4/28/2022 Deposition Excerpts:

OLS 30(b)(6)

Daron Williams

EXHIBIT F
TO DECLARATION OF CINDI WILLIAMS

				Pag	ge 1
BEFORE THE HEARING EX	AMIN	IER			
OF THE CITY OF SEA	TTLE	C			
In the Matter of the Appeal of:)				
Baja Concrete USA Corp., Newway)				
Forming and Antonio Machado,)				
) N	Jo.	LS-21-002,	003,	004
From a Final Order of the Decision)				
issued by the Director, Seattle)				
Office of Labor Standards.)				
OF DARON WILLIAMS 30(b	\				
OF					
DARON WILLIAMS 30(D					
9:00 a.m.					
April 28, 2022					

REPORTED BY: Pat Lessard, CCR #2104

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206.622.6661 * 800.657.1110 FAX: 206.622.6236

DARON WILLIAMS, being duly sworn, testified upon oath, as follows: Exhibit 20 2/10/21 email from Stephanie 21 Martinez to Ashley Harrison with a tatachments. Sethibit 21 Antonio Machado Interview Notes. 73 Wartine Williams. Sethibit 21 Antonio Machado Interview Notes. 73 Wartine Williams. Sethibit 21 Antonio Machado Interview Notes. 73 Wartine Williams. Sethibit 21 Antonio Machado Interview Notes. 73 Wartine Williams. Sethibit 20 Antonio Machado Interview Notes. 73 Wartine Williams. Sethibit 20 Antonio Machado Interview Notes. 73 Wartine Williams. Sethibit 20 Antonio Machado Interview Notes. 73 Wartine Williams. The last time we spoke was the deposition of you in your capacity as an investigator with the OLS and now you've speaking as the speaking agent for the OLS and now you've speaking as the speaking agent for the OLS and now you've speaking as the speaking agent for the OLS and now you've speaking as the speaking agent for the OLS in the last time we spoke was the deposition of you in your capacity as an investigator with the OLS and now you've speaking as the speaking agent for the OLS in the last time we spoke was the deposition of you in your capacity as an investigator with the OLS and now you've speaking as the speaking agent for the OLS in the Stephiston of the same materials. And because we've been through this, I think we can get through this to the same materials. And because we've been through this, I think we can get through this one faster toolly - Taknov it was a long one the last time we spoke was the deposition of you in your capacity as an investigation of the Stephiston	1	Page 6		Page 7
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22 start with Exhibit 1. 23 (Marked Deposition Exhibit No. 1.) 24 Q. (By Mr. Larkin) Does everyone see this exhibit or Daron, do you see this exhibit? Page 8 Page 9 1 A. Yes, I see it. 2 Q. Okay. This is what I'll have the court reporter mark as Exhibit 1. 3 A. Yes. 4 Have you seen this document before? 5 A. Me, yes. 6 Q. Let me scroll through it just kind of slowly here. It's a four-page document. 8 So this is the Notice of Rule 30(b)(6) that was issued by this office here on behalf of Baja Concrete USA Corp. relative to the City of Seattle, specifically the Office of Labor Standards. 12 So to make things a little easier, I'll just refer to the City of Seattle Office of Labor Standards as OLS, and I will refer to my client Baja Concrete USA Corp. as Baja. 16 And Mr. Williams, do you see within this 16 Determination? 17 Exhibit I, starting on page two, there are some numbered categories of information here. 18 Are you prepared to testify no behalf of OLS on each of these enumerated categories here? 20 A. I think my assumption is I'm only testifying on a few of these things, not all of them. 21 Q. Yes. So number one describes the OLS 22 Q. Yes. So number one describes the OLS 23 Q. Yes. So number one describes the OLS 24 Q. (By Mr. Larkin) Does everyone see this exhibit i. (Marked Deposition Exhibit in. (A) (Warked Deposition Exhibit in. (Marked Deposition Exhibit in Decembal in the exhibit in Decembal in the Exhibit or Daron, do you see this exhibit in Daron, do you see this exhibit: Page within the exhibit or Daron, do you see this exhibit: Page while it is exhibit or Daron, do you see this exhibit: Page while it is exhibit or Daron, do you see this exhibit: Page within the exhibit or Daron, do you see this exhibit: Page within the exhibit or Daron, do you see this exhibit in Determination? A Yes. Q Well skip number four. And then on item five are you prepared to testify as to the basis for including all of the individuals listed in attachment B to the Determination? A Yes. Q And then the final one, it	20		20	_
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25 8/25/2021. 25 I just wanted to refer you to my email from	23 24	Findings of Fact, Determination and Final Order dated	24	MS. FRANKLIN: I'm sorry to interrupt.

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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.
 - Q. Okay. So at any time relevant to the investigation, during the relevant period in which the investigation applies, does OLS believe that Roberto Contreras was working onsite at the project sites or any one of them as a foreman?
 - A. To our knowledge that he was, yes, in some capacity.
 - Q. To your knowledge is it -- I think you said this already, but is it correct to say that most of the, let's say, directing of the workers, supervision of the workers, was done by Newway and/or -- or by Mr. Machado, correct?

MS. FRANKLIN: Objection to the form of the question.

MS. KINCAID: Join.

Q. (By Mr. Larkin) Yes. And actually we saw that earlier. That was explained pretty well in the Determination document itself. That was not a question.

Still on the same Exhibit 7, the ninth page. At the bottom of the ninth page -- and we discussed this a while back -- there's a reference here to

Page 63

- "Whatsapp Records of Hours Worked." 1
 - Do you see that?
 - A. Yes.

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O. Again, I'd asked this before and I don't think I've ever seen these records.

Does OLS have these Whatsapp records of hours worked?

- A. I'm not sure if we do. I don't know for sure.
- Q. Would you mind -- so at the bottom of this page nine and into the beginning of page ten of this document, would you mind reading into the record that first bullet item, about three sentences.
- A. "Whatsapp Records of Hours Worked. The timesheets which Baja submitted to Newway corroborate the evidence which the workers provided to us in the form of Whatsapp messages where they reported their hours worked to their Baja foreman. Their process was to write out their hours worked for each pay period, photograph that handwritten record, and text the image to the foreman via Whatsapp."
- Q. When it says "Their process was to write out their hours worked," does that mean that was the workers' process, each worker wrote out their hours worked?

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- A. I believe so, yes.
- Q. And then they would photograph that handwritten record and text the image to the foreman via Whatsapp?
 - A. Yes.
- Q. And who was the foreman that's being referred to there?

MS. FRANKLIN: And I would instruct the witness not to answer to the extent that it reveals the confidential informants' identities.

Q. (By Mr. Larkin) Yeah, let me ask a 12 different question.

13 Is that foreman mentioned there, is that 14 Antonio Machado?

- A. I don't know for sure. I don't think so.
- Q. Do you know whether that foreman listed 16 17 there was Roberto Contreras?
 - 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
 - or be able to see these records?

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- 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.
 - Q. And in that same bullet point item that you were just reading from, would you mind reading -- or please do read the next sentence beginning with the word "Compared."
 - A. "Compared to the full span of invoiced timesheets, every single spot check we conducted showed alignment between what the workers recorded and what Baja invoiced Newway."
 - Q. So this would seem to indicate, if I'm understanding you correctly -- first of all, spot 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 out to these project sites during the investigation because of the pandemic?
- 20 A. Yes, that's correct.
 - Q. So these spot checks were not checks at the worksites, the project sites?
 - A. No.
- 24 Q. So is it correct, then, that these spot
 - checks were comparing records to other records that

Page 66 Page 67 were produced in the investigation? So if you divide the total hours worked by 1 1 A. Yeah. Records and testimony from the 2 how much they're getting paid, getting paid by hours 2 3 workers as to how many hours they worked. 3 worked, you can see that it was off. 4 Q. So if every single spot check that OLS 4 So it's pretty clear that it was an 5 conducted showed alignment between what the workers 5 incorrect amount of money that was being paid to the 6 recorded and what Baja invoiced Newway, how could 6 7 there be underpayment or nonpayment of wages? 7 Q. Okay. But that sounds like that's based 8 A. That's a question you and Newway would have 8 on -- I think what you're saying is less than overtime 9 to find out. I'm not sure. 9 pay for actual overtime hours worked, correct? A. It's not including overtime. They were paid 10 Q. Is it OLS's position that the workers 10 11 reported, recorded and reported hours via this 11 for all of their time but they weren't getting paid Whatsapp, and then Baja invoiced Newway for the same 12 overtime. If they worked 50 hours in a week, they get 12 number of hours, but then somehow Baja proceeded to paid for 50 hours, but they don't get ten hours of 13 13 14 underpay wages to the workers? Is that OLS's 14 overtime. 15 position? 15 Q. Okay. So you're saying you believe or OLS 16 MS. FRANKLIN: Objection; calls for a legal 16 believes there were situations where a worker may have 17 conclusion. 17 been working 50 hours in a week and got paid, let's, 18 say straight time for those 50 hours, correct? 18 A. Yes, it is. 19 Q. (By Mr. Larkin) I'm missing something. 19 A. Yes. 20 You may have explained this earlier but how 20 Q. But then you're saying, I don't know, in all 21 did OLS reach that conclusion? 21 some instances or in some instances they did not get 2.2 A. When running what the workers got paid and 22 paid the additional overtime, the time and a half wage how many hours they worked they didn't come out to the for overtime for those ten hours, correct? 23 23 exact amount. It's off. You can see there's no A. Yes. 24 24 25 overtime being paid. Q. So the remaining exhibits that I'm going to 2.5 Page 68 Page 69 introduce are the various witness statements. 1 pay rates for the workers? 1 2 2 A. Okay. A. Yes, that's what I'm saying. 3 3 Q. Do you know whether Baja recruited, hired MR. LARKIN: I don't know if anyone would like to take a short break before we shift gears into and, let's say, terminated workers? 4 4 5 that section of the deposition. 5 A. To my understanding, yes. 6 MS. FRANKLIN: I'll defer to the witness. 6 Q. On behalf of OLS would you say that the 7 THE WITNESS: If we could take a five-minute 7 workers performed work for the benefit of Baja? 8 break. 8 A. I think Baja and Newway. Q. Do you know whether there was any Baja 9 MR. LARKIN: Let's take five minutes, so 9 10 we'll come back about 10:50. 10 equipment related to this cement work or other work --THE WITNESS: That works. was there any Baja equipment located at the project 11 11 12 12 (Recess.) sites? 13 Q. (By Mr. Larkin) So Mr. Williams, speaking 13 A. Not to my knowledge. on behalf of OLS, is it OLS's position that Baja 14 14 Q. Do you know whether or not the workers or controlled the activities of the workers at issue in any of them performed work duties at the premises of 15 15 16 this investigation? 16 Baja rather than the project sites? 17 A. Can you define activity? 17 A. I don't think Baja really had a premises, Q. The work activities onsite at the various 18 18 19 project sites. 19 Q. Do you know whether the workers provided 20 A. Maybe at some point a little. 20 specialty skills which were essential to Baja? 21 Q. At some point a little. But mostly it was 21 A. I guess you could say that, yes. 22 other parties that directed their activities? 22 Q. Could you also say the workers provided 23 A. Yes, from our uncovering stuff it was mainly 23 specialty skills that were essential to Newway 24 24 Forming? Newway. Q. Do you know whether Baja set the wages, the 25 A. Yes, I guess you could say that as well, 25