

4/28/2022 Deposition Excerpts:

OLS 30(b)(6)

Daron Williams

EXHIBIT F

TO DECLARATION OF CINDI WILLIAMS

Page 2

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Page 3

1 APPEARANCES

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Page 4

1 EXAMINATION

2 ATTORNEY PAGE

3 BY MR. LARKIN: 7

4 BY MS. KINCAID: 91

5 BY MS. WOLFE: 102

6 BY MS. FRANKLIN: 105

7 EXHIBIT INDEX

8 No. DESCRIPTION PAGE

9 Exhibit 1 Notice of Deposition. 7

10 Exhibit 2 Findings of Fact, Determination 23

11 and Final Order.

12 Exhibit 3 5/22/20 letter from Seattle Office 46

13 of Labor Standards to Baja

14 Concrete and others re violation

15 of labor standards.

16 Exhibit 4 5/22/2020 letter from Seattle 50

17 Office of Labor Standards to

18 Antonio Machado and others.

19 Exhibit 5 Subpoena Duces Tecum. 51

20 Exhibit 6 Declaration of Labor Standards 53

21 Investigation of Daron Williams in

22 Support of Subpoena Duces Tecum.

23 Exhibit 7 4/2/20 memo from Daron Williams 56

24 and Ashley Harrison to Case File

25 re Baja Concrete case summary.

Page 5

1 EXHIBIT INDEX

2 No. DESCRIPTION PAGE

3 Exhibit 8 Interview Notes of undisclosed 76

4 witness.

5 Exhibit 9 Johnathan Ivan Parra Ponce 81

6 Interview Statement.

7 Exhibit 10 Interview notes of undisclosed 84

8 witness.

9 Exhibit 11 Interview notes of undisclosed 86

10 witness.

11 Exhibit 12 Interview Statement of undisclosed 87

12 witness.

13 Exhibit 13 Interview statement of undisclosed 87

14 witness.

15 Exhibit 14 Interview Notes of undisclosed 88

16 witness.

17 Exhibit 15 Interview Summary of undisclosed 89

18 witness.

19 Exhibit 16 Interview Notes of undisclosed 89

20 witness.

21 Exhibit 18 6/30/21 email from Ashley Harrison 14

22 to Martin Valencia with

23 attachments.

24 Exhibit 19 10/25/21 email from Megan Monahan 18

25 to Ashley Harrison re Case Update.

Page 6

1 EXHIBIT INDEX

2 No. DESCRIPTION PAGE

3 Exhibit 20 2/10/21 email from Stephanie 21

4 Martinez to Ashley Harrison with

5 attachments.

6 Exhibit 21 Antonio Machado Interview Notes. 73

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Page 7

1 DARON WILLIAMS, being duly sworn, testified

2 upon oath, as follows:

3 E X A M I N A T I O N

4 BY MR. LARKIN:

5 Q. Good morning, Mr. Williams. Thanks for

6 joining us again.

7 The last time we spoke was the deposition of

8 you in your capacity as an investigator with the OLS

9 and now you're speaking as the speaking agent for the

10 OLS itself in this deposition.

11 So it's a little bit different but it's

12 going to be a lot of the same materials. And because

13 we've been through this, I think we can get through

14 this one faster today -- I know it was a long one the

15 last time we did the deposition -- because most of the

16 exhibits are the same.

17 So what we'll be doing is authenticating

18 exhibits, authenticating documents and asking a few

19 questions about it, but I don't think in as much

20 detail as we did last time.

21 So with that I will share my screen and

22 start with Exhibit 1.

23 (Marked Deposition Exhibit No. 1.)

24 Q. (By Mr. Larkin) Does everyone see this

25 exhibit or Daron, do you see this exhibit?

Page 8

1 A. Yes, I see it.

2 Q. Okay. This is what I'll have the court

3 reporter mark as Exhibit 1.

4 Have you seen this document before?

5 A. Me, yes.

6 Q. Let me scroll through it just kind of slowly

7 here. It's a four-page document.

8 So this is the Notice of Rule 30(b)(6) that

9 was issued by this office here on behalf of Baja

10 Concrete USA Corp. relative to the City of Seattle,

11 specifically the Office of Labor Standards.

12 So to make things a little easier, I'll just

13 refer to the City of Seattle Office of Labor Standards

14 as OLS, and I will refer to my client Baja Concrete

15 USA Corp. as Baja.

16 And Mr. Williams, do you see within this

17 Exhibit 1, starting on page two, there are some

18 numbered categories of information here.

19 Are you prepared to testify on behalf of OLS

20 on each of these enumerated categories here?

21 A. I think my assumption is I'm only testifying

22 on a few of these things, not all of them.

23 Q. Yes. So number one describes the OLS

24 Findings of Fact, Determination and Final Order dated

25 8/25/2021.

Page 9

1 Are you prepared to testify regarding the

2 Determination?

3 A. Yes.

4 Q. That's item one.

5 And I understand someone else will be

6 speaking as to number two and number four.

7 So for number three are you prepared to

8 testify regarding the OLS investigation that led to

9 the Determination, how the information was obtained

10 and the persons interviewed during the investigation?

11 A. Yes.

12 Q. We'll skip number four.

13 And then on item five are you prepared to

14 testify as to the basis for including all of the

15 individuals listed in attachment B to the

16 Determination?

17 A. Yes.

18 Q. And then the final one, item six, are you

19 prepared to testify as to the concepts/doctrine of

20 joint employment as it's discussed in the

21 Determination?

22 A. Yes.

23 Q. Okay.

24 MS. FRANKLIN: I'm sorry to interrupt.

25 I just wanted to refer you to my email from

Page 62

1 A. I don't know if this is inaccurate here or
 2 not but he wasn't onsite until after May 2019. Prior
 3 to that he was not.
 4 Q. Okay. So at any time relevant to the
 5 investigation, during the relevant period in which the
 6 investigation applies, does OLS believe that Roberto
 7 Contreras was working onsite at the project sites or
 8 any one of them as a foreman?
 9 A. To our knowledge that he was, yes, in some
 10 capacity.
 11 Q. To your knowledge is it -- I think you said
 12 this already, but is it correct to say that most of
 13 the, let's say, directing of the workers, supervision
 14 of the workers, was done by Newway and/or -- or by
 15 Mr. Machado, correct?
 16 MS. FRANKLIN: Objection to the form of the
 17 question.
 18 MS. KINCAID: Join.
 19 Q. (By Mr. Larkin) Yes. And actually we saw
 20 that earlier. That was explained pretty well in the
 21 Determination document itself. That was not a
 22 question.
 23 Still on the same Exhibit 7, the ninth page.
 24 At the bottom of the ninth page -- and we discussed
 25 this a while back -- there's a reference here to

Page 64

1 A. I believe so, yes.
 2 Q. And then they would photograph that
 3 handwritten record and text the image to the foreman
 4 via Whatsapp?
 5 A. Yes.
 6 Q. And who was the foreman that's being
 7 referred to there?
 8 MS. FRANKLIN: And I would instruct the
 9 witness not to answer to the extent that it reveals
 10 the confidential informants' identities.
 11 Q. (By Mr. Larkin) Yeah, let me ask a
 12 different question.
 13 Is that foreman mentioned there, is that
 14 Antonio Machado?
 15 A. I don't know for sure. I don't think so.
 16 Q. Do you know whether that foreman listed
 17 there was Roberto Contreras?
 18 A. I believe so.
 19 Q. Without disclosing any names, could that
 20 foreman have been any other foreman onsite at the
 21 various project sites?
 22 A. It could have been.
 23 Q. And again, these Whatsapp records, did
 24 OLS -- during the investigation did OLS have access to
 25 or be able to see these records?

Page 63

1 "Whatsapp Records of Hours Worked."
 2 Do you see that?
 3 A. Yes.
 4 Q. Again, I'd asked this before and I don't
 5 think I've ever seen these records.
 6 Does OLS have these Whatsapp records of
 7 hours worked?
 8 A. I'm not sure if we do. I don't know for
 9 sure.
 10 Q. Would you mind -- so at the bottom of this
 11 page nine and into the beginning of page ten of this
 12 document, would you mind reading into the record that
 13 first bullet item, about three sentences.
 14 A. "Whatsapp Records of Hours Worked. The
 15 timesheets which Baja submitted to Newway corroborate
 16 the evidence which the workers provided to us in the
 17 form of Whatsapp messages where they reported their
 18 hours worked to their Baja foreman. Their process was
 19 to write out their hours worked for each pay period,
 20 photograph that handwritten record, and text the image
 21 to the foreman via Whatsapp."
 22 Q. When it says "Their process was to write out
 23 their hours worked," does that mean that was the
 24 workers' process, each worker wrote out their hours
 25 worked?

Page 65

1 A. It's been so long ago but I think we may
 2 have. I don't know for sure. I can't remember
 3 looking at these but I think we may have kept them.
 4 Q. And in that same bullet point item that you
 5 were just reading from, would you mind reading -- or
 6 please do read the next sentence beginning with the
 7 word "Compared."
 8 A. "Compared to the full span of invoiced
 9 timesheets, every single spot check we conducted
 10 showed alignment between what the workers recorded and
 11 what Baja invoiced Newway."
 12 Q. So this would seem to indicate, if I'm
 13 understanding you correctly -- first of all, spot
 14 checks were conducted. But what is a spot check?
 15 A. To look and see if they matched up, the
 16 timesheets, to other forms of documents.
 17 Q. You said that nobody from OLS was able to go
 18 out to these project sites during the investigation
 19 because of the pandemic?
 20 A. Yes, that's correct.
 21 Q. So these spot checks were not checks at the
 22 worksites, the project sites?
 23 A. No.
 24 Q. So is it correct, then, that these spot
 25 checks were comparing records to other records that

Page 66

1 were produced in the investigation?
 2 A. Yeah. Records and testimony from the
 3 workers as to how many hours they worked.
 4 Q. So if every single spot check that OLS
 5 conducted showed alignment between what the workers
 6 recorded and what Baja invoiced Newway, how could
 7 there be underpayment or nonpayment of wages?
 8 A. That's a question you and Newway would have
 9 to find out. I'm not sure.
 10 Q. Is it OLS's position that the workers
 11 reported, recorded and reported hours via this
 12 Whatsapp, and then Baja invoiced Newway for the same
 13 number of hours, but then somehow Baja proceeded to
 14 underpay wages to the workers? Is that OLS's
 15 position?
 16 MS. FRANKLIN: Objection; calls for a legal
 17 conclusion.
 18 A. Yes, it is.
 19 Q. (By Mr. Larkin) I'm missing something.
 20 You may have explained this earlier but how
 21 did OLS reach that conclusion?
 22 A. When running what the workers got paid and
 23 how many hours they worked they didn't come out to the
 24 exact amount. It's off. You can see there's no
 25 overtime being paid.

Page 68

1 introduce are the various witness statements.
 2 A. Okay.
 3 MR. LARKIN: I don't know if anyone would
 4 like to take a short break before we shift gears into
 5 that section of the deposition.
 6 MS. FRANKLIN: I'll defer to the witness.
 7 THE WITNESS: If we could take a five-minute
 8 break.
 9 MR. LARKIN: Let's take five minutes, so
 10 we'll come back about 10:50.
 11 THE WITNESS: That works.
 12 (Recess.)
 13 Q. (By Mr. Larkin) So Mr. Williams, speaking
 14 on behalf of OLS, is it OLS's position that Baja
 15 controlled the activities of the workers at issue in
 16 this investigation?
 17 A. Can you define activity?
 18 Q. The work activities onsite at the various
 19 project sites.
 20 A. Maybe at some point a little.
 21 Q. At some point a little. But mostly it was
 22 other parties that directed their activities?
 23 A. Yes, from our uncovering stuff it was mainly
 24 Newway.
 25 Q. Do you know whether Baja set the wages, the

Page 67

1 So if you divide the total hours worked by
 2 how much they're getting paid, getting paid by hours
 3 worked, you can see that it was off.
 4 So it's pretty clear that it was an
 5 incorrect amount of money that was being paid to the
 6 workers.
 7 Q. Okay. But that sounds like that's based
 8 on -- I think what you're saying is less than overtime
 9 pay for actual overtime hours worked, correct?
 10 A. It's not including overtime. They were paid
 11 for all of their time but they weren't getting paid
 12 overtime. If they worked 50 hours in a week, they get
 13 paid for 50 hours, but they don't get ten hours of
 14 overtime.
 15 Q. Okay. So you're saying you believe or OLS
 16 believes there were situations where a worker may have
 17 been working 50 hours in a week and got paid, let's,
 18 say straight time for those 50 hours, correct?
 19 A. Yes.
 20 Q. But then you're saying, I don't know, in all
 21 some instances or in some instances they did not get
 22 paid the additional overtime, the time and a half wage
 23 for overtime for those ten hours, correct?
 24 A. Yes.
 25 Q. So the remaining exhibits that I'm going to

Page 69

1 pay rates for the workers?
 2 A. Yes, that's what I'm saying.
 3 Q. Do you know whether Baja recruited, hired
 4 and, let's say, terminated workers?
 5 A. To my understanding, yes.
 6 Q. On behalf of OLS would you say that the
 7 workers performed work for the benefit of Baja?
 8 A. I think Baja and Newway.
 9 Q. Do you know whether there was any Baja
 10 equipment related to this cement work or other work --
 11 was there any Baja equipment located at the project
 12 sites?
 13 A. Not to my knowledge.
 14 Q. Do you know whether or not the workers or
 15 any of them performed work duties at the premises of
 16 Baja rather than the project sites?
 17 A. I don't think Baja really had a premises,
 18 so.
 19 Q. Do you know whether the workers provided
 20 specialty skills which were essential to Baja?
 21 A. I guess you could say that, yes.
 22 Q. Could you also say the workers provided
 23 specialty skills that were essential to Newway
 24 Forming?
 25 A. Yes, I guess you could say that as well,