Were you involved in that process? 6 SARA KINCAID: Same objection. 7 JASON WANDLER: Join. 8 THE WITNESS: I don't have any role. I don't 9 have anything. No. I don't have nothing. 10 BY ERICA FRANKLIN: 11 Q. Did the amount of money that you received from 12 Baja depend on how many employees Roberto Soto Contreras 13 had? 14 ALEX LARKIN: Same objection. 15 SARA KINCAID: I'll join in that objection. 16 JASON WANDLER: Same for me. 17 THE WITNESS: I don't know how many employees, 18 no. I don't. I don't know how many employees they -- 19 they had on -- I don't. 20 Like I said, I don't have access to it, to his 21 business or with him discuss, you know, personal business 22 between me and him. I -- like I said, I wasn't -- I 23 wasn't part of Baja so I don't know anything. 24 BY ERICA FRANKLIN: 25 Q. Okay. But I'm asking something slightly</p>	<p style="text-align: right;">Page 117</p> <p>1 different which is -- I know you don't know how many 2 employees, but did the amount of employees that he had 3 affect your pay from Baja? 4 ALEX LARKIN: Same objection. 5 JASON WANDLER: Object. 6 BY ERICA FRANKLIN: 7 Q. You can answer. 8 A. Said affect my pay? Baja -- you -- you said the 9 amount of employees he affect me pay? Like I -- I haven't 10 -- I had nothing to do with it -- with Baja. I don't 11 know. 12 Q. Okay. Did -- did anything Mr. Soto did have any 13 effect on the pay that you received from Baja? 14 ALEX LARKIN: Same objection. 15 SARA KINCAID: I'll join. 16 JASON WANDLER: Join. 17 BY ERICA FRANKLIN: 18 Q. You can answer. 19 A. I -- I don't quite understand. 20 Like I said, I don't know anything about Baja or 21 their business. I don't know how much their invoice. I 22 don't know anything. I don't -- believe me, I'm telling, 23 I don't know nothing about Baja. 24 Q. Okay. 25 ERICA FRANKLIN: If -- if we could please pull</p>

<p style="text-align: right;">Page 118</p> <p>1 up the exhibit that I originally marked Exhibit N. And I 2 believe this would be Exhibit 7; is that correct? Okay. 3 If we could mark that as Exhibit 7 and pull it 4 up. Okay. 5 (Deposition Exhibit 7 was marked for 6 identification.) 7 BY ERICA FRANKLIN: 8 Q. Mr. Machado, do you -- have you seen this 9 before? 10 A. Yes. That -- he give me a check for hundred, 11 800. 12 And, like I said, I'm not hiding it. Should be 13 two more wire. One time -- one time I call Carlos. I 14 said, "Carlos, I need the -- the rest of the money." 15 And then he told me, "Tony, why don't you give 16 your account number to Roberto, and I -- and I send you 17 the money?" 18 So he did that, yes. 19 Like I said, he paid everything he owed me. But 20 I -- I mean, I received some statements. I was involved 21 with a -- what's his name -- with Baja. 22 Then sometime they said I would had eight 23 percent. No. It's all fake. It's not true. All it is, 24 he paid me whatever I loaned -- I loaned to him to Carlos. 25 That's all.</p>	<p style="text-align: right;">Page 119</p> <p>1 Q. How did it come to be that this check was for -- 2 it appears this check is for \$4878; is that correct? 3 A. Yeah. 4 Q. And how did -- how -- who came up with that 5 figure? That amount. 6 Do you know who came up with that amount of 7 money? 8 A. No. No. 9 Q. Was it -- did you ask to be paid this amount of 10 money? 11 A. No. I just want to -- him to pay me -- you 12 know, to pay me -- to pay me whatever, you know, he owes 13 me. 14 Q. So, at that point in time, on August 8, 2019, 15 how much money did Carlos owe you? 16 A. August what? 2019? 17 Q. On the date of this check, how much money did 18 Carlos owe you at that time? 19 A. Oh, at that time, I'm pretty sure we were even. 20 And then I -- I lend him more. This is August -- 21 Q. But prior to -- 22 A. -- august -- 23 Q. Prior to you serving this check. 24 A. Yeah. That's August what? Sorry? August 2019; 25 right? This one? Or the '18?</p>
<p style="text-align: right;">Page 120</p> <p>1 Q. '19? 2 A. 2019? I think we were even. 3 Q. Okay. 4 A. I think. 5 Q. How -- how did you know? How do you know? 6 A. Like I said, you know, I did this without 7 malicions or anything. Then I was record everything. 8 For me -- for me, you know, to say something I 9 don't know. This is -- it's been, you know, quite a bit. 10 It's been what? Two years? Three years? I -- you know, 11 sometimes you forget things; but I know, around this time, 12 we were all even when he paid me. 13 And then I got two more which they were wire -- 14 how you call? Wire or something. You got to check, you 15 know, the dates. 16 All I'm saying, everything I lend, he paid me 17 everything. 18 Q. Did you -- when you asked for -- for more -- 19 when you asked him to pay you back, did you specify an 20 amount? 21 A. Sorry? 22 ALEX LARKIN: Object to the form of the 23 question. 24 BY ERICA FRANKLIN: 25 Q. When you reached out to Carlos and asked -- and</p>	<p style="text-align: right;">Page 121</p> <p>1 explained that you needed to be paid back, did you specify 2 an amount? 3 A. No. No. He had me with check. Like I said, I 4 lend him \$3,000. Then a few times, he went grocery 5 shopping. I even pay, you know, with a debit card. 6 That's why lot of times he comes to 50-cents or 75 -- 7 75-cent. 8 The guy told me he's got to get them food. He's 9 got to get them lunch. It's got to get them a house to 10 live. It's got -- you know what I mean? 11 Most of them was all cash. Couple times I was 12 there with my debit card. Get some food -- how do you 13 call that -- at the Safeway. One time at the Safeway, 14 another time at -- it is another store. I can't remember 15 the name. I went to couple stores with him to -- to get 16 them some food. 17 Q. Okay. When you received this check, did you 18 inquire as to why it was for this amount of money? 19 ALEX LARKIN: Object to the form. 20 BY ERICA FRANKLIN: 21 Q. You can answer. 22 A. Yeah. When did I get this check? Can you 23 repeat -- did I what? 24 Q. When you received this check -- 25 A. Yes.</p>

<p style="text-align: right;">Page 122</p> <p>1 Q. -- did you receive this check?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And did you deposit this check?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. When you received it, did you ask anyone</p> <p>6 why it was for \$4878?</p> <p>7 A. No.</p> <p>8 ALEX LARKIN: Same objection.</p> <p>9 THE WITNESS: No. No.</p> <p>10 ERICA FRANKLIN: Okay. Let's go ahead and take</p> <p>11 a break at this point for 40 minutes.</p> <p>12 THE WITNESS: How long?</p> <p>13 ERICA FRANKLIN: Forty.</p> <p>14 THE WITNESS: Forty?</p> <p>15 ERICA FRANKLIN: 4-0.</p> <p>16 THE WITNESS: 4-0. Okay.</p> <p>17 VIDEOGRAPHER: All right. We are now going off</p> <p>18 record. The time now is 11:56 a.m.</p> <p>19 (Recess.)</p> <p>20 VIDEOGRAPHER: We are back on record. The time</p> <p>21 now is 12:44 p.m.</p> <p>22 BY ERICA FRANKLIN:</p> <p>23 Q. Mr. Machado, so I just really have a couple more</p> <p>24 questions for you.</p> <p>25 I just wanted to follow up on our discussion</p>	<p style="text-align: right;">Page 123</p> <p>1 about Carlos Ibarra. Is he -- is he related to Claudia</p> <p>2 Penunuri in any way?</p> <p>3 A. After all this going on, I guess, that's her</p> <p>4 sister.</p> <p>5 Q. I'm sorry. Can you repeat that?</p> <p>6 A. That's her sister.</p> <p>7 Q. Oh, his sister. Okay.</p> <p>8 And how long have you known Carlos?</p> <p>9 A. I met him in 2015. Seven years ago it's going</p> <p>10 to be in April. I met him seven years ago.</p> <p>11 Q. Would you describe him as a personal friend?</p> <p>12 A. Sorry?</p> <p>13 Q. Would you describe him as a friend?</p> <p>14 A. Yes. Like I said, I went there take over for</p> <p>15 somebody. And then, you know, you just go there on a</p> <p>16 daily basis. All you doing -- also my guys doing, I told</p> <p>17 him, you know, so far so good.</p> <p>18 Then time went by. Then he invite me -- I guess</p> <p>19 his mom and dad, they came from Mexico. You know, they</p> <p>20 came here for holidays. And then he -- he told me, "You</p> <p>21 want to come over my house? I'm going to do a barbecue.</p> <p>22 I'm going to introduce you to my mom and dad."</p> <p>23 So I went there. They were nice people. We</p> <p>24 talk. And then they even told me, "Oh, you know, later</p> <p>25 on, if you want to go in holidays, you can" -- I guess</p>
<p style="text-align: right;">Page 124</p> <p>1 they live close to Los Cabos La Paz. And they told me,</p> <p>2 "Anytime you want to come to Mexico for a holiday, you're</p> <p>3 more than welcome, you know, to come to my house."</p> <p>4 But I never went. I never did. So that's</p> <p>5 how -- you know, that's how we start, you know,</p> <p>6 friendship.</p> <p>7 Q. Okay. Did you and Carlos discuss the Baja</p> <p>8 employees who are working at 1120 Denny?</p> <p>9 A. No. No.</p> <p>10 Q. And did you discuss Newway's relationship</p> <p>11 with -- with Baja Concrete with Carlos?</p> <p>12 A. Sorry? Can you repeat? Newway with --</p> <p>13 Q. Did you and Carlos ever talk about Newway's</p> <p>14 and -- Newway Forming and Baja Concrete's business</p> <p>15 relationship?</p> <p>16 A. No. No. Because he already was, you know,</p> <p>17 involved with Newway. So I had no business, you know, to</p> <p>18 talk about it. No.</p> <p>19 Q. Did you and Carlos ever talk about Roberto Soto</p> <p>20 Contreras?</p> <p>21 A. No. No.</p> <p>22 Q. And did you ever talk about the pay that you</p> <p>23 received from Newway?</p> <p>24 ALEX LARKIN: Object to the --</p> <p>25 THE WITNESS: No. No. I mean, that's private</p>	<p style="text-align: right;">Page 125</p> <p>1 business. I -- you know, I just told, you know, you guys</p> <p>2 how much I make. I make -- I never told no one. You</p> <p>3 know, that's my business. That's my private -- you know,</p> <p>4 my privacy.</p> <p>5 BY ERICA FRANKLIN:</p> <p>6 Q. Did -- did you ever discuss how -- how Baja was</p> <p>7 paying its employees with Carlos?</p> <p>8 A. No.</p> <p>9 ALEX LARKIN: Object to the form of the</p> <p>10 question.</p> <p>11 SARA KINCAID: I'll join that objection.</p> <p>12 BY ERICA FRANKLIN:</p> <p>13 Q. You can answer.</p> <p>14 A. No.</p> <p>15 Q. So what is Carlos' role at Baja? What does he</p> <p>16 do for the company?</p> <p>17 ALEX LARKIN: Object to the form of the</p> <p>18 question.</p> <p>19 SARA KINCAID: I'll join that objection.</p> <p>20 BY ERICA FRANKLIN:</p> <p>21 Q. You can answer.</p> <p>22 A. Like, I don't know what -- to me, my knowledge,</p> <p>23 I thought him was the owner -- the shareholder. And then</p> <p>24 all this going on, then I heard it's deceased -- at the</p> <p>25 first, they were saying they live in -- she lives</p>

<p style="text-align: right;">Page 130</p> <p>1 A. Yeah. Yeah. Everybody, they were -- they all 2 were Newway's employee. 3 Connor, he just left Newway not too long ago, 4 and he's working for another company. I guess he wants to 5 become an electrician so he -- he left Newway. 6 Q. Okay. Sorry. Just to be thorough, Padro -- 7 A. Padro, he was a Newway's employee. Yes. 8 Q. And just to clarify something: The various 9 foremen -- the labor foreman, the cement finishing 10 foreman, the other foremen -- if I understand right, they 11 would be supervising Newway's workers -- Newway's 12 employees. 13 A. Yes. 14 SARA KINCAID: Objection to the form of the 15 question. 16 BY ALEX LARKIN: 17 Q. And the same foreman would also be supervising 18 other workers who were not Newway employees; is that 19 correct? 20 SARA KINCAID: Objection to the form of the 21 question. 22 JASON WANDLER: I'll join. 23 SARA KINCAID: You can go ahead, Tony. 24 THE WITNESS: Yes. 25</p>	<p style="text-align: right;">Page 131</p> <p>1 BY ALEX LARKIN: 2 Q. Is it your understanding that the Baja Concrete 3 company that was working on a project in Edmonton that you 4 mentioned -- 5 A. Yes. They are -- they are here in Canada. I 6 guess they start here in Canada. 7 Q. Is it -- is it your understanding that that is 8 the same company as Baja Concrete USA Corp? 9 A. I -- 10 SARA KINCAID: Objection to the form of the 11 question. 12 THE WITNESS: That I don't know. I -- sir, I 13 don't want to answer questions I don't know. 14 BY ALEX LARKIN: 15 Q. Okay. Good. 16 Just checking my notes. Sorry. 17 There's been some discussion about Mr. Soto and 18 about Roberto. To clarify, what is that person's full 19 name? 20 A. I -- all I know -- I -- I only know Roberto. 21 Now we all just going -- going on, "It's Roberto Soto, 22 Soto." That's all I know. 23 Q. Is it your understanding that that person is 24 named in this Seattle wage-claim matter? 25 A. I guess that's -- that's the same guy, yeah.</p>
<p style="text-align: right;">Page 132</p> <p>1 Roberto, yeah. 2 Q. Okay. You've mentioned early on this morning 3 that there might have been six or seven or eight 4 different, I guess, subcontractors or companies doing work 5 at the product site. 6 A. Yes. There were excavators, electricians, 7 plumbings, mechanicals, all kind -- you know, all kinds of 8 trade, yes. 9 Q. Would it be -- 10 A. But -- 11 Q. -- correct to say that all of the work that all 12 of them did was essential to Newway's work? 13 A. No. 14 SARA KINCAID: Objection to the form of the 15 question. 16 JASON WANDLER: I will join that as well. 17 BY ALEX LARKIN: 18 Q. Okay. But you answered no. 19 A. No. They -- I mean, we were our own subtrades. 20 You know, I'm -- I'm a carpenter. You get the plumber. 21 So it's all different companies. All -- it's all 22 different companies. They weren't relate to Newway. 23 Q. Okay. The general contractor is Onni; correct? 24 A. Yes. 25 Q. That's O-n-n-i?</p>	<p style="text-align: right;">Page 133</p> <p>1 A. Yes. 2 Q. Would it be correct to say that all of these 3 different companies -- these subcontractors -- that their 4 work was essential to Onni's work as a general contractor? 5 A. Yes -- 6 SARA KINCAID: Objection to the form of the 7 question. 8 BY ALEX LARKIN: 9 Q. But again you answered -- 10 A. Yes. We all were working on the Onni's, yes. 11 Q. Does -- is it your understanding that Roberto 12 Soto, who I believe is Roberto Soto Contreras, is it your 13 understanding that he is an employee of Baja Concrete? 14 A. I don't know his title. I -- I do not know. 15 Q. The time clock that was put in for the Denny Way 16 project site, where was that time clock actually located? 17 A. It was Newway's office. 18 Q. So each worker who used the time clock would 19 have to go into the Newway's office -- 20 A. Yes. They got -- they got to punch in and punch 21 out. Yes. 22 SARA KINCAID: Tony, I'm sorry. And I'm sure 23 the court reporter will probably second this, too, but if 24 you wouldn't mind waiting until he finishes his question. 25 That way, if we can make any objections, we can; and then,</p>



<p style="text-align: right;">Page 154</p> <p>1 had a lot of safety meetings and you can't remember this 2 exact one. But can we -- can we -- can we safely say that 3 you did attend this meeting? 4 SARA KINCAID: Objection to the form of the 5 question. 6 BY ALEX LARKIN: 7 Q. Please answer the question, though. 8 A. So you asking me if I attend -- attend that 9 meeting? 10 Q. Yes. 11 A. So, if you see my name there, that must be 12 there; right? So, yes, I was there. 13 Q. Okay. Scrolling to the next page, same 14 document. So this is a handwritten 69 in the lower right 15 corner; to the next page, handwritten page No. 70. Again, 16 it appears to be a continuation of the same list. Next 17 page, handwritten page No. 71. 18 How about this company SFS? Is that a company? 19 A. Yes. That's -- that's a company name, I think. 20 I'm not sure, sir. 21 Q. And the next page -- so this will be the 22 handwritten page No. 72; and the next one, 73; next 23 one, 74. And that is the last one. 24 So workers that were provided by Mr. Soto -- 25 Mr. Roberto Soto -- and may have been paid by Baja</p>	<p style="text-align: right;">Page 155</p> <p>1 Concrete, did they attend safety meetings? 2 A. Yes. 3 SARA KINCAID: Objection to the form of the 4 question. 5 BY ALEX LARKIN: 6 Q. If there were any of those workers at the 7 project site on this day when this safety meeting was 8 conducted, they -- they would have attended that meeting; 9 right? 10 SARA KINCAID: Objection to the form of the 11 question. 12 BY ALEX LARKIN: 13 Q. Please answer. 14 A. Yes. But, again, those sheets, they were done 15 by -- what's his name -- the -- the general contractor. 16 So every trade is there. They were the one to -- who 17 provide, you know, the sheets, the paperwork. Not us. 18 Q. Sure. 19 A. Because then we have our own -- I hope they have 20 the records. We have our own safety meetings, and 21 everybody would be signing on our own paperwork. This was 22 once a week, every trade, you know, on site. 23 Q. So we should see on this list here -- shouldn't 24 we see the company name Baja Concrete? 25 SARA KINCAID: Objection to the form of the</p>
<p style="text-align: right;">Page 156</p> <p>1 question. 2 JASON WANDLER: I'll join. 3 BY ALEX LARKIN: 4 Q. But please answer, Mr. Machado. 5 A. I don't know why doesn't -- what's his name -- 6 Baja Concrete paper, you know, their name. I don't know, 7 sir. It's a -- you know, it's out of my control. 8 Q. Yeah. Okay. I think that's enough with that 9 document. 10 Does Onni -- as far as you know, the general 11 contractor, did they keep these documents on file? 12 SARA KINCAID: Objection to the form of the 13 question. 14 THE WITNESS: That -- that I don't know, sir. I 15 cannot -- I don't know. I'm not on their management. I 16 don't know how they run their business. I don't know. 17 BY ALEX LARKIN: 18 Q. Okay. Does Newway Forming keep a copy of these 19 documents on file? 20 SARA KINCAID: Objection to the question. 21 BY ALEX LARKIN: 22 Q. What -- what was your answer? 23 A. I said that I'm fully sure -- I will say, yes, 24 I'm pretty sure they have, you know, all the backup -- you 25 know, all the -- the documentation.</p>	<p style="text-align: right;">Page 157</p> <p>1 Q. Okay. 2 ALEX LARKIN: I'm going to introduce just one 3 more exhibit. This will be -- what -- number -- please 4 mark as Exhibit 12. 5 (Deposition Exhibit 12 was marked for 6 identification.) 7 BY ALEX LARKIN: 8 Q. Mr. Machado, do you recognize this document? 9 A. Tony, Newway, Tom Grant, Senior PM. Tony 10 Machado, General Foreman. 11 When I start there with what's his name -- with 12 Joe Regal, they put me as a general foreman. And then he 13 left. When he left, I took over -- over his position. 14 Adam Pitt, layout superintendent. Lozado and 15 Connor, which is the safety manager, yes. 16 Q. And at the top, the title of the document, what 17 is that? 18 A. Newway Organization Chart, 1120 Denny Way; 19 right? 20 Q. That's what it looks like. 21 So, again -- so what is your understanding of 22 what is this document? 23 A. I -- I don't know. 24 SARA KINCAID: Objection to the form of the 25 question.</p>

<p style="text-align: right;">Page 158</p> <p>1 I'm sorry, Tony. I didn't mean to cut off your 2 answer. Go ahead. 3 BY ALEX LARKIN: 4 Q. Yeah. Go ahead and -- 5 A. I -- I don't know. 6 I mean, like I said, my expertise, it's on the 7 field. Documentation, you have to go, you know, ask Tom 8 Grant or Con -- Connor. 9 Q. Okay. This exhibit, I believe, has two pages so 10 I'm just going to scroll to the second page. 11 Again, do you recognize this document? 12 A. Yeah. Newway Forming. Newway organize -- I 13 don't know what he means, that. I don't know, sir. 14 Q. Okay. I think maybe this was asked before, but 15 let me just confirm. 16 Tom Grant, he's still with Newway Forming? 17 A. Yes. He's off and on. He -- like I said, his 18 wife, she lives in Washington. 19 Q. Okay. 20 A. That Sequim. And he goes back and forth every 21 week right now because we have no new work at all in 22 Seattle, I think. 23 Q. Okay. So going a little bit further down the 24 page here, that -- is that your name to the left here? 25 A. Yes. Yeah. My name is Antonio, but most of the</p>	<p style="text-align: right;">Page 159</p> <p>1 people make it Tony. So then he put, you know, Tony. 2 Q. Okay. Okay. 3 I realize that you said it was -- it's been a 4 long time since you had a phone -- I think it was a phone 5 call with the Seattle Office of Labor Standards, but do 6 you recall that phone call? 7 A. Sir, no one ever called me from that -- I know I 8 had a -- you know, how do you call? I had a meeting like 9 we doing right now. 10 Q. Oh, you had a meeting. Sorry. Not a phone 11 call. A meeting. Sorry. 12 But you do remember that meeting. 13 A. Sorry? 14 Q. Do you remember that meeting? 15 A. Yes. I give -- they ask pretty much same 16 questions. When they ask me, "Did you ever get money 17 from" -- they mention me Carlos. I can't pronounce his -- 18 if you had ask me, you know, Carlos Ibarra, I will say, 19 "Yes, sir." 20 And then they asked me a bunch of guys' name. 21 Sir, I don't remember everybody's name because, you know, 22 I work all over. You different -- you meet different 23 people, different guys. And then some the guys -- I hate 24 to say that -- one job, they have one name; next job, they 25 have another name. So I -- I don't --</p>
<p style="text-align: right;">Page 160</p> <p>1 Q. Okay. Sorry. I talked over you. That's my 2 fault. 3 But do you remember who you spoke with or who -- 4 who did you meet with -- 5 A. Who was -- 6 Q. -- from the off -- the Office of Labor 7 standards? Who was it? 8 A. I -- I don't know. I don't remember. Sir, they 9 were more than one. Sorry to interrupt you. I guess it 10 was -- 11 (Reporter clarification.) 12 BY ALEX LARKIN: 13 Q. Well, that's okay. Completely different 14 question now. 15 Going to stop this share -- screen share. 16 Okay. When -- when workers would work, let's 17 say sometimes -- did workers ever have to work through a 18 break? Miss a break? 19 SARA KINCAID: And I'm sorry. Alex, are you -- 20 are you talking about which workers? 21 BY ALEX LARKIN: 22 Q. Let's say -- well, let's say Newway employees -- 23 okay -- working on the project at Denny Way, did they ever 24 have to work through a break? 25 A. Sir, they were always alternate. Our breaks was</p>	<p style="text-align: right;">Page 161</p> <p>1 from 10:00 to 10:30, 1:00 to 1:30. Sometimes I tell -- I 2 tell my labor foreman, "Concrete's going to be here at one 3 o'clock." He will send some guys at 1230. And then, when 4 those guys coming back, would send, you know, the other. 5 So every -- everybody -- you know, everybody stops for a 6 break. We never stop no one. 7 And another thing: Sometimes we stay a little 8 late. The carpenters, they tell me, "Tony, we going to 9 work a little late. We going to have another -- 10 another" -- but sometimes they even take the third break, 11 and we never say no. 12 You know, the company, you know -- I mean, we 13 always obey the law. We follow the rules. 14 Q. Yeah. Okay. 15 But could it be -- or was it the case that 16 sometimes -- when, let's say, a Newway employee or even a 17 worker brought in by Mr. Soto, when they would work 18 overtime hours, would they just record more hours as 19 opposed to -- would -- would they just record more hours 20 to make up the extra pay? 21 SARA KINCAID: Objection -- 22 JASON WANDLER: I'll object -- 23 SARA KINCAID: -- to the form of the question. 24 JASON WANDLER: I'll join. 25</p>

<p style="text-align: right;">Page 162</p> <p>1 BY ALEX LARKIN:</p> <p>2 Q. Again --</p> <p>3 A. I -- I don't -- sir, I'm going to ask that --</p> <p>4 I -- I don't know.</p> <p>5 Q. Okay. That's fine.</p> <p>6 Actually, then I don't have any more questions</p> <p>7 at this time.</p> <p>8 THE WITNESS: And all I can say, Newway, it's a</p> <p>9 great company. I spend more than half my life. And I</p> <p>10 wish I could spend, you know, another 100 years. Like,</p> <p>11 the owners, they are an excellent people. They are the</p> <p>12 owners Sal and Ezio. They are, you know -- they are</p> <p>13 excellent people. They always look after their employees.</p> <p>14 Okay. That's all I can say.</p> <p>15 SARA KINCAID: Thank you, Tony.</p> <p>16 Sorry. I don't mean to cut you off. I just</p> <p>17 want to make sure that we can finish up with this</p> <p>18 deposition before we all have to go.</p> <p>19 Jason, before I go with any questions, do you</p> <p>20 have any that you would like to ask Mr. Machado?</p> <p>21 JASON WANDLER: I do not.</p> <p>22 SARA KINCAID: I'm sorry?</p> <p>23 JASON WANDLER: Oh, I do not, no.</p> <p>24 SARA KINCAID: Okay.</p> <p>25 E X A M I N A T I O N</p>	<p style="text-align: right;">Page 163</p> <p>1 BY SARA KINCAID:</p> <p>2 Q. Mr. Machado, I just had a couple of brief</p> <p>3 followup questions.</p> <p>4 Now, how did you become aware that Newway had</p> <p>5 Baja -- well, strike that. Let me rephrase this question.</p> <p>6 How did you become aware that Newway Forming</p> <p>7 subcontracted with Baja Concrete USA?</p> <p>8 A. I -- I did not. I -- I know they start in</p> <p>9 Bellevue -- you know, we had a job in Bellevue. That's</p> <p>10 when they start. But I don't know exactly days, exactly</p> <p>11 month. I don't know. They start in 2017 in Bellevue --</p> <p>12 you know, Bellevue, Washington. But I don't know exactly</p> <p>13 they -- I believe it was Joe Regal, he's the one who hired</p> <p>14 them.</p> <p>15 Q. And Tony -- I'm sorry. I don't mean to cut you</p> <p>16 off.</p> <p>17 So I guess when did you become aware that Newway</p> <p>18 had subcontracted with Baja Concrete USA?</p> <p>19 ALEX LARKIN: Object to the form of the</p> <p>20 question.</p> <p>21 BY SARA KINCAID:</p> <p>22 Q. You can go ahead, Tony.</p> <p>23 A. I would say probably around -- not too far from</p> <p>24 creation. It could be November, December 2017.</p> <p>25 Q. And so my question is, when you became aware</p>
<p style="text-align: right;">Page 164</p> <p>1 that they were working at the Denny Way site, how did you</p> <p>2 become aware of that?</p> <p>3 A. They came, I believe, 2000 -- 2018. Yeah.</p> <p>4 2018. I mean, the -- I were talk, you know, to Chris</p> <p>5 Birch. And then it's, you know, different faces. And</p> <p>6 then that's how I find out that they were there.</p> <p>7 And then next thing you know, I saw Roberto, you</p> <p>8 know, would walk by. You know, "How you doing? How are</p> <p>9 you?" And then introduce himself, you know, from Baja</p> <p>10 Concrete.</p> <p>11 Q. And how often did you see Roberto Soto Contreras</p> <p>12 at the Denny Way work site?</p> <p>13 A. I don't see him very often. Sometimes once,</p> <p>14 sometimes twice, three times a week. Like I said, I used</p> <p>15 come early, very early in the morning. I was the first at</p> <p>16 the job site and the last one to leave.</p> <p>17 And, like I said, that time was the biggest job,</p> <p>18 you know, in -- in Downtown Seattle. So I was busy all</p> <p>19 the time back and forth. Lot of --</p> <p>20 Q. That's okay, Tony. You don't need to explain.</p> <p>21 I think you answered the question that I asked you.</p> <p>22 A. Yes.</p> <p>23 Q. You said that there were other companies besides</p> <p>24 Newway and Baja Concrete USA at the Denny work site.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 165</p> <p>1 Q. Did -- did all of the companies take breaks at</p> <p>2 the same time?</p> <p>3 A. Most of them, they did, yes. Most of them, they</p> <p>4 did because we had a coffee truck -- you know, a food</p> <p>5 truck come into the job site. So everyone would stop</p> <p>6 pretty much same time, you know, go grab their lunch.</p> <p>7 Q. And whether or not you signed any timecards or</p> <p>8 time sheets, did you ever know how or what Baja Concrete</p> <p>9 USA workers were being paid?</p> <p>10 A. No. I never -- I -- like I said, I mentioned</p> <p>11 before, I didn't know anything about Baja, and I still</p> <p>12 don't know.</p> <p>13 But I see it now on the document how much they</p> <p>14 were pay -- you know, two -- per labor or per labor or for</p> <p>15 cement finish. Those deals I never made -- was between --</p> <p>16 what's his name -- Tom Grant and Joe Regal at the</p> <p>17 beginning.</p> <p>18 Q. Okay. And -- and when you say -- you -- you</p> <p>19 were referencing you see now. Are you referring to the</p> <p>20 documents that you've seen being produced by the -- by</p> <p>21 Baja and the Office of Labor Standards?</p> <p>22 A. Now, I been see -- like I saw some today. And</p> <p>23 sometimes, you know, the -- the lawyers, they use send,</p> <p>24 you know, some papers. That's the only thing I know.</p> <p>25 Before that, I -- I never saw anything. I don't</p>

12736 SW 133rd St  
Miami, FL, 33186

**WELLS FARGO BANK**

100181

08/08/2019

PAY TO THE  
ORDER OF

## Antonio Machado

**EXHIBIT 7**  
**Antonio Machado**  
**02/1/2022**  
Reporter: Jamie Booker, RPR, CCR

**\$ \*\*4878.00**

Four thousand eight hundred seventy-eight and 00/100 \*\*\*\*\* DOLLARS

## Antonio Machado

Lynnwood WA 98087

MEMO Receipts Pending

**AUTHORIZED SIGNATURE**

11

100181

**PAYER**  
BAJA CONCRETE USA CORP  
6103 St. Albion Way Apt. I-306  
Mountlake Terrace WA 98043

Pay Date:

08/08/2019

**PAYEE**

Antonio Machado

Lynnwood WA 98087

**TOTAL PAY:**

**\$4,878.00**

**MEMO:**

Receipts Pending

<b>PAY</b>	<b>Current</b>
Reimbursement	4878.00

SUMMARY	Current
Total Pay	\$4,878.00

**Total Pay**

**\$4,878.00**

APPBAJA001237

517954602-

NEWWAY

CRANE AND/OR RIGGING ACCIDENT/INCIDENT NOTIFICATION					
Accident Category: <input checked="" type="checkbox"/> Crane Accident <input type="checkbox"/> Rigging Accident From: _____ To: _____					
Activity: <u>Placing Boom (critical lift)</u>				Report No: _____	
Crane Serial No: _____		Type: _____		Accident Date: <u>3/20/2019</u> Time: (24 hr format) <u>10:16</u>	
Category of Service: <input type="checkbox"/> General Duty		Crane Type: (see instructions)		Crane Manufacturer: _____	
Was Crane/Hoist used as part of a Critical Lift: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			Was Critical Lift Plan Prepared? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Location: <u>TC3 MR</u>			Weather: <u>Clear/sunny</u>		
Crane Capacity: <u>22,050</u>		Hook Capacity: <u>14,400/lb</u>		Weight of Load on hook: <u>19,600</u>	
Fatality or Permanent Disability? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			Material/Property Cost Estimate: _____		
Accident Type: <input type="checkbox"/> Personal Injury, Lost time <input checked="" type="checkbox"/> Load Collision <input type="checkbox"/> Overload <input type="checkbox"/> Damaged Rigging Gear <input type="checkbox"/> Personal injury, Non-LT <input type="checkbox"/> Two Blocked <input type="checkbox"/> Dropped Load <input type="checkbox"/> Damaged Crane <input type="checkbox"/> Crane Collision <input type="checkbox"/> Damaged Load <input type="checkbox"/> Other: Specify _____					
Direct Cause of Accident: <input type="checkbox"/> Improper Operation <input checked="" type="checkbox"/> Equipment Failure <input type="checkbox"/> Inadequate Visibility <input type="checkbox"/> Improper Rigging <input type="checkbox"/> Switch Alignment <input type="checkbox"/> Inadequate Communication <input type="checkbox"/> Track Condition <input type="checkbox"/> Procedural Failure <input type="checkbox"/> Other: Specify _____					
Chargeable to: <input type="checkbox"/> Signal Person <input type="checkbox"/> Rigger <input type="checkbox"/> Operator <input type="checkbox"/> Maintenance <input type="checkbox"/> Management/Supervision <input type="checkbox"/> Other: Specify _____					
Crane Function: <input type="checkbox"/> Slewing <input checked="" type="checkbox"/> Hoist <input type="checkbox"/> Rotate <input type="checkbox"/> Luffing <input type="checkbox"/> Trolleying <input type="checkbox"/> Other <input type="checkbox"/> N/A					
Is this accident indicative of a recurring problem? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list ENLink Report Nos.: _____					
ATTACH COMPLETE AND CONCISE SITUATION DESCRIPTION, CORRECTIVE/PREVENTIVE ACTIONS TAKEN AND PHOTOS AS ENCLOSURE (1). Include probable cause and contributing factors. Assess damages and define responsibility. For equipment malfunction or failure, include specific description of the component and the resulting effect or problem caused by the malfunction or failure. List immediate and long term corrective/preventive actions assigned and respective codes.					
Preparer: <u>Connor Farler</u>		Phone: <u>425 977 9473</u>		E-mail: <u>Connor@newwayforming.com</u>	
				Code: _____	
				Date: <u>3/20/19</u>	

Form 16-3  
CRITICAL LIFT PLAN

For use of this form, see EM 385-1-1, Section 16. Proponent is Crane HHWG.

Date: 3-20-14 Prepared By: Matt R. Her  
Location: Mid rise TC3 USACE District:

A "critical lift" is defined as any non-routine crane lift requiring detailed planning and additional or unusual safety precautions. Critical lifts include: lifts made where the load weight is greater than 75% of the rated capacity of the crane; lifts which require load to be lifted, swung or placed out of the operator's view; lifts made with more than one crane; lifts involving non-routine/technically difficult rigging arrangement; hoisting personnel with a crane or derrick; or any lift which the crane operator believes should be critical.

A. TOTAL LOAD		B. CRANE PLACEMENT (Maximum Capacity Only)	
1. Load Weight	<u>19,600</u> lbs	1. Maximum Bearing Pressure	<u>N/A</u> PSF <small>Note: Bearing Pressure Calculations must be attached on Page 3</small>
2. Wt. of Aux. Block		2. Ground Conditions Suitable for Load?	<u>YES</u> / NO <small>Note: Ground Condition Calculations must be attached on Page 3</small>
3. Wt. of Main Block		3. High Voltage or Electrical Hazards?	<u>YES</u> / <u>NO</u> <small>Note: If Electrical Hazards are present they must be shown on Page 4</small>
4. Wt. of Lifting Beam		4. Obstructions to Lift or Swing?	<u>YES</u> / <u>NO</u> <small>Note: If Obstructions are present they must be shown on Page 4</small>
5. Wt. of Sling/Shackles		5. Travel with Load Required?	<u>N/A</u> YES / NO
6. Wt. of Jib/Ext. (erected/stowed)		6. Other?	
7. Wt. of Hoist Rope			
8. Other:			
TOTAL WEIGHT: <u>19,600</u>			

Note: Source of load weight (Drawings, Calcs, etc.) must be attached on Page 3

C. CRANE		D. OPERATOR QUALIFICATIONS	
1. Type of Crane	<u>Mobile Hydraulic Truck Tower</u>	1. Certified Operator?	<u>YES</u> / NO
2. Maximum Crane Capacity	<u>22,000</u> lbs	2. Option?	
3. Radius (Maximum)	<u>130'</u> ft.	3. Certified for Type, Class & Capacity?	<u>YES</u> / NO
4. Radius (Minimum)		4. Designated in writing by employer:	<u>YES</u> / NO
5. Boom Length (Maximum)		E. PRE-LIFT CHECKLIST	
6. Boom Length (Minimum)		1. Crane Inspected	<u>✓</u>
7. Crane Capacity (Max Radius)		2. Rigging Inspected	<u>✓</u>
8. Crane Capacity (Min Radius)		3. Crane Set-up	<u>✓</u>
9. Boom Angle (Maximum)		4. Overhead Hazard Check	<u>✓</u>
10. Boom Angle (Minimum)		5. Swing Check	<u>✓</u>
11. Gross Load of Crane		6. Counterweight Check	<u>✓</u>
12. Lift is <u>80%</u> % of the Crane's rated capacity		7. Operator Qualifications	<u>✓</u>
13. If Jib/Ext. is to be used:		8. Signal Person Qualifications	<u>✓</u>
Length		9. Rigger Qualifications	<u>✓</u>
Offset		10. Load Chart in Crane	<u>✓</u>
14. Rated Capacity of Jib/Ext.		11. Load Test	<u>✓</u>
		12. Tag Lines	<u>✓</u>
		13. Wind Conditions	<u>✓</u>
		14. Traffic Hazard Check	<u>✓</u>
		15. Site Control	<u>✓</u>
		16. Signatures	

F. LIFT PARTS		G. SIGNATURES	
1. # of Parts		1. Crane Operator	<u>Herb</u>
2. Rope Diameter		2. Rigger	<u>Matt R. Her / Matt R. Her</u>
3. Capacity		3. Signal Person	<u>Tyler</u>
4. Hitch Type(s)	<u>3 point</u>	4. Lift Supervisor	
5. No. of Slings:	<u>3</u> Size: <u>3/4"</u>	5. Other	
6. Sling Type:	<u>cable</u>	6. Other	
7. Sling Assembly Capacity:	<u>19,400 lbs per leg</u>		
8. Shackle Size(s):	<u>7/8" x 3</u>		
9. Shackle Rated Capacity(s)	<u>6 1/2 T</u> lbs.		



## POST INCIDENT MEETING REPORT

INJURED EMPLOYEE:

CRAFT:

DATE OF INCIDENT:

DATE OF MEETING:

MEETING ATTENDEES:

100-443887-100

1. Went to the office

Danell Felher TCA

Craig Kuchel

Connor Ford

Jesse K. Auer

Spiller

*[Illegible handwritten notes]*

Loan Overlap

COMMENTS/SOLUTIONS FOR PREVENTION:

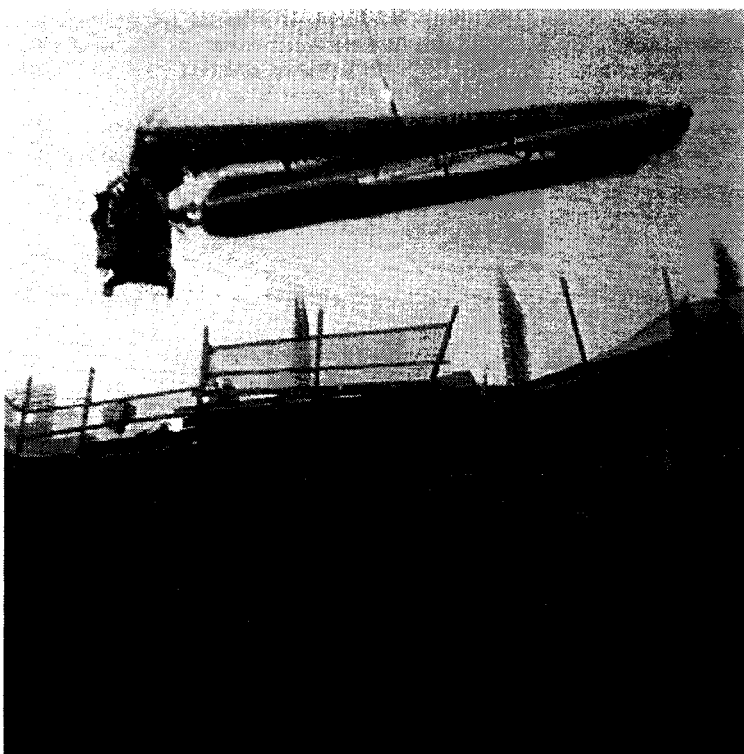
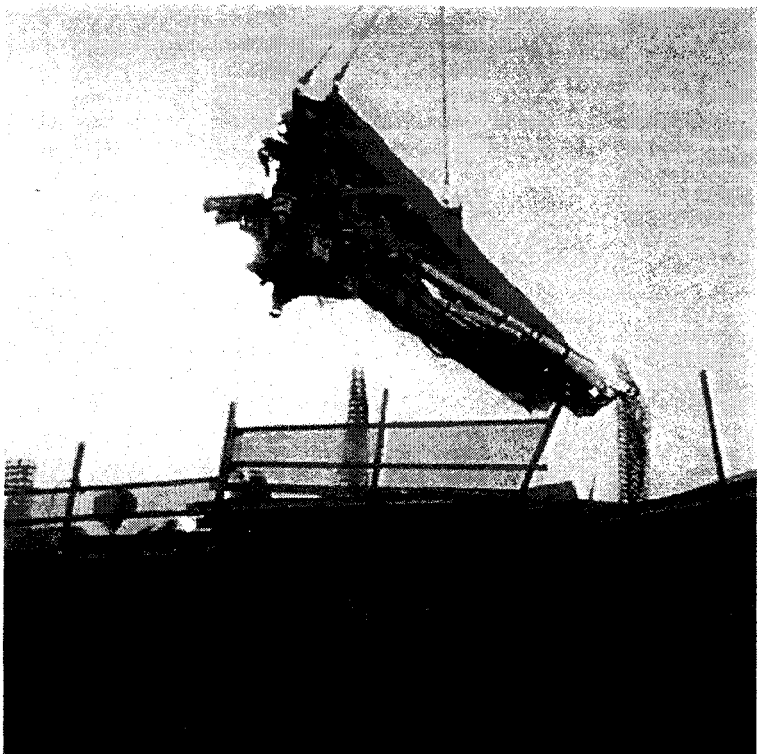
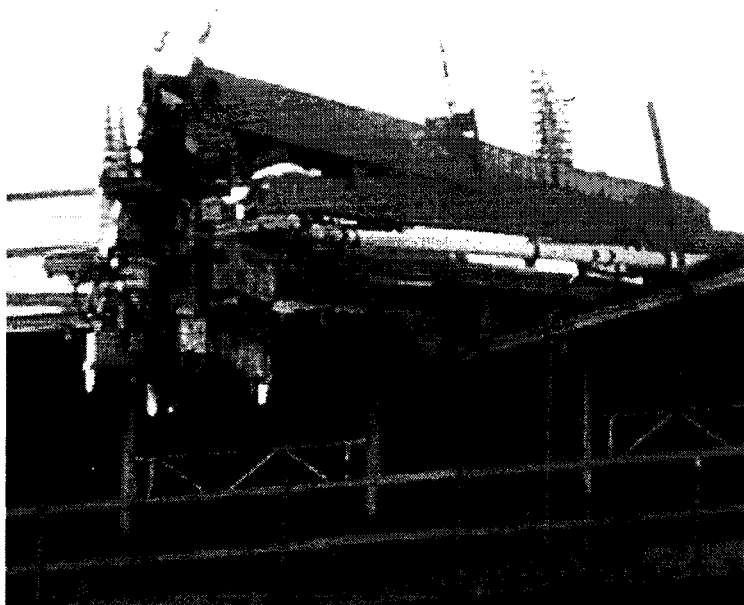
- 11/12/12
- 11-12 PM
- Took to, long
- in lake, swing 1st and 2nd
- 17 come down
- in long
- Take out to 1st line on right
- cleared everything
- No slack on line
- Moved it back to ground in first gear
- 1st gear
- Take 2nd gear
- 1st gear, shut down at crane
- 2nd gear at crane
- Hold test at 1st gear
- Started Crane - 100% check
- Certify crane to manufacturing specs
- Elongation - no

Inspect deck - anything loose removed

- Climbing unit for temp beam

Overfleet dumptier

0179546022





**ONNI GROUP**

# SITE SAFETY STAND DOWN

JOB NAME	1120 Benny	JOB NO.	3000	DATE	4/21/19
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**INCIDENT:** Tower Crane 3 Incident on 3/20/16

1. Ins. Manufacturer advised incident involved TC 3 on 9/23/19.  
 3. TC 3 was checked immediately reported absence of brake  
 fluid. Fuel tank was not inspected.  
 4. 1st initial concern was fuel tank was empty.  
 5. Brake did not hold pressure in fuel coming down on bottom.  
 6. Cause inspected by third party. Brake return spring failed.  
 7. TC 3 was pulling back immediately to place on level.  
 8. When pump came started to swing. Brake spring failed  
 resulting in fuel hitting tank on level 10.  
 9. Site was evacuated.  
 10. 11/22/19 was not found.  
 11. L&E was on site. TC 3 was Rep Tagged.  
 12. Damage was not too bad. Fuel tank was sent to manufacturer for  
 inspection/repair. (confirmed OK for use).  
 13. This was a mechanical error not an operator. Bellman Review  
 closed.

317954602-

Onni Seattle

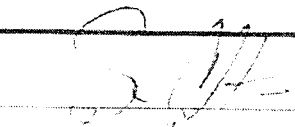
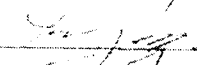
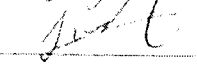

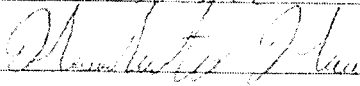

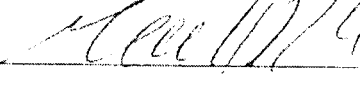
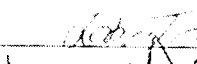
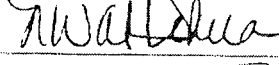
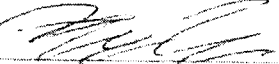


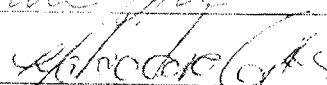
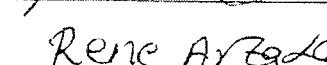
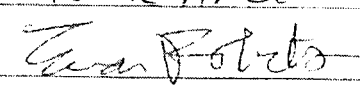
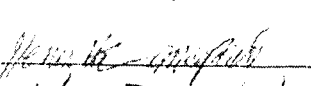

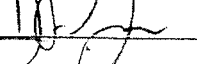
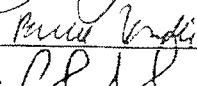
## Site Safety Stand Down

Job  
Name: 1120 Denny

Job No: 3000-0

Date:

5/21/17

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY
1	Sean Poulter		MAN M/S	MBE
2	Jorge Ponce		Fitter	UMC
3	Jorge Mendez		PLS K3	NEW WAY
4	Hector Hernandez		Electric	New Way
5	Humberto Hernandez		Electric	New Way
6	Rafael Hernandez		Electric	New Way
7	Michael Robbins		Flagger	Onni
8	Robert N. N. N.			Onni
9	Natacha Wailenua		operator	Garner
10	Roman Trun		operator	Garner
11	Connor Madh		Carp	KHSS
12	Aaron Johnson		Typer	KHSS
13	Hector Hernandez		Carp	New Way
14	Rene Arzate		Carpenter	New Way
15	Evan Robertson		Plum	UMC
16	<del>Michael Hernandez</del>	<del>Signature of Michael Hernandez</del>	<del>Electric</del>	<del>New Way</del>
17	KODIAK		LADS	KHSS
18	Benjamin James		Ex. Electrician	ONNI
19	Bruce Hawkins		Elec	Prime
20	CURTIS CHRISTENSEN		ELC	PRIME

Onni Seattle

# Site Safety Stand Down

Job Name: 1120 Denny

Job No: 3000-0

Date: 9/1/19

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY	
1	Dana Roy	Dana Roy	Rigger	New Way	
2	NIKEI CARANDIA	Nikei Carandia	ELEC	PRIME	
3	Nate Stein	Nate Stein	Elec	Prime	X
4	Nor - Nor Estrada	Nor - Nor Estrada	✓	New Way	
5	Nick Frankovich	Nick Frankovich	Elec	Prime	✓
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# Onni Seattle

## Site Safety Stand Down

Job Name: 1120 Denny

Job No: 3000-0

Date: 3/21/11

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY	
1	Pat Davis	[Signature]	iron	UMC	
2	Al Spencer	[Signature]	UMC	UMC	
3	Elder Einar	Elder E	IW	RZM2	
4	Juan Latorre	Juan Latorre		RZM2	
5	Tomas Moya	Tomas Moya	IW	RZM2	
6	Tomas Arzola	Tomas Arzola	IW	RZM2	
7	Paul S. Tamm	Paul S. Tamm	Elec.	Prime	
8	Jimmy Wilson	[Signature]	Fitter	UMC	
9	David Johnson	[Signature]	Steam Fitter	UMC	
10	Colt Silcox	Colt Silcox	Fitter	UMC	
11	Matthew Brink	Matthew Brink	Pipe	UMC	
12	TYLER CULI	[Signature]	FITTER	UMC	
13	Ryan May	[Signature]	IW	RZM2	
14	Stan Campbell	[Signature]	IW	RZM2	
15	MATT AKERS	[Signature]	CARP	CECO	
16	Tramaine Battle	[Signature]	Carpenters	Ceco	
17	VICTORIA COO	[Signature]	Safety	PRIME	
18	Rynaldo Smith	RS	Labar	New Way	
19	Mauricio Rojas	Mauricio R	Carpent	New Way	
20	FELIX OLIVAS	[Signature]	FITTER	UMC	

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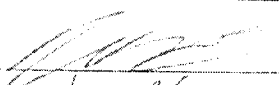

Onni Seattle

# Site Safety Stand Down

Job Name: 1120 Denny

Job No: 3000-0

Date: 3/21/17

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY	
1	Collins Aaron		Carpenter	CECCO	
2	Saul Hernandez		Operator		
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## Onni Seattle

## Site Safety Stand Down

Job Name 1120 Denny

Job No: 3000-0

Date

3/14/19

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY
1	Sam Slater	[Signature]	Steel Struct	KHSS
2	Eddy Dini	[Signature]	Carp.	KHSS
3	Thomas Russo	[Signature]	Carp	KHSS
4	Juan Hernandez	[Signature]	Carp	Newway
5	Tom Brown	[Signature]	Carp	KHSS
6	Miguel SANCHEZ	[Signature]	CARP	KHSS
7	Briceno Villalva	[Signature]	Carp	KHSS
8	Arin Heath	[Signature]	Carp	KHSS
9	Rayne Bremner	[Signature]	Carp	KHSS
10	Jose Espinoza	[Signature]	Carp	KHSS
11	Gerardo Brenner	[Signature]	Carp	KHSS
12	Luis Urcia	[Signature]	"	"
13	DAVID GARCES	[Signature]	Carp	Newway
14	Leon Twedt	[Signature]	IR	SSI
15	REYNALDO CARRERA	[Signature]	CARP/ SAFETY	Newway
16	manuel soriano	[Signature]	finisher	Newway
17	MIKE KIPPER	[Signature]	CARP	NEWWAY
18	TONI machado	[Signature]		NEWWAY
19	Luis Gordillo	[Signature]	Carp.	Newway
20	Ramon Ramero	Ramon Ramero	Labor	Newway

Onni Seattle

## Site Safety Stand Down

Job  
Name: 1120 Denny

Job No: 3000-0

Date: 5/21/14

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY
1	Shawn [Signature]	[Signature]	CARP	New Way
2	Manuel Coutino	[Signature]	CAIP	New Way
3	Ken [Signature]	[Signature]	CARP	CECO
4	Craig [Signature]	[Signature]	Pipefitter	Coke
5	Angel Cisneros	[Signature]	Finish	New Way
6	Erica Ramirez	[Signature]	FITTER	UMC
7	Brian McCabe	[Signature]	Laborer	CTO
8	DUSTIN DELOW	[Signature]	GLAZIER	STARLINE
9	Laurence Young	[Signature]	IW	BZURZ
10	[Signature]	[Signature]	Stalman	Prime
11	Olivia [Signature]	[Signature]	Contractor	New Way
12	JM Gonzales	[Signature]	Electrical	Prime
13	Brandon [Signature]	[Signature]	[Signature]	UMC
14	Phil [Signature]	[Signature]	PRIME	ELCZ
15	Robert Overby	[Signature]	Safety	ONNI
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Onni Seattle

## Site Safety Stand Down

Job  
Name

1120 Denny

Job No: 3000-0

Date: 7/1/19

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY	
1	Victor Varela	[Signature]	CRP	KHS&S	X
2	Brandon Leahy	[Signature]	Elevator	OTIS	X
3	Jeff R	[Signature]	Elevator	OTIS	
4	Tyler Wojciechowski	[Signature]	Elevator	OTIS	X
5	Hector Lopez	[Signature]	Finisher	New Way	
6	Juan Martin	[Signature]	Labor	CECO	
7	Shelly Cohen	[Signature]	Lab	CECO	
8	Hector Avila	[Signature]	CRP	NEW WAY	
9	[Signature]	[Signature]	[Signature]	[Signature]	
10	Jose A. Estrada	[Signature]	Fitter	NEW WAY	X
11	CHRISTIAN METOS	[Signature]	Finisher	NEW WAY	
12	Abdulla Oquell	[Signature]	CRP	NEW WAY	
13	[Signature]	[Signature]			
14	Jose M. Lopez	[Signature]	Corp.	New Way	
15	Hector Martinez	[Signature]	Labor	New Way	
16	Mateo Campos	[Signature]		New Way	
17	Alex M. R	[Signature]		K.W.	
18	ROBB STOUTENBERG	[Signature]	FITTER	UMC	
19	Jerid M. Kenze	[Signature]	Operator	GARNER	
20	Kim Hall	[Signature]	Operator	GARNER	



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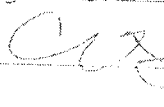

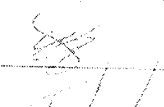
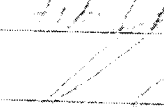

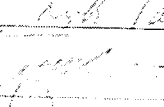

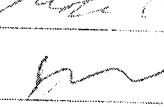


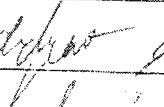

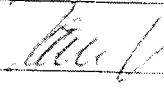


Onni Seattle

# Site Safety Stand Down

Job Name: 1120 Denny

Job No: 3000-0

Date: 3/21/19

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY	
1	Dillon Seve		SPRINKLER	SFS	
2	Chad Isenberger		SPRINK	SFS	
3	Caleb Holloway		SPRINK	SFS	
4	Brian Mitchell		SPRINK	SFS	
5	ENRIQUE TORRES			NEWWAY	
6	Will P...		<del>GAFF</del> A...	<del>...</del>	
7	Marcos M.		CARP	ALCANTARA	
8	Agostino de la Cruz		CARP	ALCANTARA	
9	Kirk Palmer		Plumber	UMC	
10	Troy Larimer		S/M	UMC	
11	Steven A. Hunter		S/M	UMC	
12	Jacob Willis		S/M	UMC	X
13	John Skyr		Plumber	UMC	
14	BRIAN SPANGLER		S/M	UMC	
15	<del>...</del>		S/M	UMC	
16	David Reed		S/M	UMC	X
17	Andrew Johansen		Elec.	Prime	
18	Kyle Lotters		office	UMC	
19	Kornel Crestit		office	UMC	
20	Lance Vann		S/M	UMC	

317954602-

Onni Seattle

## Site Safety Stand Down

Job  
Name

1120 Denny

Job No: 3000-0

Date:

March 19

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY
1	Caleb J Holloway	Caleb J Holloway	Sprink	SFS
2	Brian Mitchell	Brian Mitchell	Sprink	SFS
3	Tiko Rothman	Tiko Rothman	S/A	Umc
4	Rodolfo Camacho	Rodolfo Camacho	Glazier	Starline
5	JOSP Garcia	JOSP Garcia	Glazier	Starline
6	Wm Xuan	Wm Xuan	Safety	Onnp
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Onni Seattle

## Site Safety Stand Down

Job Name: 1120 Denny

Job No: 3000-0

Date: 3/21/11

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY	
1	Robert Jernigan	[Signature]	Carp.	KHSS	
2	Anthony Merino	[Signature]	Sheet Metal	LEMC	
3	Joshua Nemo	[Signature]	IW	R2M2	
4	Colin Eisenhut	Colin Eisenhut	IW	R2M2	
5	Miguel Dominguez	[Signature]	IW	R2M2	
6	Bonnie Choleen	[Signature]	IW	R2M2	
7	DEXTER BUCKEYES	[Signature]	IW	R2M2	
8	DAVID PETERSON	[Signature]	OWN.	OWN.	
9	Matt Castagnola	[Signature]	Carp	KHSS	
10	Clayton Curtis	[Signature]	IW	R2M2	
11	COLTER PERAZZO	[Signature]	ELTC	PRIME	
12	EDWARD SMOOD	[Signature]	CARP	CECO	
13	Rena Long	[Signature]	Lab	CECO	
14	RICK LAGLEY	[Signature]	CARP	CECO	
15	Rendel Smith	[Signature]	CARP	CECO	
16	Nic Collins	[Signature]	WIRETIE	CECO	
17	Sam Roudreau	[Signature]	Elect	Prime	
18	Chris McIner	[Signature]	Elect	Prime	
19	Dellbert Walker	[Signature]	Carp	newWay	
20	Brady Madson	[Signature]	lab	CECO	

Onni Seattle

# Site Safety Stand Down

Job Name: 1120 Denny

Job No: 3000-0

Date: 3/11/12

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY	
1	John Libengood	John Libengood	Lab	Ceco	
2	Tyrone Locke	Tyrone Locke	Pipe	UMC	
3	Juan Cazares	Juan Cazares	Labor	NW	
4	Edwards, Ruel	Edwards	Labor	NW	
5	Justin Bos	Justin Bos	Plumber	VMC	
6	Wing Gao Huan	Wing Gao Huan	Plumber	UMC	
7	Luis S. Gualde	Luis S. Gualde	Carpenter	Newman	
8	Eric Mayer	Eric Mayer	Plumber	VMC	
9	D Rutland	D Rutland	H	VMC	
10	Arturo Fernandez	Arturo Fernandez	Plumber	VMC	
11	Sebastian	Sebastian	Electrician	VMC	
12	Thom Hunt	Thom Hunt	Fitter	VMC	
13	Larry Jones	Larry Jones	Driver	L/K	
14	Kirk B...	Kirk B...	SAFETY	VMC	
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