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6 **BEFORE THE HEARING EXAMINER**
CITY OF SEATTLE

7
8 In the Matter of the Appeals of
9 Baja Concrete USA Corp., Newway
10 Forming Inc., and Antonio
Machado,

11 From a Final Order of the Director,
12 City of Seattle Office of Labor
Standards, Respondent.

Hearing Examiner Files:
LS-21-002, LS-21-003, LS-21-004
(consolidated)

**DECLARATION OF ALEX LARKIN IN
SUPPORT OF APPELLANT BAJA CONCRETE
USA CORP.'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

13 Department Reference: 2020-00186-LS
14
15

16 Comes now Alex Larkin, pursuant to RCW 5.50 *et seq.*, and declares as follows:
17

18 1. My name is Alex Larkin. I am over the age of eighteen years and am competent
19 to testify in this matter. I am one of the attorneys for Appellant Baja Concrete USA Corp. ("Baja
20 Concrete") in this action.

21 2. I make this declaration in support of Baja Concrete's Motion for Partial Summary
22 Judgment.

23 3. On April 26, 2022, in a CR 30(b)(6) deposition, Appellant Baja Concrete was
24 deposed in this matter. The designated individual to speak for Baja Concrete during the
25 deposition was Ms. Mercedes De Armas.

1 4. Attached hereto as **EXHIBIT 1** is a true and correct copy of excerpts of the
2 transcript of the deposition of Baja Concrete.

3 5. On May 5, 2022, in a CR 30(b)(6) deposition, Appellant Newway Forming Inc.
4 (“Newway”) was deposed in this matter. The designated individual to speak for Newway during
5 the deposition was Ms. Kwynne Forler-Grant.

6 6. Attached hereto as **EXHIBIT 2** is a true and correct copy of excerpts of the
7 transcript of the deposition of Newway, and certain exhibits that were introduced during that
8 deposition, comprised of:

9 EXHIBIT 2 – Newway Organizational Chart
10 EXHIBIT 6 – Site Safety Stand Down

11 I certify under penalty of perjury under the laws of the State of Washington that the
12 foregoing is true and correct.

13
14 Dated this 28th day of June, 2022 at Bellevue, King County, Washington.

15
16 */s/ Alex T. Larkin*

17 _____
18 ALEX T. LARKIN, WSBA No. 36613
19 Attorney for Appellant Baja Concrete
20
21
22
23
24
25

EXHIBIT 1

CITY OF SEATTLE

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Also present: Claudia Penunuri

BE IT REMEMBERED that on Tuesday,
April 26, 2022, at 9:03 a.m., before Michelle D.
Elam, Certified Court Reporter, RPR, appeared via
Zoom, MERCEDES Z. DE ARMAS, the witness herein;

WHEREUPON, the following
proceedings were had remotely:

<<<<<< >>>>>>

MERCEDES Z. DE ARMAS, having been first duly
sworn by the Certified
Court Reporter, testified
as follows:

EXAMINATION

BY MS. FRANKLIN:

Q Good morning, Ms. De Armas.

Could you please state your full name, spelling
your first and last name.

**A Mercedes Z. De Armas. First name is Mercedes,
M-e-r-c-e-d-e-s. Last name De Armas, is D-e, space
A-r-m-a-s.**

Q Thank you. And my name is Erica Franklin, and I am an
attorney for the City of Seattle, and I will be taking
your deposition today.

they were on the worksite?

A No, Baja didn't put him in charge of the workers.

Q Okay. But did Baja agree that he would have -- that he would be in charge of the workers on the worksite?

A Well, he's providing the labor. He's the one -- it's his own company. I see it. He's his own company, and he's contracted the labor. He's responsible for everything. So you just report to Baja for payroll.

Q Okay. Let's move on to -- I told you it would be much quicker after that first topic. Let's move on to Topic No. 4, please.

This is "Baja's policies and procedures related to hiring, firing, supervising, disciplining, and paying employees."

Did Baja determine which hours workers would work on a given day?

A No. Roberto will.

Q Was part of Baja's agreement with Roberto that Roberto would figure out the hours that workers work?

A No.

Did Baja determine when workers would work overtime?

A No.

Did Baja set the pace of the work?

A No.

Did Baja communicate with workers about when they

1 needed to report to work?

2 **A** No. Roberto will handle all of that directly with
3 Newway Forming.

4 Q Was it part of Baja's agreement with Roberto that he
5 would make sure that workers were at the worksite when
6 they needed to be?

7 **A** You mean -- can you repeat the question?

8 Q Was it part of Baja's agreement with Roberto that
9 Roberto would make sure the workers were on the
10 worksite when they needed to work?

11 **A** No.

12 Q Okay. If a worker needed to go home sick, did someone
13 from Baja need to give him permission?

14 **A** No. Roberto will handle that together with Newway
15 Forming.

16 Q What if a worker was going to stay home for the day,
17 who would they need to contact?

18 **A** Roberto.

19 Q When a worker went home sick, did Baja have a policy
20 on when that worker could return?

21 **A** Baja, no. Roberto. Roberto will report them to
22 payroll sick and in the summary and he will get paid
23 whatever is needed.

24 Q Who determined what was needed when a worker called
25 out sick?

1 supervising other Baja employees.

2 So if one of those other Baja employees were sick
3 or something, for instance, would they tell the Baja
4 supervisor they were sick before leaving?

5 **A Oh, yeah, of course. And the supervisor will tell**
6 **Roberto, and Roberto will report anything that needed**
7 **to be reported.**

8 MS. WOLFE: Okay. Thank you.
9 That's all I have.

10 MR. LARKIN: Okay. Anybody else,
11 follow-up questions?

12 Do you have questions or no?

13 MS. FRANKLIN: No further questions
14 on the City's end.

15 MR. LARKIN: Just give me one moment
16 to look at my notes here.

17
18 EXAMINATION

19 BY MR. LARKIN:

20 Q So, Mercedes -- by the way, I'm Alex Larkin, one of
21 the lawyers for Baja Concrete USA Corp.

22 Is Baja Concrete USA a for-profit business
23 entity?

24 **A Yes, it is.**

25 Q So when we looked at some exhibits where it showed

1 what appeared to be hourly rates charged by Baja to
2 Newway -- do you recall?

3 **A You mean the invoice?**

4 Q Invoices, yes.

5 **A Uh-huh.**

6 Q And we looked at hourly rates, I think, or tell me if
7 I'm wrong, where the amount invoiced on a per-hour
8 basis to Newway was a bigger number than what was paid
9 to the workers on a per-hour basis?

10 **A You mean the hourly rate Newway was paying Baja**
11 **Concrete --**

12 Q Yes.

13 **A -- was higher? Yes, was higher.**

14 Q Okay. Which would be perfectly normal for a
15 profit-seeking business; right?

16 **A Yes.**

17 Q Roberto Contreras, is he an employee of Baja Concrete
18 USA Corp.?

19 **A No, never was.**

20 Q Never was?

21 **A Never.**

22 Q Never was. Okay.

23 Would you mind spelling, if you could, the name
24 Kwynne. You mentioned Kwynne at Newway.

25 **A It's difficult for me how she spell it. I call her**

1 **Kwynne because it's easier. But it's Q-w- -- I don't**
2 **know, e-e-n.**

3 Q I just wanted to confirm, I think we're talking about
4 the same Kwynne that's been mentioned in some of the
5 depositions, or one of the depositions.

6 So you mentioned just a few minutes ago about
7 supervisors.

8 So among the workers provided to project sites,
9 for Newway Forming, you would regard some of them as
10 supervisors?

11 A **Yeah.**

12 Q Ultimately, for all of them, was it correct to say
13 that Roberto Soto -- Roberto Contreras was ultimately
14 the boss --

15 A **Yes.**

16 Q -- of those workers?

17 A **Yes.**

18 Q So to the extent there may have been supervisors among
19 those workers, Roberto Contreras was above them?

20 A **Yes.**

21 Q In terms of management and, as you said, hiring --

22 A **Yeah.**

23 Q -- firing, and so on?

24 MR. LARKIN: Okay. That's all I
25 have. So no further questions for me.

EXHIBIT 2

In the Matter of the Appeal of:)
Baja Concrete USA Corp., Newway)
Forming and Antonio Machado,)
) No. LS-21-002, 003, 004
From a Final Order of the Decision)
issued by the Director, Seattle)
Office of Labor Standards.)

ZOOM DEPOSITION UPON ORAL EXAMINATION
OF
KWYNNE FORLER-GRANT 30(b) (6)

9:00 a.m.

May 5, 2022

REPORTED BY: Pat Lessard, CCR #2104

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1 EXAMINATION

2	ATTORNEY	PAGE
3	BY MR. LARKIN:	6
4	BY MS. FRANKLIN:	43
5	BY MR. WANDLER:	109
6	BY MR. LARKIN:	112
7	BY MS. KINCAID:	118
8	BY MS. FRANKLIN:	119

9 E X H I B I T I N D E X

No.	DESCRIPTION	PAGE
Exhibit 1	City of Seattle and Baja Concrete	9
	USA Corp. Notice of Rule 30(b)(6)	
	Deposition to Newway Forming, Inc.	
Exhibit 2	Newway Organizational Chart 1120	10
	Denny Way.	
Exhibit 3	Time Cards.	16
Exhibit 4	Time Cards.	17
Exhibit 5	Baja invoices.	19
Exhibit 6	Newway Crane and/or Rigging	28
	Accident/Incident Notification.	
Exhibit 7	Baja billing backup for invoices.	35
Exhibit 8	1120 Denny Way Baja Concrete	39
	billing to Newway Forming.	

1 KWYNNE FORLER-GRANT, 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. So Ms. Grant, I'm Alex Larkin. I'm one of
6 the lawyers for Baja Concrete USA in this case.

7 Just a few basic ground rules for the
8 deposition. We have to be careful -- keep in mind
9 you're under oath so when responding to questions keep
10 that in mind.

11 We both need to be careful to avoid talking
12 over each other, even if it seems obvious what it's
13 going to be. When you're answering a question I have
14 to be careful not to talk over you and that's so the
15 court reporter can get a good clear transcript of
16 this.

17 Try to answer with a clear "Yes" or "No"
18 where appropriate rather than, you know, "Uh-huh" or
19 something like that. Again, so the record can be made
20 clear.

21 We can take breaks anytime except when there
22 is a question pending. So if I've asked a question
23 then you do need to respond to the question before
24 taking a break. But other than that, anytime you want
25 to take a break we can do that.

1 Let's see here. I'm supposed to ask this
2 question -- I don't like it -- but are you on any
3 medications or have any medical conditions that might
4 impair your ability to answer questions today?

5 A. No.

6 Q. Would you please provide your full name and
7 spell it. And your business address or work address.

8 A. Okay. It's Kwynne, K W Y N N E, Forler, F O
9 R L E R, hyphenated Grant, G R A N T. [REDACTED]

10 [REDACTED]

11 Q. And have you ever been deposed before in a
12 civil case?

13 A. No.

14 Q. So what is your position or relationship
15 with Newway Forming, Inc.?

16 A. Senior manager.

17 Q. And how long have you been in that position?

18 A. I've moved up since receptionist, 22 years.

19 Q. You've been with the company for 27 years?

20 A. Twenty-two years, yes.

21 Q. How long have you been a senior manager?

22 A. Probably the last ten.

23 Q. Describe, if you would, your typical job
24 duties, just a summary.

25 A. Everything. Shipping back orders over the

1 Q. And do you see near the top of this page
2 where it lists those three project sites that we
3 already mentioned and that says the relevant time
4 period is February of 2018 through August of 2020?

5 Do you see that?

6 A. Yes.

7 Q. Okay. So for this deposition, and when
8 we're asking you questions about these items, we're
9 referring to that as the relevant time period.

10 Now we can move on to Exhibit 2.

11 (Marked Deposition Exhibit No. 2.)

12 Q. (By Mr. Larkin) I will introduce that.

13 Do you see this document?

14 A. Yes.

15 Q. And I think it's two pages or two separate
16 documents that are put together as one. So we're
17 looking at the first page and now the second page.

18 Back to the first page of Exhibit 1, what is
19 this document?

20 A. It's for the 1120 Denny Way project and it's
21 showing our staff.

22 Q. And it looks like it's titled "Newway
23 Organizational Chart," right?

24 A. Yes.

25 Q. So is this correct that, at least maybe

1 different period of time I guess for the same
2 organizational chart, is that correct?

3 A. Yes. It appears to be, yes.

4 Q. And again, all these names that we see on
5 page two, were all of those -- during the relevant
6 time period, at least, were all of those employees of
7 Newway Forming?

8 A. Yes.

9 Q. And here we see it looks like a president
10 and a vice president at the top of this chart,
11 correct?

12 A. Yes.

13 Q. Are those people still with the company?

14 A. Yes.

15 Q. Describe just briefly again, we see foreman.
16 Tony Machado was general foreman. Would you describe
17 just briefly what his duties would have been on this
18 1120 Denny Way project?

19 A. He would have oversaw everybody on that
20 list.

21 Q. Everybody that we see listed on this page?

22 A. Yes.

23 Q. Would he also oversee subcontractors, like
24 other employees there that were not Newway Forming
25 employees?

1 A. I think mostly they delegated that to the
2 leads.

3 Q. Okay. So the leads are the people we see a
4 little bit lower on the chart, right?

5 A. Uh-huh. Yes.

6 Q. If you don't mind, if you could just
7 describe again briefly what does a lead do. I see a
8 carpenter lead, finishing lead, laborer lead.

9 What do leads do?

10 A. They would go to the office in the mornings
11 and they would be instructed where their crews needed
12 to go throughout the building during that day.

13 Q. Okay. For each day would they also direct
14 subcontractors' employees?

15 A. We leave that up to the subcontractors and
16 their oversight staff, their superintendent. But they
17 do work closely with our leads because they do need to
18 know where their crew needs to be and those are
19 morning meetings every day.

20 Q. Okay. So those are morning meetings every
21 day. That's interesting.

22 So would these be morning meetings -- would
23 these be meetings of not only Newway Forming but would
24 you say Baja Concrete workers if they were there and
25 other subcontractors' employees, would they all be

1 also joining these meetings?

2 A. It would typically be their super,
3 superintendent.

4 Q. So specifically as far as Baja Concrete is
5 concerned, are you aware, did Baja Concrete have a
6 superintendent onsite at 1120 Denny --

7 A. Yes.

8 Q. Yes?

9 A. Yes. Sorry.

10 Q. And do you know who that was?

11 A. Roberto Soto.

12 Q. Roberto Soto Contreras?

13 A. Yes.

14 Q. I'm jumping around a little bit here so I
15 apologize for that.

16 So you said a few minutes ago that you
17 handled or you handle, I guess, pretty much all
18 paperwork.

19 Does that include employment contracts?

20 A. I'm trying to think. A lot of our workers
21 are on a T&M basis, if that makes sense, time and
22 materials.

23 So if we had a contract with, say, Seaco, it
24 would probably be signed above me and dealt with above
25 me.

1 Q. And is it fair to say there must have been a
2 lot more than what we see here in these Exhibits 3 and
3 4 we just looked at?

4 A. Yes, there are.

5 Q. Okay. And was there an approval process for
6 these, all these timecards?

7 A. Yes. Tom Grant wouldn't sign the invoices
8 submitted by Baja until we had backup. And that
9 therefore my Canadian office would not pay bills until
10 that was done.

11 So these were -- they wanted everybody to
12 come to the office, clock in. And Roberto Soto
13 Contreras would come in once a week and sit down with
14 Tom Grant and they would go through these.

15 And then Roberto would make his invoice.

16 Q. So Mr. Soto Contreras and Tom Grant would
17 sit down together and review, I guess, all of the
18 timecards for the week, correct?

19 A. Yes.

20 Q. And they would do this every week during the
21 relevant period of time?

22 A. Yes.

23 Q. And then if I understood you correctly,
24 Mr. Soto Contreras would then, with that information,
25 he would prepare Baja's invoices, is that correct?

1 A. Yes.

2 Q. Okay. Are there any steps in between that
3 we're leaving out, like a summary of hours worked?

4 A. No, there isn't.

5 Q. Well, you did say there must be a lot more
6 than just the few timecards we see in these Exhibits 3
7 and 4, correct?

8 A. Yes.

9 Q. Maybe we have them. I'm not sure.

10 MR. WANDLER: They have been produced.

11 MR. LARKIN: They were produced?

12 MR. WANDLER: Yes.

13 MR. LARKIN: I think you sent me that. I'll
14 take a look again later.

15 So with that I'll move on to Exhibit 5.

16 (Marked Deposition Exhibit No. 5.)

17 Q. (By Mr. Larkin) I'll scroll down.

18 Do you recognize what we see here?

19 A. Yes. Invoices.

20 Q. Yeah. I see it may be cut off a little bit
21 at the end. Sorry about that.

22 Is it your understanding that this would
23 have been an invoice from Baja Concrete to Newway
24 Forming?

25 A. Yes.

1 needs of the site --

2 Q. Okay.

3 A. -- where we were working.

4 Q. So how did Baja Concrete know how many
5 workers or laborers to send to the site on a daily
6 basis?

7 A. They would discuss that with Roberto. It
8 would probably be Tom Grant.

9 Q. Tom Grant would decide how many laborers,
10 how many cement finishers were needed today for this
11 work, something like that?

12 A. Yes. He was most familiar with the
13 schedule.

14 Q. And then he would inform -- just trying to
15 be consistent -- Mr. Roberto Soto, correct?

16 A. Yes.

17 Q. And then when the Baja Concrete laborers
18 would come to the worksite do you happen to know how
19 they arrived? Did someone give them a ride or did
20 they have their own transportation, do you recall?

21 A. I didn't find out until later but I guess
22 they came in a van.

23 Q. But that's something you learned later, not
24 during the relevant time period?

25 A. No. When the investigation began.

1 Q. Okay. So Baja Concrete laborers that worked
2 onsite, who would direct their actual work activities
3 day to day?

4 A. Our lead would go to Roberto and inform them
5 where they needed to be.

6 Q. I didn't quite catch it. Who would go to
7 Roberto?

8 A. Our lead.

9 Q. Okay. Gotcha. So Newway Forming's lead
10 would inform Roberto of how many laborers, how many
11 cement finishers they needed?

12 A. Yes.

13 Q. So then when the Baja Concrete laborers were
14 onsite at the project sites who would actually direct
15 their work?

16 A. They were in constant contact with Roberto.
17 I think everything pretty much went through him.

18 Q. To your memory, to your knowledge, did Tony
19 Machado direct the work of Baja Concrete?

20 A. Tony was way above, right? I don't think he
21 would do the lower end instructing.

22 Q. So who would decide when the laborers would
23 take a break or, you know, have their lunch? Who
24 would make those decisions?

25 A. Roberto would make the breaks and the lunch,

1 approve them, was there any other mechanism in place
2 for Newway Forming to report laborers' hours worked to
3 Baja Concrete?

4 A. I don't understand that. Can you repeat
5 that?

6 Q. Yes, sure. I'm trying to make sure we have
7 the whole picture.

8 So Tom Grant and Roberto Soto would sit down
9 weekly to review the timecards, approve them, and then
10 Mr. Soto would use the results of that approval
11 process to prepare Baja Concrete's invoices to Newway
12 Forming.

13 Was there any other process or mechanism in
14 place by which Newway Forming reported laborers' hours
15 to Baja Concrete?

16 A. No.

17 Q. Did Newway Forming and Baja Concrete agree,
18 say prior to the invoicing being done, did they agree
19 on what the hourly rates were going to be for the
20 workers?

21 And I don't mean their hourly wage yet I
22 mean the fee that Baja Concrete would charge Newway
23 Forming for those hours?

24 A. No. That was already negotiated before they
25 came down from the higher-ups.

1 Q. And who exactly would be responsible for
2 Newway Forming as far as those negotiations?

3 A. Joe Rigo in our Edmonton office and Carlos,
4 I can't pronounce his last name, Ibarra.

5 Q. Okay. But they were both -- if I understand
6 correctly, you're saying that the hourly rates that
7 Baja Concrete USA charged Newway Forming, Inc. for
8 these project sites in Seattle for labor, those hourly
9 rates were determined by people in Canada?

10 A. Yes.

11 Q. By the people you named?

12 A. Yes.

13 Q. Let me -- I'm still sharing screen. I'll
14 pull up the next exhibit which is Exhibit 6.

15 (Marked Deposition Exhibit No. 6.)

16 Q. (By Mr. Larkin) Again, we're kind of going
17 out of order here if that's okay.

18 I'll scroll through this. It's 16 pages.
19 It's got some Seattle Bates stamps on them but the
20 numbers got cut off a little bit.

21 I'm scrolling through still. There's some
22 handwritten page numbers in the lower right corner, so
23 I'm on 65, 66, 67, 68, 69, 70, on down to page 74.

24 I'll scroll back up.

25 Do you recognize what this document is?

1 A. Yes, I do.

2 Q. What is this document?

3 A. The stand-down site safety. A load was lost
4 and replacing them.

5 MR. WANDLER: I'm going to for the record
6 object as being outside the scope of the 30(b)(6)
7 issues.

8 And I only do that -- and it's okay if
9 Kwynne testifies. I only do that because this may be
10 more from personal knowledge than as a representative
11 of Newway, that she didn't really go back through and
12 look at this issue.

13 And as a 30(b)(6) deponent I want to caution
14 that this may be personal knowledge and not the
15 company's knowledge. There may be more out there.

16 MR. LARKIN: Okay.

17 MR. WANDLER: But you can go ahead.

18 Q. (By Mr. Larkin) So again -- okay, I don't
19 really want to ask about whatever this accident or
20 incident may have been. I'm just asking about this
21 group of documents, what was it used for.

22 I'll scroll down a few pages to where it's
23 more useful today for us. The page that's hand
24 labeled or hand marked as page 63 in the lower right
25 corner, what is this again and what would this be used

1 for?

2 A. That was just a description of the incident.

3 Q. Okay. So there was an incident. I'm not
4 going to get into what the incident was, but there was
5 an incident.

6 And then does this mean that in a safety
7 stand-down everybody had to stop work and leave the
8 site or what did it mean?

9 Just typically when there was a safety stand
10 down, just what does that mean?

11 A. There's two different ones. This is just
12 when an incident happens and temporarily they can
13 leave the site, regroup. Employers can take time to
14 go over some safety information.

15 Then we also have one that's every May, the
16 2nd to the 6th, and it's called a site safety weekly
17 stand-down. Employers stop what they're doing and
18 meet with their subcontractors, everybody, and discuss
19 important safety issues, mostly about fall protection.

20 Q. So scrolling down to the next page of the
21 same exhibit -- so this is the one marked as page 63
22 and we've seen this before in a previous deposition.

23 So is it correct here that each laborer or
24 each person onsite had to sign in, correct, that they
25 participated in the site safety stand-down, correct?

1 A. Yes. If they participated, yes.

2 Q. And if we look at the column on the right,
3 is it correct to say that's where each person wrote in
4 who their employer was?

5 A. Yes.

6 Q. And those look like they're all probably --
7 some of them say Newway but then there's a bunch of
8 other companies listed there.

9 So those are all basically different
10 contractors and subcontractors that were working on
11 the project site?

12 A. Yes.

13 Q. And again, at the top of the page we see
14 1120 Denny, so it must be that project we've been
15 discussing, correct?

16 A. Yes.

17 Q. So if you wouldn't mind, would you go ahead
18 and scroll through several pages with this list of
19 people and their company names. It goes all the way
20 down to page 74, goes all the way down to the end of
21 this exhibit.

22 A. Uh-huh.

23 Q. In that right-hand column, if you would just
24 take a look through, would you tell me if Baja
25 Concrete appears anywhere in the right-hand column?

1 there were a couple. Where is the next one that you
2 see?

3 A. [REDACTED].

4 Q. Okay.

5 A. Let me see, [REDACTED]. I can barely
6 see it. On page 70, number eleven.

7 Q. Page 70, number eleven. Okay.

8 So that person on that line eleven there
9 you're saying that was also a Baja Concrete laborer
10 who signed in as Newway, as though they worked for
11 Newway?

12 A. I'm not sure, but yes.

13 Q. And again I assume you don't know the reason
14 why this person did that, correct?

15 A. No.

16 Q. Okay. Are there any more on the list that
17 were --

18 A. I didn't see any more, no.

19 Q. And in that right-hand column through all
20 those pages do you see Baja Concrete written in there
21 anywhere?

22 A. No.

23 Q. So if we were to look at other sign-in
24 sheets from the safety stand-down handout from other
25 meetings, from other situations during the relevant

1 time period, shouldn't we expect to see Baja Concrete
2 listed as the company for some of those dates?

3 MR. WANDLER: I'm going to object. It
4 assumes facts not in evidence. We can't see all those
5 sign-in sheets so we don't know if they signed in as
6 Baja.

7 But you can go ahead and answer.

8 A. They should have signed in as Baja for the
9 weekly safety meetings. I don't know why they were
10 signing in as Newway. I had two verbal conversations
11 with Roberto and three emails questioning this.

12 Q. (By Mr. Larkin) Okay. Does Newway Forming,
13 you know, whether it's maintained here or in Canada,
14 do they have these sign-in sheets stored somewhere for
15 other meetings, whether it's a safety --

16 A. Yes.

17 Q. Sorry. Go ahead.

18 A. Yes, we do.

19 Q. Where are they stored?

20 A. 1133 Lynnwood office.

21 Q. Here in Lynnwood, Washington?

22 A. Yes.

23 Q. Okay.

24 MR. LARKIN: I'm sure we requested these in
25 discovery and I don't recall seeing more than what

1 to workers?

2 MR. WANDLER: I'm going to object to the
3 form of the question. If we could clarify between
4 Newway workers and Baja workers it might make things a
5 little bit easier.

6 MS. FRANKLIN: Sure.

7 Q. (By Ms. Franklin) And when I say "Baja
8 workers," going forward, I mean workers on Baja's
9 payroll. There may have been some terminology on that
10 in the past.

11 Let's talk about all workers on the jobsite,
12 Baja workers and Newway workers. How were work
13 schedules communicated to them?

14 A. They would meet in the mornings, maybe only
15 Roberto and our staff. And then they decide based on
16 a schedule what's needed for that day.

17 Q. Who communicated -- and now I'm talking
18 about Baja workers. Who communicated to Baja workers
19 how many hours they could work?

20 A. Roberto Soto.

21 Q. When Roberto would meet with people at
22 Newway to determine how many hours were available can
23 you tell me how that determination was made?

24 A. Just depending on the schedule.

25 Q. Who set the schedule?

1 A. The developer, GC.

2 MR. LARKIN: Could you say who GC is.

3 A. The general contractor is Onni as well as
4 the owner.

5 Q. (By Ms. Franklin) Was there discretion for
6 Newway in setting the pace of the work?

7 A. Sometimes.

8 Q. Were folks from Newway at these meetings
9 that you referenced where Roberto and Newway personnel
10 would determine how many hours were available that
11 day?

12 A. It's always just a standard eight. So
13 anytime there's runovers then they meet later on and
14 they ask for volunteers and they decide who is going
15 to work.

16 Q. So just part of my ignorance here, what's
17 the standard eight?

18 A. Standard eight hours per day.

19 Q. Oh, okay. That's what you mean.

20 Were Newway personnel the decision makers in
21 determining when additional hours would be available
22 to workers?

23 A. Yes.

24 MS. KINCAID: And I'm sorry, just to
25 clarify, are we talking about Baja or Newway workers?

1 I'm not sure you stated in your question.

2 Q. (By Ms. Franklin) Sure. I meant -- let's
3 break it up.

4 So workers generally speaking, was Newway
5 the decision maker in determining how many hours were
6 available to them?

7 A. For our employees or Baja employees?

8 Q. All employees.

9 A. They are for their scope of work.

10 Q. Okay. So for Baja workers on Baja's payroll
11 was Newway the decision maker in determining how many
12 hours would be available to them and offered to those
13 workers?

14 A. Roberto would decide the hours. They're
15 their own subcontractor.

16 Q. Would Roberto decide that based on
17 directions he received from Newway?

18 A. Yes.

19 Q. Was Roberto onsite the whole time during the
20 relevant time period?

21 A. I believe -- he's on timecards, I believe.
22 And I think it was mostly on 1120 Denny Way.

23 Q. Was there --

24 A. Go ahead.

25 Q. I'm sorry. Please finish your answer.

1 right?

2 A. Right.

3 Q. Okay. But as far as any larger equipment,
4 Baja Concrete didn't have any larger equipment on
5 these worksites, correct?

6 A. I don't believe so.

7 Q. Did Baja Concrete -- again, during the
8 relevant time period -- did they have an office at any
9 of these three project worksites?

10 A. No.

11 Q. Did they have any facility at all? Did they
12 have a desk of their own at these project worksites?

13 A. No.

14 Q. I just wanted to clarify one thing to make
15 sure we're clear on the record. Newway Forming,
16 Incorporated is a Washington company, correct?

17 A. Yes.

18 Q. And that's a separate business entity than
19 Newway Forming in Canada, correct?

20 A. Yes.

21 Q. So the headquarters for the Washington
22 company, that's in Lynnwood, Washington?

23 A. Yes.

24 Q. And the headquarters of the Canada Company
25 is in Vancouver?

1 A. Burnaby.

2 Q. Oh, Burnaby. British Columbia, correct?

3 A. Yes.

4 Q. Okay. And are you aware that Baja Concrete
5 USA is actually a Florida entity but also registered
6 in Washington? Are you aware of that?

7 A. I saw the address on the invoices, yes.

8 Q. And is it your understanding that that
9 business entity is a different business entity than a
10 Baja Concrete in Canada?

11 A. Yes.

12 Q. I think you mentioned this morning that a
13 third party safety writer did not know the difference
14 between Baja employees and Newway employees, is that
15 correct?

16 A. Yes.

17 Q. And would you have any idea why a third
18 party safety person would not know the difference?

19 A. He wouldn't know the difference of any of
20 our subcontractors' employees.

21 Q. Okay.

22 A. So people just started showing up and
23 attending the meetings and he didn't think he needed
24 to say "These work for Newway."

25 Q. Is it your understanding that Baja Concrete

EXHIBIT 2
TO CR 30(b)(6) DEPOSITION OF NEWWAY FORMING
Newway Organization Chart

Newway Organizational Chart
1120 Denny Way

Tom Grant
Senior PM

Tony Machado
General Foreman

Adam Pilling
Layout/Superintendent

Connor Forler
Safety Manager

Dallyn Martindale
Layout

Juan Marcelino
Carpenter Lead

Juan Cazares
Laborer Lead

John Carlson
Carpenter Lead

Mario Salgado
Finishing Lead

Larry Weeks
Layout Assistant

Pedro Ruvalcaba
Finishing Lead

Carpenters

Alfredo Angelina
Sergio Martinez
Jose Corona
Daniel Delgadillo
Jesus Sanchez
David Garces
Fidencio Garcia
Concepcion Hernandez
Modesto Hernandez
Humberto Herrera
Rafael Rodriguez
Marcos Rodriguez
Jorge Sandoval
Jose Ortega
Ezequiel Mendoza
Jose Navarette
Fidel Perez
Hector Perez
Eric Peterson
Juan Sepulveda
David Sanchez
Francisco Crisostomo

Cement Finishers

Juan Cazares
Francisco Chaidez
Juan Hernandez
Edgar Ibarra
Rudilio Perez
Eduardo Rueda
Reynaldo Galindo
Manuel Ayala
Enrique Tellez

Laborers

Jose Alanis Trejo
Juan Aquino
Isidoro Arzate
Luis Flores
Pablo Fernando

NEWWAY Forming Inc.

CONCRETE STRUCTURES

NEWWAY ORGANIZATIONAL CHART

1120 DENNY WAY

Ezio Bortolussi

President

Salvatore Giantomaso

Vice President

Tom Grant

Senior PM

Tony Machado

General Foreman

Adam Pilling

Layout Man

Supervisor

Seth LaBrow

Safety Manager

Dallyn Martindale

Layout Man

Juan Marcelino

Carpenter Lead

Juan Cazares

Laborer Lead

John Carlson

Carpenter Lead

Mario Salgado

Finishing Lead

Larry Weeks

Layout Asst

Pedro Ruvalcaba

Finishing Lead

Carpenters

Alfredo Angelina

Sergio Martinez

Jose Corona

Daniel Delgadillo

Jesus Sanchez

David Garces

Fidencio Garcia

Concepcion Hernandez

Modesto Hernandez

Humberto Herrera

Rafael Rodriguez

Marcos Rodriguez

Jorge Sandoval

Jose Ortega

Ezequiel Mendoza

Jose Navarette

Fidel Perez

Hector Perez

Eric Peterson

Juan Sepulveda

David Sanchez

Francisco Crisostomo

Cement Finishers

Juan Cazares

Francisco Chaidez

Juan Hernandez

Edgar Ibarra

Rudilio Perez

Eduardo Rueda

Reynaldo Galindo

Manuel Ayala

Enrique Tellez

Laborers

Jose Alanis Trejo

Juan Aquino

Isidoro Arzate

Luis Flores

Pablo Fernando

EXHIBIT 6
TO CR 30(b)(6) DEPOSITION OF NEWWAY FORMING
Site Safety Stand Down

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Onni Seattle

Site Safety Stand Down

Job
Name: 1120 Denny

Job No: 3000-0

Date: 9/20/11

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY
1	IAN PULLEN	[Signature]	MAINT	MBE
2	JOSE P.	[Signature]	Fitter	UMC
3	Jorge Mendez	[Signature]	PLUMB	NEW WAY
4	Hector Hernandez	[Signature]	CLERK	NEW WAY
5	Humberto Hernandez	[Signature]	CLERK	NEW WAY
6	Refael Haim	[Signature]	CLERK	NEW WAY
7	Michael Robbins	[Signature]	FLANDER	ONNI
8	Robert Adams	[Signature]		ONNI
9	Natacha Wailenua	[Signature]	operator	Garner
10	Roman Trun	[Signature]	operator	Garner
11	Connor Mack	[Signature]	CLERK	KHSS
12	Aaron Johnson	[Signature]	TYPER	KHSS
13	Woodward G.	[Signature]	CLERK	NEW WAY
14	Rene Arevalo	[Signature]	CLERK	NEW WAY
15	Evan Robertson	[Signature]	PLUM	UMC
16	[Signature]	[Signature]	[Signature]	NEW WAY
17	KODIAK	KODIAK	LADS	KHSS
18	Benjamin James	[Signature]	EX FERRIS	ONNI
19	Grace Hanks	[Signature]	ELEC	Prime
20	CURTIS CHRISTENSON	[Signature]	ELEC	Prime

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Onni Seattle

Site Safety Stand Down

Job Name: 1120 Denny

Job No: 3000-0

Date: 7/1/11

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY	
1	Dana Roy	Dana R	Rigger	New Way	
2	NIKEI CARANDANG	Nikei Carandang	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	X
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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	Joe Davis	[Signature]	Welder	UMC
2	M. Spaw	[Signature]	Welder	UMC
3	Ellen Fenton	[Signature]	Welder	RZM2
4	Juan Latorre	Juan Latorre		RZM2
5	Thomas Moya	Thomas Moya	Welder	RZM2
6	Thomas Arzola	Thomas Arzola	Welder	RZM2
7	Paul S. Thomas	[Signature]	Welder	Prime
8	Jimmy Wilson	[Signature]	Fitter	UMC
9	Dan Johnson	[Signature]	Steamfitter	UMC
10	Colt Silcox	[Signature]	Fitter	UMC
11	Matthew Baker	[Signature]	Welder	UMC
12	TYLER CEUI	[Signature]	FITTER	UMC
13	Ryan May	[Signature]	Welder	RZM2
14	Stan Campbell	[Signature]	Welder	RZM2
15	MATT AKERS	[Signature]	CARP	CECO
16	Travis Benth	[Signature]	Carpenter	CECO
17	VICTORIA COOL	[Signature]	Safety	PRIME
18	Reynaldo Soria	[Signature]	Laborer	New Way
19	Mauricio Romo	Mauricio Romo	Carpenter	New Way
20	ERIC OLIVAS	[Signature]	FITTER	UMC

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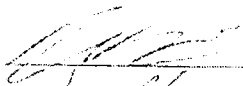
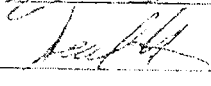
Site Safety Stand Down

Job Name: 1120 Denny

Job No: 3000-0

Date:

3/1/17

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY
1	Collins Aaron		Carpenter	CECON
2	Saul Hernandez		Carpenter	
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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	Sam Slater	[Signature]	Steel	KHSS
2	Eddy Diaz	[Signature]	Carp.	KHSS
3	Thomas Russo	[Signature]	Carp	KHSS
4	Don Hernandez	[Signature]	Carp	KHSS
5	Tom Brown	[Signature]	Carp	KHSS
6	MIGUEL SANCHEZ	[Signature]	CARP	KHSS
7	Brian Villanueva	[Signature]	Carp	KHSS
8	Ann Heath	[Signature]	Carp	KHSS
9	Rayne Brummett	[Signature]	Carp	KHSS
10	Jose Espinoza	[Signature]	Carp	KHSS
11	Gerardo Guerrero	[Signature]	Carp	KHSS
12	Luis Ureana	[Signature]	Carp	KHSS
13	DAVID GARCIA	[Signature]	Carp	Newway
14	Leon Tweed	[Signature]	IR	SSI
15	REYNALDO CARRERA	[Signature]	CARP/SAFETY	Newway
16	Manuel Soria	[Signature]	Finisher	Newway
17	MIKE KIRBY	[Signature]	CARP	NEWWAY
18	TONY MACHADO	[Signature]		NEWWAY
19	Luis Gardillo	[Signature]	Carp.	Newway
20	Ramon Ramon	[Signature]	Labor	Newway

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Onni Seattle

Site Safety Stand Down

Job
Name: 1120 Denny

Job No: 3000-0

Date: 10/1/11

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY
1	Shawn Paul	[Signature]	CARP	New Way
2	Manuel Coutino	[Signature]	CARP	New Way
3	Ken Ambrose	[Signature]	CARP	CECO
4	Craig Swank	[Signature]	Pipefitter	Coke
5	Angel Casero	[Signature]	Finish	New Way
6	Erica Ramirez	[Signature]	FITTER	UMC
7	Brian McCabe	[Signature]	Laborer	CECO
8	DUSTIN DEGLOW	[Signature]	GLAZIER	STARLINE
9	Laurence Young	[Signature]	IW	RZUR
10	William Rendon	[Signature]	Stalman	Prime
11	Olivia Estrada	[Signature]	Corporator	New Way
12	JM Gonzales	[Signature]	Electrical	Prime
13	Brian Harkins	[Signature]	Electrician	Onni
14	Phil Wilson	[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: July

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY	
1	Ictor Varela	<i>[Signature]</i>	CRP	KHBS	Y
2	Brandon Lecky	<i>[Signature]</i>	Elevator	City	Y
3	SEI	<i>[Signature]</i>	Elevator	STIS	
4	Tyler Wokuchowski	<i>[Signature]</i>	Elevator	STIS	
5	Hector Lopez	<i>[Signature]</i>	Finisher	New Way	
6	Juan Martinez	<i>[Signature]</i>	Labor	CECO	
7	SEI	<i>[Signature]</i>	Lab.	CECO	
8	Hector Ayala	<i>[Signature]</i>	CRP	NEW WAY	
9	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	
10	Jose H. Estrada	<i>[Signature]</i>	Electrician	NEW WAY	
11	CHRISTOPHER MARTIN	<i>[Signature]</i>	Electrician	NEW WAY	
12	Abdulla Omer	<i>[Signature]</i>	CRP	NEW WAY	
13	<i>[Signature]</i>	<i>[Signature]</i>			
14	John [Signature]	<i>[Signature]</i>	Carp.	New Way	
15	John [Signature]	<i>[Signature]</i>	Carp.	New Way	
16	Mike [Signature]	<i>[Signature]</i>		New Way	
17	Alex MRZ	<i>[Signature]</i>		N.W.	
18	ROBB STOUTENBERG	<i>[Signature]</i>	FITTER	UMC	
19	Jerid McKenzie	<i>[Signature]</i>	Operator	GARNER	
20	Kim Hall	<i>[Signature]</i>	Operator	GARNER	

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Onni Seattle

Site Safety Stand Down

Job Name 1120 Denny

Job No: 3000-0

Date

4/11/11

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY	
1	Dillon Serr		SPRINK	SFS	
2	Chad Isenbeger		SPRINK	SFS	
3	Caleb Holloway		SPRINK	SFS	
4	Brian Mitchell		SPRINK	SFS	
5	BRUCE T. JAMES			NEWVAX	
6	Will P...		SPRINK	SPRINK	
7	Marcos M.		SM	ALCANTARA	
8	Agustin de la Cruz		CARP	ALCANTARA	
9	Rick Palmer		PLUMB	UMC	
10	Troy Lammert		SM	UMC	
11	Steven A. Houton		SM	UMC	
12	Jacob Willis		SM	UMC	X
13	John Skryn		Plumbers	UMC	
14	BRIAN SPANGLE		S/M	UMC	
15	Jeff H. Smith		SM	UMC	
16	David Reed		SM	UMC	X
17	Andrew Johnson		Elec.	Prime	
18	Kyle Lottens		OFFICE	UMC	
19	Kornel Cristobal		OFFICE	UMC	
20	Lance Vann		SM	UMC	

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Onni Seattle

Site Safety Stand Down

Job Name 1120 Denny

Job No: 3000-0

Date: 9/21/19

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY
1	Calvin J. Holloway	Calvin J. Holloway	Sprink	SFS
2	Drion Mitchell	Drion Mitchell	Sprink	SFS
3	Tiko Roth	Tiko Roth	S/N	Ume
4	Rodolfo Camacho	Rodolfo Camacho	Painter	Starline
5	JOSP Garces	JOSP Garces	Painter	Starline
6	Sam Xuan	Sam Xuan	Sub	Onup
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017854602-

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]	Elect	LEUC	
3	Joshua Nantz	[Signature]	IW	R2M2	
4	Colin Eisenhut	Colin Eisenhut	IW	R2M2	
5	Miguel Dominguez	[Signature]	IW	R2M2	
6	Bonnie Clausen	[Signature]	IW	R2M2	
7	DEXTER BUECKES	[Signature]	IW	R2M2	
8	DAVID PETERSON	[Signature]	OWN	OWN	
9	Matt Castagnola	[Signature]	Carp	KHSS	
10	Clayton Curtis	[Signature]	IW	R2M2	
11	CALTEK PARRIS	[Signature]	ELCC	PRIME	
12	EDWARD SAKOVAL	[Signature]	ARRR	CECO	
13	Ron Long	[Signature]	Lab	CECO	
14	RICK LAGLEY	[Signature]	ART	CECO	
15	Rendel Smith	[Signature]	CARP	CECO	
16	Nic Collins	[Signature]	PRESTRA	CECO	
17	Sam Roudsaw	[Signature]	Elect	Prime	
18	Chris McIner	Chris McIner	Elect	Prime	
19	Dellbert Walker	Dellbert Walker	Carp	newWay	
20	Brady Madson	[Signature]	lab	CECO	

Onni Seattle

Site Safety Stand Down

Job
Name: 1120 Denny

Job No: 3000-0

Date: 7/11/11

	NAME PRINTED	SIGNATURE	CRAFT	COMPANY
1	John Libengood	John Libengood	Lab	Ceco
2	Tyrone Locke	Tyrone Locke	Pipe	UMC
3	Juan Casare	Juan Casare	Labor	NW
4	Eduardo Ruel	Eduardo Ruel	Labor	UAC
5	Justin Bo	Justin Bo	Plumber	UMC
6	Long Gao Yuan	Long Gao Yuan	Plumber	UMC
7	Wesley S. Smith	Wesley S. Smith	Carpenter	Newway
8	Eric Mayer	Eric Mayer	Plumber	UMC
9	D Rutland	D Rutland	H	UMC
10	Armando Fernandez	Armando Fernandez	Plumber	UMC
11	Stevenson	Stevenson	Electric	UAC
12	Thom Hunt	Thom Hunt	Electric	UAC
13	Larry Tavares	Larry Tavares	Electric	UAC
14	Kirk B. B.	Kirk B. B.	Scaffolding	UAC
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