

BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

In the matter the Appeal of:	)	Hearing Examiner File:
	)	
<b>BAJA CONCRETE USA CORP.,</b>	)	<b>No:</b> LS-21-002
<b>ROBERTO CONTRERAS, NEWWAY</b>	)	LS-21-003
<b>FORMING INC., and ANTONIO</b>	)	LS-21-004
<b>MACHADO</b>	)	
From a Final Order of the Decision issued by	)	DECLARATION OF SARA KINCAID IN
the Director, Seattle Office of Labor Standards	)	SUPPORT OF APPELLANT ANTONIO
	)	MACHADO'S REPLY TO HIS MOTION
	)	FOR SUMMARY JUDGMENT

I, Sara Kincaid, declare as follows:

1. I am an attorney for the plaintiff in this civil action. I am over 18 years of age, am competent to make this declaration, and submit this declaration based upon my personal knowledge.

2. Attached as **Exhibit 1** is a true and correct copy of the February 1, 2022, deposition transcript of Antonio Machado.

3. Attached as **Exhibit 2** is a true and correct copy of excerpts of the May 5, 2022, 30(b)(6) deposition transcript of Newway Forming, Inc.

4. Attached as **Exhibit 3** is a true and correct copy of Baja USA Corp's Responses to Mr. Machado's Requests for Admissions dated February 22, 2022.

5. Attached as **Exhibit 4** is a true and correct copy of excerpts of the April 26, 2022, 30(b)(6) deposition transcript of Baja Concrete.

6. Attached as **Exhibit 5** is a true and correct copy of the interview statement from Jonathan Parra Ponce taken by the City of Seattle and bates stamped SEATTLE-OLS-1088.v2.

1 I declare under penalty of perjury under the laws of the state of Washington that the  
2 foregoing is true and correct.

3 DATED this 17<sup>th</sup> day of August 2022 in Seattle, Washington.

4  
5  
6 

7 \_\_\_\_\_  
8 Sara Kincaid, WSBA No. 55846  
9 Attorney for Appellant Antonio Machado  
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# EXHIBIT 1

1 asking you questions about the specific issues in this  
2 case.

3 So what's important to remember is, unless I  
4 specify otherwise, the time period for my questions is  
5 between February 2018 and August 2020. So, if I'm asking  
6 you a question about your work on a construction site, I'm  
7 asking just about your work during that time period.

8 **A. Okay.**

9 Q. Do you understand?

10 **A. Yes.**

11 Q. Okay. Do you work for Newway Forming?

12 **A. Yes, I am.**

13 Q. And when did you begin working for Newway?

14 **A. So I start many years ago, prob -- around 40, 41**  
15 **year ago, you know, off and on.**

16 Then, you know, during the recession on the 80s,  
17 I left Newway for a couple years. Then I came back. Same  
18 thing. Then I -- when there was any less or in 2008, the  
19 recession -- you know, not too much work. So then I left  
20 them and come back. But, off and on, I been with Newway  
21 around 40, 41 year.

22 Q. Forty or 41 years?

23 **A. Yes.**

24 Q. Okay. And do you work at the 1120 Denny Way  
25 construction site?

1           A.     Yes. I did from the -- I would say from the  
2 beginning.

3                     The beginning was another superintendent they  
4 had named Joe Regal. I was at the yard, you know, with  
5 some carpenters build in form for the site. And then I  
6 came to the shop site, and I would say around September,  
7 beginning about October 2017.

8           Q.     Okay. Have you worked at other construction  
9 sites?

10          A.     No, not at all. That was the only -- the only  
11 site I was involved.

12          Q.     Okay. So I'm going to ask you some questions  
13 about Newway's work on the construction site. And you  
14 have to understand I really don't know a lot about  
15 construction sites so you'll have to really break it down  
16 for me --

17          A.     Okay.

18          Q.     -- and explain kind of how your industry works.  
19                     So what was Newway doing at 1120 Denny Way --

20          A.     We built --

21          Q.     -- between --

22          A.     We build the structure, you know. We did the  
23 concrete work, you know, all forming work. That's all we  
24 did. Only the -- the structure, you know, the concrete.  
25

1 COURT REPORTER: If I could please remind the  
2 witness to let the attorney finish her question before you  
3 start answering, please.

4 BY ERICA FRANKLIN:

5 Q. Sort of a learning curve with depositions. Like  
6 I said, not -- not -- not typical conversation.

7 So can you just give me a little more detail.  
8 What -- what exactly was Newway supposed to be doing with  
9 this concrete?

10 A. What exactly we were doing? You know, we built  
11 the -- we built the forms. We fill it up -- walls,  
12 columns -- with the concrete. So, like I said, we do the  
13 structure.

14 Then you got the other trades -- you know,  
15 rebar, or you call the electrical -- electrical, plumbing.

16 But our scope of work was only do the forming --  
17 you know, pouring forms, fill up with concrete, doing the  
18 floors, grinding, sacking, patching. That's all. That  
19 was our scope of work.

20 Q. Okay. Anything else? Or did you just cover  
21 everything?

22 A. No. That's everything. You know, structure  
23 that -- that's -- leveling the floors, which that's all we  
24 did.

25 Q. Okay. And what is your current job title at

1 Newway Forming?

2 A. What -- I was a superintendent in there -- you  
3 know, I'm still a super -- a superintendent for Newway  
4 Forming.

5 Q. Okay. And are there others who are  
6 superintendents, or are you the only one?

7 A. No. We are at the -- a PM -- a project manager.  
8 Actually, we went through three of them. Was Chris Birch,  
9 then Craig, then Tom Grant.

10 Tom Grant is the one who been there for most of  
11 the time. He's a senior project manager.

12 Q. Okay. What is the difference between a project  
13 manager and a superintendent?

14 A. Project manager is dealing -- it's, like, almost  
15 like a CO. He's the one who deals, you know, with the  
16 money, and sometimes with the PM from -- from the other  
17 party -- from the other company.

18 Like, we were doing a job for Onni. Tom Grant  
19 would go have a meetings with -- how do you call them?  
20 With the PM from Onni.

21 And my scope of work -- my expertise, it's in  
22 the field, you know, working with the guys, make sure, you  
23 know, they do a good job, they work safe, they work safe  
24 and they do a -- you know, a good job that -- and, you  
25 know, that's pretty much what I was doing.

1           A.     After he left, yes. Then I -- you know, I took  
2 his place. Yes.

3           Q.     Okay. Thank you. Now I understand.

4                     Are there any -- so you've told me about PMs.  
5 You've told me about the senior superintendent and  
6 yourself. Was there anyone else at Newway who has a  
7 managerial role?

8           A.     No. Like -- like I said, I had a Tom. And then  
9 it was a -- after that was me. And then I had a foreman.  
10 I had a cement finish foreman. I had a three carpenter  
11 foremans, and I had a labor foreman.

12          Q.     Okay. Any other -- anyone else with -- who was  
13 a manager?

14          A.     As a -- no, not as a manager.

15                     Then we had another guy -- his name is Connor.  
16 Connor. He was the -- you know, in charge of a -- the  
17 safety. But he spend most of his time, you know, in  
18 the -- in the office.

19          Q.     Okay. So can you explain to me what -- what you  
20 did as a superintendent? What -- what your job was.

21          A.     Okay. My job was, you know, once in a week, we  
22 have all -- you know, all -- how do you call -- all  
23 trades. We get together -- the plumber, electrician, the  
24 mechanical guys, rebar guys. We get altogether, you know.  
25 They calm them a weekly meeting. So we get together, try



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

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,

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.

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 --

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

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?

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

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



Concrete on the site?

**A. From when -- from February 7th --**

Q. February -- February 2018 through August '20, in that time period -- yes -- were there Baja workers?

**A. Yes. There were some workers there, yes.**

Q. Do you know how many approximately?

**A. I'll be honest with you. I don't know the exactly amount, no. I --**

Q. Okay. That's -- I appreciate your honesty.

And so what work were these Baja workers performing?

**A. They had some labors and some cement finishers.**

Q. And can you explain how this fits into Newway's work? Like, what piece of the puzzle were the Baja workers doing?

SARA KINCAID: Objection to the form of the question.

Sorry. Tony, you can go ahead and answer.

BY ERICA FRANKLIN:

Q. Well, maybe let me rephrase.

Were the -- were workers working for Baja, were they doing the same work as other workers working for new -- Newway?

ALEX LARKIN: Object to the form of the question again.

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

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

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 --

**THE WITNESS: I -- I don't know.**

ALEX LARKIN: If you could -- if you could phrase your questions in a different way rather than referring to workers or employees of Baja, Ms. Franklin, as that is disputed in the appeal.

ERICA FRANKLIN: Understood. Thank you.

UNIDENTIFIED SPEAKER: Hey, Alex --

BY ERICA FRANKLIN:

Q. Mr. Machado, did -- did Mr. Grant communicate directly with Mr. Soto?

A. Sorry. I -- I didn't understand. Mr. Grant communicate what? Sorry.

Q. With Mr. Soto.

A. Yes.

Q. And were you involved in those communications?

A. No. Like -- like I said at -- I never got involved with the Baja, no -- with the Baja workers.

Mr. Grant would call and tell them, you know, every time he needs people. But I got nothing to do with that. It's only Mr. Soto and Mr. Tom Grant.

Q. Were the Baja workers doing something differently from the other workers working for Newway?

ALEX LARKIN: Object to the form.

BY ERICA FRANKLIN:

Q. You can still answer.

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

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?

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;



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?

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

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 --

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

1 didn't know who was -- who was there and who wasn't there?

2 SARA KINCAID: Objection to the form of the  
3 question.

4 You can go ahead and answer --

5 BY ERICA FRANKLIN:

6 Q. Go ahead and answer, Mr. Machado.

7 So if you -- if you didn't know that a worker  
8 was sick or not, did that prevent you from supervising the  
9 work of the Baja workers?

10 A. If I didn't know what -- they was -- I don't  
11 know because I wasn't involved with the Ba -- with the  
12 Baja employees, no. I --

13 Q. Did -- who did a Baja worker go to if they  
14 needed to take time off because they were sick?

15 A. I guess Roberto's got a -- has to communicate  
16 with a Tom Grant or -- I don't know. I wasn't involved  
17 with it -- with those things. I don't know anything.

18 Q. Okay. Were you involved in -- in disciplining  
19 employees?

20 A. Discipline employ -- no.

21 Q. So what if -- what if someone did something  
22 really bad? It didn't seem like they should be a  
23 construction worker anymore. What happened with that  
24 person?

25 A. It -- sorry. Can you -- if a guy what? So --

1 came to be that Baja and Newway were working together  
2 at --

3 **A. No.**

4 Q. -- 1120 Denny?

5 **A. No, I do not.**

6 Q. Okay. And just to go back a minute, did you --  
7 Mr. Machado, did you understand the last questions -- the  
8 questions that I asked previously? Just -- just a moment  
9 ago.

10 **A. About.**

11 Q. About Mr. Ibiya?

12 **A. Yeah. What -- I told you I met him in Edmonton;**  
13 **right? In north of Canada. Edmonton.**

14 Q. Okay. And just to clarify --

15 SARA KINCAID: Tony, did -- in -- in responding  
16 to the previous questions, did you understand that  
17 Ms. Franklin was asking about the relationship between  
18 Newway and Baja, not between --

19 **THE WITNESS: I --**

20 SARA KINCAID: -- or not about when you met  
21 Baja?

22 **THE WITNESS: I -- I don't know what -- you**  
23 **know, the relationship between them, I don't know. I**  
24 **don't know.**

25 ALEX LARKIN: And, Ms. Franklin, I think there

1                   SARA KINCAID: And this is Sara Kincaid. I'll  
2 join in that objection.

3                   BY ERICA FRANKLIN:

4                   Q. You can still answer.

5                   How did Baja Concrete USA -- do you know how  
6 they made contact with Newway Forming?

7                   A. No, I do not.

8                   Q. Okay. Do you know who would know?

9                   A. Who -- who would know?

10                  Q. Who would know the answer to that question.

11                  A. I was -- Joe Regal. Joe Regal.

12                  Q. Okay. So when did workers from Baja Concrete  
13 USA Corp, when did -- workers were paid by them. When did  
14 they begin working at 1120 Denny?

15                  A. I am not too sure. Was 2000 -- 2017? I -- I  
16 don't know exactly the amount. I don't know prob --  
17 ape -- April? May? I'm not too sure.

18                  Q. Okay.

19                  A. It was 2007 --

20                  Q. Do you know --

21                  A. No. It's probably 2018. I went -- I came from  
22 San Diego in 2000 -- 2016. 2000 -- 2017. Probably 2018.  
23 I'm -- I'm not too sure.

24                  Q. Okay.

25                  A. Because I got -- 2017, I went around -- I don't

1           **A.     Mr. Sosa?  Who's --**

2           Q.     Mr. Soto.  What were -- what were his duties --

3           **A.     Oh, so -- I don't know.  To be honest, I don't**  
4 **know.  I'm not going to tell you things I -- I don't know.**

5           Q.     Do you know how his pay was determined?

6           **A.     How what?  Sorry.**

7           Q.     Do you know how his pay was determined?  Who --  
8 who set Mr. Soto's pay?

9           **A.     How -- how Mr. Soto gets paid?  I don't know.  I**  
10 **don't know anything.**

11          Q.     Okay.  Just one moment.

12                 So did you -- were you ever involved in firing  
13 people on the -- on the site?

14          **A.     Never.  I never ever fire one person.  Never.**

15          Q.     Did you get involved in -- were workers fired  
16 ever, to your knowledge, who --

17          **A.     I --**

18          Q.     -- worked at 1120 Denny?

19          **A.     I -- I don't -- I don't know.  Roberto didn't**  
20 **never mention -- one of the guys one time -- after all**  
21 **this going on -- he was working for a window company.**  
22 **And, you know, I'm going to tell you nothing but the**  
23 **truth.  He says -- and that -- he told me, so -- I asked**  
24 **him, "So you don't work with Roberto?  You work on the**  
25 **windows?"**



1                   And he -- he told me, "Oh, Roberto told me you  
2                   don't want -- you don't want me on your job site. You  
3                   want -- you want -- you know, he wants me to get fired  
4                   because of you."

5                   And I said, "No, that's not true." I never,  
6                   ever fired anybody, no.

7                   Q.    And were you involved behind the scenes in  
8                   decisions to fire people?

9                   A.    No.   Never.   Never.

10                  Q.    Were there any disciplinary actions taken that  
11                  weren't quite firing?

12                  Did -- did workers ever just get in trouble, and  
13                  were they subject to discipline?

14                  A.    I don't know. Like I said, I -- I don't know  
15                  who was going on between the Roberto and the -- his  
16                  employee -- his employees or Baja employees. I don't -- I  
17                  don't have a clue. I don't know anything.

18                  Q.    Okay. Did you ever threaten to fire employees?

19                  A.    Never. Not even my -- I don't -- to be honest,  
20                  I don't have a -- the guts -- sorry -- if it's a -- guts  
21                  or the courage. That's the last thing I want to do is  
22                  anybody lose their job. This is, you know, from the  
23                  bottom of my heart. That's the last thing is fire  
24                  anybody.

25                  Q.    Okay. What about a Padro? Did he ever fire

1 Connor. And then Connor he left not too long ago. And  
2 then his assistant, he was the one, you know, checking on  
3 them. But I had nothing to do with that. I don't know.  
4 I'm not going to tell you things I don't know.

5 Q. Okay. Thank you. I appreciate that.

6 Was there a difference between how the Baja  
7 workers recorded their hours and how the workers being  
8 paid by Newway recorded their hours?

9 A. I don't know. I don't have a no clue. I don't  
10 know.

11 Q. But -- but you're telling that they both used --  
12 used the time clocks in the Newway office; is that  
13 correct?

14 A. Yes.

15 Q. Was there a difference -- for the workers paid  
16 by Baja, was there a difference between what Newway paid  
17 them and what those workers actually received?

18 A. I don't -- I don't -- sorry. Can you repeat was  
19 the difference between --

20 Q. Not counting taxes or anything like that,  
21 deductions, was there a difference --

22 A. No. I --

23 Q. -- between what --

24 A. I don't know. That -- I don't know anything. I  
25 don't. I don't know -- and I don't know nothing about

**Baja's business. I -- I don't know.**

Q. Okay. And I'd actually like to introduce my first exhibit. Just -- I'm going to show you a document just in one moment.

Okay. I would like to introduce a document that -- it starts with the letter A in our exhibit list.

ERICA FRANKLIN: Ms. Borgida, is that -- do you understand which document I mean?

VIDEOGRAPHER: Yes. Pulling it up right now.

ERICA FRANKLIN: So I'd like to mark that Exhibit A -- Exhibit 1, please.

VIDEOGRAPHER: Okay. Perfect.

(Deposition Exhibit 1 was marked for identification.)

BY ERICA FRANKLIN:

Q. Mr. Machado, can you see this -- this exhibit?

**A. A.**

Q. Can you see it on your screen?

**A. I can. Got to go up a little more. I cannot see the bottom.**

Q. Okay.

**A. Yes. Yes. That's my signature. I'm going to -- I don't know if you prob going to find one or two.**

**What happens sometimes, they have the timecards. And the --**

1 Q. -- for the hours that were --

2 ALEX LARKIN: Object to the form. Object to the  
3 form.

4 SARA KINCAID: I'll join that objection.

5 (Reporter clarification.)

6 BY ERICA FRANKLIN:

7 Q. Were they paid at a higher rate for the hours  
8 that were beyond 40 in a workweek?

9 ALEX LARKIN: Object to the form.

10 SARA KINCAID: I'll join that objection.

11 BY ERICA FRANKLIN:

12 Q. You can answer, Mr. Machado.

13 A. I don't -- I don't have a clue. I don't know.  
14 I never had a talk with Baja, you know, about their bus --  
15 I don't know their business. I don't know anything.

16 Q. Okay.

17 A. And no one ever came to me and told me, "Tony, I  
18 don't get paid for overtime or" -- no. Nobody ever came  
19 to me so I -- I don't know anything about.

20 Q. Okay. Just one moment.

21 Okay. Let's -- let's turn next to the -- a  
22 separate exhibit, the one that's marked B in the original  
23 documents that I sent to you.

24 Okay. Mr. Machado, do you recognize this  
25 document?

ERICA FRANKLIN: It's marked C initially.

BY ERICA FRANKLIN:

Q. Okay. Mr. Machado, have you seen this particular document before?

**A. No.**

Q. I'm sorry. I didn't hear your answer.

**A. No, I didn't.**

Q. Okay. Have you -- have you seen a document like it?

**A. No.**

ERICA FRANKLIN: Okay. Let's move on from this one. Let's -- if we could please pull up exhibit -- the exhibit that was originally marked D and mark that as Exhibit 4. Thank you.

(Deposition Exhibit 4 was marked for identification.)

BY ERICA FRANKLIN:

Q. Okay. Mr. Machado, have you seen this before?

**A. No. I never see that before. Like I -- I don't have access and haven't -- you know, nothing to do with the Baja. I don't know anything. No. I never --**

Q. Okay. Have -- have you seen any other documents that -- on deductions and con --

**A. No.**

Q. -- contributions?

**A. I never --**

ALEX LARKIN: Object to the form. Object to the form of the question.

SARA KINCAID: I'll join that objection.

BY ERICA FRANKLIN:

Q. Have you seen other documents like this?

**A. No.**

ALEX LARKIN: Same -- same objection.

BY ERICA FRANKLIN:

Q. Were -- were there amounts that were ever deducted from worker's pay to your knowledge?

**A. No. I --**

SARA KINCAID: Object to the question.

JASON WANDLER: I'm going to object to the question.

Are we talking about Newway workers? Are we talking about Baja workers?

BY ERICA FRANKLIN:

Q. Okay. Let's take them one at a time.

For Newway workers, were there ever deductions from their pay?

**A. Deduction from -- when you do a payroll, every -- you know, everybody pay taxes and that -- on their paycheck; right?**

Q. Sure. So what about tools? Did Newway workers

1 Q. Okay. So now I'm going to talk about employees  
2 who are paid by Baja Concrete.

3 Were amounts ever deducted from their pay?

4 SARA KINCAID: I'm going to object to the form  
5 of the question.

6 BY ERICA FRANKLIN:

7 Q. You can go ahead and answer.

8 **A. You have to repeat again. Did Newway --**

9 Q. Or -- for workers paid by Baja, were there ever  
10 amounts of money taken out of their pay?

11 ALEX LARKIN: Object to the form of the  
12 question.

13 BY ERICA FRANKLIN:

14 Q. You can still answer.

15 **A. I don't know anything about Baja's business, how**  
16 **they get paid, how much they were -- I don't know anything**  
17 **about it. I -- I don't know anything.**

18 Q. Okay.

19 ERICA FRANKLIN: Okay. Let's move on to -- to  
20 exhibit -- the one that's marked E. And I'd like to mark  
21 that as Exhibit 5, please.

22 (Deposition Exhibit 5 was marked for  
23 identification.)

24 BY ERICA FRANKLIN:

25 Q. Have you seen this -- this document before,

1 Q. Correct?

2 A. Yes.

3 Q. And who determined what your salary was?

4 A. Who what? The owner of the company. When I --  
5 I made a deal with him, you know. When I was in San  
6 Diego, I came to Seattle. We made a deal.

7 Newway has two shareholders: The president is  
8 Ezio Bortolussi, and the vice president it is -- what's  
9 his -- Sal Giantomaso. So we made a deal with the owners,  
10 you know, with the shareholders.

11 Q. And did your salary change at any time between  
12 February 2020 and -- February 2018 and August 2020?

13 A. Yes. It same salary, same money I was making in  
14 the -- you know, the San Diego. It's same thing.

15 Q. Okay. Tell me what factors went into the pay  
16 that you negotiated when -- when you negotiated your pay  
17 with Newway.

18 A. Sorry. Can you repeat?

19 Q. So when you negotiated your pay with Newway --

20 A. Yes.

21 Q. -- what determined what that pay is? What that  
22 pay was.

23 A. You want -- you want me tell you? I was making  
24 \$160,000 a year on my --

25 Q. And how did --



1           A.    -- salary.

2           Q.    How did you and Newway determine that that was  
3 an appropriate amount?

4           A.    I mean, I been with the -- with the -- with the  
5 company. I help built this company for so many years.  
6 Actually, they offer me that -- that salary. You know, he  
7 said -- so they were the ones, you know, who offered me  
8 that, you know, that salary. I said, "Thank you very  
9 much."

10          Q.    Okay. And who -- where did your -- did you --  
11 did you receive paychecks? Direct deposit? How are you  
12 paid?

13          A.    By checks were what -- yeah. I get paid -- I  
14 was getting paid every week.

15          Q.    Okay. In what -- in what form?

16          A.    What -- with a -- what do you mean what -- a  
17 paycheck.

18          Q.    Were you receiving a paycheck? Were you  
19 receiving direct deposit into a bank account?

20          A.    No. I was receiving the paycheck with the --  
21 with the -- the deduction -- you know, the deductions off,  
22 you know.

23          Q.    Okay. And where did that paycheck from come  
24 from?

25          A.    Where the pay -- from the payroll company,

1     **whatever -- you know, whatever is doing the payroll.**

2             Q.     And you receive -- you said you receive direct  
3     deposit --

4             **A.     No.**

5             Q.     -- weekly.

6                     Did you -- were there ever any other direct  
7     deposits other than those --

8             Q.     Through --

9             Q.     -- weekly deposits?

10            **A.     -- Newway? No. No. No. Not from Newway, no.**

11            Q.     Where -- did you receive payment from anyone  
12     other than Newway?

13            **A.     What -- what -- I got paid to Ba -- Baja, yes.**  
14     **I lend them some money. And they paid me, yes.**

15            Q.     How much money did you lend Baja?

16            **A.     All -- you know, I could be wrong. I was**  
17     **talking even to -- to my lawyer. I could be wrong. It**  
18     **could be -- it wasn't all in one -- all at once.**

19                     I lend the -- what's his name -- Carlos Ibarra.  
20     I lend him some money. You know, 3,000 one time, another  
21     time 2,000, then 1500, then 1,000. Altogether, I would  
22     say -- before I -- I -- I said maybe 20,000, but it wasn't  
23     20,000. I would say maybe 12, 13,000.

24                     But he paid me everything. He doesn't owe me  
25     anything.

1 in?

2 A. He gave me a check from the company, and then  
3 twice they wired to me.

4 But they -- like I said, I did this normal  
5 relation because, if you know I'm going to get caught, I  
6 want to -- but I have nothing to hide.

7 This was a true, you know, that -- a true thing  
8 I did. I help so many to all -- to all my -- through all  
9 my life. I helped so many people. I never get -- you  
10 know, they pay me.

11 When I was young, if you need the help here and  
12 there, you know, on my early days, people would help me.  
13 So, like I said, I did that to him.

14 If I know you well, I would do it for you. Not  
15 a million dollars, not \$100,000. We talking, you know, 2,  
16 3, 4, 5,000. He pay me, then I lend him money back again.

17 I don't think it's a big deal. You know what  
18 I'm saying? That's way I look at it.

19 Q. Okay. So tell me what you loaned him money for?

20 ALEX LARKIN: Object to the form of the  
21 question.

22 SARA KINCAID: I'll join in that objection.

23 BY ERICA FRANKLIN:

24 Q. You can answer.

25 A. Carlos, he call me one time. He said, "Tony, I

1 have some guys working down in Seattle. I gotta rent  
2 someplace. I got to get a van and the car. I have  
3 money."

4 I know he has money. I don't talk to him now  
5 for the longest time. He still on -- it's still going on  
6 yet, you know, in Canada. I'm working in Canada.

7 And he says, "Tony, I have money, but I don't  
8 have American money. Can you lend me some money?"

9 I said, "How much?"

10 "\$3,000." Okay.

11 Then he says, "I will put it in envelope.  
12 Herberto will come." Okay.

13 Then two weeks later, "Tony, I need another  
14 \$1500." Then, Tony, "I need a \$1,000." So -- and then so  
15 he send me a check. You know, that's the check, you know,  
16 they send me.

17 But, again, I did this without malicion.  
18 Because I could tell him, you know -- to me, I lend him  
19 money. You pay me with a check. You pay me with a credit  
20 card. I don't care as long as I gets my money back.  
21 That's all I want.

22 So I lend him money, not all at once, little bit  
23 here, little bit there. So he paid me -- I cannot say --  
24 I cannot say anything bad about him. He paid me.

25 Q. Did he pay you exactly what you had paid him?

1           **A.     Yes.**

2           ALEX LARKIN:   Same objection.

3           BY ERICA FRANKLIN:

4           Q.     How do you know?

5           How do you know that he paid you the same amount  
6     that you paid to him?

7           ALEX LARKIN:   Same objection.

8           BY ERICA FRANKLIN:

9           Q.     You can answer.

10          **A.     Yes.   Whatever I lended to him, he paid -- he**  
11     **paid me.   No more, no less.   No interest.   No.   No.   No.**  
12     **Whatever, you know, I lended to him, that's what he paid**  
13     **me.**

14          Q.     How did you two keep track of how much he owed  
15     you?

16          ALEX LARKIN:   Same objection.

17          BY ERICA FRANKLIN:

18          Q.     You can answer.

19          **A.     I mean, when I lend money, I mean, you mark it**  
20     **down; right?   I mean, you have to have a track of -- of**  
21     **your money.**

22          Q.     Oh, do you have that -- do you have that marked  
23     down somewhere?

24          **A.     Do I have the -- no.   You mark on your head.   I**  
25     **mean, I give you cash, \$1,000, 1500 -- I mean, 1500,**

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

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

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.



1 business. I -- you know, I just told, you know, you guys  
2 how much I make. I make -- I never told no one. You  
3 know, that's my business. That's my private -- you know,  
4 my privacy.

5 BY ERICA FRANKLIN:

6 Q. Did -- did you ever discuss how -- how Baja was  
7 paying its employees with Carlos?

8 A. No.

9 ALEX LARKIN: Object to the form of the  
10 question.

11 SARA KINCAID: I'll join that objection.

12 BY ERICA FRANKLIN:

13 Q. You can answer.

14 A. No.

15 Q. So what is Carlos' role at Baja? What does he  
16 do for the company?

17 ALEX LARKIN: Object to the form of the  
18 question.

19 SARA KINCAID: I'll join that objection.

20 BY ERICA FRANKLIN:

21 Q. You can answer.

22 A. Like, I don't know what -- to me, my knowledge,  
23 I thought him was the owner -- the shareholder. And then  
24 all this going on, then I heard it's deceased -- at the  
25 first, they were saying they live in -- she lives

ALEX LARKIN: Yes. Let's please mark this as the next exhibit, which I think would be Exhibit 8.

JASON WANDLER: I think that's right.

(Deposition Exhibit 8 was marked for identification.)

BY ALEX LARKIN:

Q. Mr. Machado --

**A. Yes.**

Q. -- is it correct that all of the workers at the Denny Way site were using these cards?

SARA KINCAID: Objection to the form of the question.

BY ALEX LARKIN:

Q. Please answer.

**A. At the beginning, they were using timecards. And then, later on, they changed to time clock.**

Q. Okay. But, in either case, there -- there are -- there should be documentation in -- in the possession of Newway Forming showing these hours; correct?

SARA KINCAID: Objection to the form of the question.

JASON WANDLER: I join.

**THE WITNESS: I'm pretty sure, you know, they should have a copy of both cards. But, again, I don't have any control of that. You'd have to ask, you know,**

1     **either Newway head office or Tom Grant.**

2             ALEX LARKIN:    So I'll introduce another exhibit  
3     here.   Let's mark this as Exhibit 9, please.

4                             (Deposition Exhibit 9 was marked for  
5                             identification.)

6             BY ALEX LARKIN:

7             Q.    Do you recognize what we see here, Mr. Machado?

8             A.    Not really, sir, no.   I -- I cannot see too  
9     good.   That -- that looks like timecards; right?   They are  
10    timecards.

11            Q.    Is it -- is that what you believe they are?

12            A.    To me, it looks like a timecard.   I cannot say  
13    100 percent, but it looks like a timecard.   It looks like  
14    a timecard, yeah.   Just like the one -- just like the one  
15    you showed me before; right?

16                   Each employee has his name on.   It's a timecard.

17            Q.    So are -- are these Newway Forming timecards?

18            SARA KINCAID:   Objection to the form of the  
19    question.

20            THE WITNESS:   Again, I don't know was the idea  
21    to come with the timecards.   I don't know if he -- Ibarra  
22    made them or Newway.   That I don't know.   I cannot answer  
23    that question.   I -- I don't know.

24            ALEX LARKIN:   Okay.   I'll introduce the next  
25    exhibit; so this will be Exhibit 10.

1 BY SARA KINCAID:

2 Q. Mr. Machado, I just had a couple of brief  
3 followup questions.

4 Now, how did you become aware that Newway had  
5 Baja -- well, strike that. Let me rephrase this question.

6 How did you become aware that Newway Forming  
7 subcontracted with Baja Concrete USA?

8 A. I -- I did not. I -- I know they start in  
9 Bellevue -- you know, we had a job in Bellevue. That's  
10 when they start. But I don't know exactly days, exactly  
11 month. I don't know. They start in 2017 in Bellevue --  
12 you know, Bellevue, Washington. But I don't know exactly  
13 they -- I believe it was Joe Regal, he's the one who hired  
14 them.

15 Q. And Tony -- I'm sorry. I don't mean to cut you  
16 off.

17 So I guess when did you become aware that Newway  
18 had subcontracted with Baja Concrete USA?

19 ALEX LARKIN: Object to the form of the  
20 question.

21 BY SARA KINCAID:

22 Q. You can go ahead, Tony.

23 A. I would say probably around -- not too far from  
24 creation. It could be November, December 2017.

25 Q. And so my question is, when you became aware

1 Q. Did -- did all of the companies take breaks at  
2 the same time?

3 A. Most of them, they did, yes. Most of them, they  
4 did because we had a coffee truck -- you know, a food  
5 truck come into the job site. So everyone would stop  
6 pretty much same time, you know, go grab their lunch.

7 Q. And whether or not you signed any timecards or  
8 time sheets, did you ever know how or what Baja Concrete  
9 USA workers were being paid?

10 A. No. I never -- I -- like I said, I mentioned  
11 before, I didn't know anything about Baja, and I still  
12 don't know.

13 But I see it now on the document how much they  
14 were pay -- you know, two -- per labor or per labor or for  
15 cement finish. Those deals I never made -- was between --  
16 what's his name -- Tom Grant and Joe Regal at the  
17 beginning.

18 Q. Okay. And -- and when you say -- you -- you  
19 were referencing you see now. Are you referring to the  
20 documents that you've seen being produced by the -- by  
21 Baja and the Office of Labor Standards?

22 A. Now, I been see -- like I saw some today. And  
23 sometimes, you know, the -- the lawyers, they use send,  
24 you know, some papers. That's the only thing I know.

25 Before that, I -- I never saw anything. I don't

# EXHIBIT 2

1 border, moving equipment to the jobsites, trucking off  
2 the jobsites. Oh, gosh.

3 All paperwork, insurance, workers comp,  
4 everything. All the superintendents report to me,  
5 call me when they need things.

6 Basically take care of the subcontractors on  
7 the sites, anything they need.

8 Q. So are you familiar with the project jobsite  
9 at 1120 Denny Way in Seattle?

10 A. Yes.

11 Q. Are you familiar with the project site at  
12 707 Terry Avenue in Seattle?

13 A. Yes.

14 Q. And one more. Are you familiar with the  
15 jobsite at 2014 Fairview Avenue in Seattle?

16 A. Yes.

17 Q. And you're generally familiar with or are  
18 you familiar with the work that Baja Concrete USA, the  
19 service they may have provided at those project sites?

20 A. Yes.

21 Q. We'll get into that a little bit more later.

22 And those three project sites, are those  
23 projects all complete? As far as construction are  
24 those properties complete?

25 A. Not 707 Terry.

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 clock from our office that they requested onsite.

2 Q. Who requested onsite?

3 A. Tom Grant.

4 Q. And that was specifically the Denny Way  
5 project site?

6 A. Yes.

7 Q. So with this document -- tell me if I'm  
8 wrong, but it doesn't look like these were used in  
9 relation to a time clock, right?

10 A. I'm not sure why some of these are written  
11 in. I'm not sure. The ones I've seen were scanned.

12 Q. I'll pull up Exhibit 4 since we're on this  
13 topic.

14 (Marked Deposition Exhibit No. 4.)

15 Q. (By Mr. Larkin) This is Exhibit 4. I'll  
16 scroll through it. It's also three pages.

17 Are these also part of the same kind of,  
18 say, timekeeping records?

19 A. I don't recognize them. That's not the way  
20 we take our copies when we send them to the city. But  
21 the top one, yes, they do look like the same format.

22 Q. Okay. When was it that you sent them to the  
23 city?

24 A. Immediately when they requested documents.  
25 I can't remember exactly. When this started.

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 started using the time clock -- that was the moment in  
2 time, I guess, or point in time where the company  
3 began to verify whether each of the employees were  
4 actually onsite, correct?

5 A. Yes.

6 Q. Scrolling down to the last page of this  
7 Exhibit 7, is this also -- it's kind of hard to see  
8 but do you recognize this as also being a shorter  
9 summary of hours?

10 A. I don't -- it looks like maybe a  
11 supplemental form, maybe somebody they missed or  
12 something. I'm not sure why there would just be one.

13 Q. Do you recognize who apparently signed it at  
14 the bottom?

15 A. I don't recognize the top signature but the  
16 superintendent at the time was Craig Kuchel.

17 Q. Okay. The superintendent employed by Newway  
18 Forming, correct?

19 A. Yes.

20 Q. At the top of this page, the fourth page of  
21 Exhibit 7, clearly it says "Baja Concrete USA  
22 Timesheet," right?

23 A. Yes. It looks like something might have  
24 been supplemented; maybe they missed billing us for  
25 somebody. This doesn't look right with just one

1 person on it.

2 Q. Okay.

3 A. It may be why Craig had to approve it.

4 Q. Okay. I'll pull up Exhibit 8.

5 (Marked Deposition Exhibit No. 8.)

6 Q. (By Mr. Larkin) It looks like this is just  
7 one page, Exhibit 8.

8 Do you recognize this document?

9 A. Yes.

10 Q. That was "Yes"?

11 A. Yes.

12 Q. I'm sorry. And again, I think we've seen  
13 some before but describe what this document is.

14 A. This is Baja's billing to Newway.

15 Q. Okay. And for this particular -- again,  
16 this is only a one-page exhibit -- on this particular  
17 invoice it looks like it relates to the 1120 Denny Way  
18 project, correct?

19 A. Yes.

20 Q. So the date -- there's a couple different  
21 dates but it looks like May 26, 2020, correct?

22 A. Uh-huh. Yes.

23 Q. Again, this would have been a summary --  
24 well, based on the summary of hours prepared by or  
25 agreed to between Tom Grant and Roberto Soto, correct?

1 Tony Machado and Roberto Soto by which money was  
2 flowing out between those two individuals?

3 MS. KINCAID: I'll object to the form of the  
4 question as outside the scope of the 30(b)(6).

5 MR. WANDLER: Join in that objection.

6 MR. LARKIN: Join the objection.

7 MR. WANDLER: And it's already been asked  
8 and answered.

9 Q. (By Ms. Franklin) You can still answer that  
10 one.

11 Was there a relationship with money flowing  
12 between Tony Machado and Roberto Soto?

13 A. No.

14 Q. Okay. You mentioned that after the first  
15 year and a half of the project Newway started tracking  
16 time for the workers on Baja's payroll, correct?

17 A. Yes.

18 Q. And can you just tell me approximately what  
19 date that was, like when was the year and a half?

20 A. September 2019.

21 Q. So I want to know more about something you  
22 said before about Newway started tracking time because  
23 it needed to ensure that the people on the timesheets  
24 were actually working on the site, is that correct?

25 A. Yes.

1 have to look at it again. It just shows the flat  
2 hours.

3 Q. What do you mean flat hours?

4 A. Eight, nine.

5 Q. If you add up the hours in a given week do  
6 they ever total more than 40?

7 A. Yes.

8 Q. Did Newway's own records reflect the fact  
9 that workers in fact worked more than 40 hours in a  
10 week?

11 A. We don't keep records of subcontractors.

12 Q. Was Baja aware that workers were not being  
13 paid time and a half for overtime hours? I'm sorry,  
14 was Newway aware that Baja workers were not getting  
15 time and a half for overtime hours?

16 MR. LARKIN: Object to the form of the  
17 question.

18 A. No.

19 Q. (By Ms. Franklin) Okay. And I just have a  
20 little bit about work shifts.

21 Did the hours that workers on the relevant  
22 worksites worked, did those vary from day to day  
23 during the relevant time period, the number of hours?

24 A. Yes.

25 Q. Who determined how many hours these workers

1 needed to work on a given day?

2 A. That would be up to their superintendent  
3 and our lead, I guess. I don't know.

4 Q. But was it always a Newway employee who  
5 determined how many hours the workers on the relevant  
6 worksites worked?

7 A. No.

8 Q. Can you elaborate on that?

9 A. That would be Roberto Soto.

10 Q. How did Roberto Soto determine how many  
11 hours workers needed to work on a given day?

12 A. It was my understanding that it was eight  
13 hours every day. And then if there was a concrete  
14 pour late then Roberto would tell his people that they  
15 need to stay, his employees.

16 Q. How would Roberto know that there was a  
17 circumstance requiring additional hours on a given  
18 day?

19 A. A lead would tell him. It was voluntary.

20 Q. Would the lead instruct Roberto to offer his  
21 workers additional hours on such a day?

22 A. Would you say that again?

23 Q. Would the lead instruct Roberto to offer  
24 additional hours to workers on a day where there was  
25 something more to be done?

1 A. He could offer them but it's all volunteer.

2 Q. But when he was offering them was it based  
3 on information he received from someone at Newway?

4 A. They would regularly ask anybody, when that  
5 situation arises, who wants to work. So they would  
6 ask Roberto if anybody wants to stay. They don't have  
7 to stay.

8 Q. When you say they would ask Roberto, who is  
9 "they"?

10 A. A lead.

11 Q. A Newway lead?

12 A. Yes.

13 Q. Was the process the same for workers who  
14 were on Baja payroll and Newway payroll of determining  
15 how many hours a worker would work in a given day?

16 A. They're their own subcontractor so I mean  
17 they can -- they can gauge how many hours they want to  
18 work. If we get behind schedule we get behind  
19 schedule.

20 Q. If there were extra concrete to be poured,  
21 for example, would everyone on the worksite have the  
22 opportunity to work extra hours, Baja workers and  
23 Newway workers?

24 A. If they wanted to.

25 Q. Okay. How were work schedules communicated

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           A.    These two jobsites were directly across the  
2   street from one another, 2014 Fairview and 1120 Denny  
3   Way.

4           Q.    Okay.

5           A.    He was in close proximity to go back and  
6   forth.

7           Q.    Was anyone from -- setting aside Roberto,  
8   was anyone from Baja with supervisory authority  
9   present on the worksite during the relevant time  
10  period?

11          A.    I don't know how to pronounce his name,  
12  Noyes Rios, a supervisor.

13          Q.    Was he a foreman?

14          A.    I would assume so, yes.

15          Q.    Did he have -- was he on par with Newway  
16  foremen in terms of decision making power on the  
17  day-to-day work?

18               MR. WANDLER:  Object to the form just as to  
19  the term "on par."

20          Q.    (By Ms. Franklin)  So can you just tell me  
21  specifically what -- you said Rios -- what his role  
22  was?

23          A.    I just know him to be one of their  
24  supervisors.  That's all I know.

25          Q.    Okay.  What if something needed to be done

1 and a worker on Baja's payroll was not available for  
2 the additional hours, what would happen?

3 A. We may get behind schedule.

4 Q. And who would that worker communicate to to  
5 say that he was unavailable?

6 A. Roberto.

7 Q. And what would Roberto do with that  
8 information?

9 A. Inform the leads that there's nobody  
10 available.

11 Q. And then what would happen after that?

12 A. There would just be work for another day.

13 Q. Okay. Was the person penalized in that  
14 situation?

15 A. You would have to ask Baja. I don't know.

16 Q. Okay. So did Baja workers on the relevant  
17 worksites during the relevant time period take breaks?

18 A. That would have been controlled by Roberto.  
19 I'm not sure.

20 Q. Were breaks determined on a site-wide basis  
21 at 1120 Denny?

22 A. I believe the lunch was just as a whole.  
23 It's not ringing a bell, but because the food trucks  
24 would ring their bells pretty much on 2014.

25 I mean it's up to the subcontractors to tell

1     who were calling out sick?

2           A.     You mean we had sick leave?

3           Q.     Yes.

4           A.     They would let their leads know.

5           Q.     Okay. And what about a Baja worker on a  
6     Newway site, what was the process?

7           A.     They would ask Roberto Soto.

8           Q.     And what would Roberto Soto do with that  
9     request?

10          A.     I have no idea. You would have to ask him.

11          Q.     If a worker from Baja was calling out sick  
12     would Newway's personnel be informed of that?

13          A.     Most times, yes.

14          Q.     Would they have any discretion as to whether  
15     or not the worker could call out sick?

16          A.     Newway, no. No.

17          Q.     How did calling out sick affect worker pay  
18     for Baja workers?

19          A.     I have no idea.

20          Q.     When a worker called out sick would that be  
21     reflected in the invoices that Baja sent to Newway?

22          A.     No.

23          Q.     Did Newway track sick leave for Baja  
24     workers?

25          A.     No.

1 A. Yes.

2 Q. And did that happen with Baja?

3 A. I don't think that ever was an issue.

4 Q. So for Baja Newway prescribed the task and  
5 Baja would do it, is that correct?

6 A. If Roberto agreed to it for his people and  
7 his staff.

8 Q. But you said previously you never had an  
9 issue with Baja rejecting a task from Newway, right?

10 A. Not that I'm aware of.

11 Q. So can you describe for me -- and I'm sorry,  
12 I don't know too much about construction sites -- just  
13 the duties of a lead for Newway?

14 A. They're a foreman.

15 Q. Is a lead the same as a foreman?

16 A. Essentially.

17 Q. Is there a slight difference?

18 A. Not in Newway's terminology.

19 Q. Okay. So what were the duties -- you told  
20 me they're basically a foreman, but what were the  
21 specific duties and tasks of a Newway lead?

22 A. They work alongside with the employees but  
23 they are the head of their unit and they are the ones  
24 that would check in with the higher-ups.

25 Q. Do leads tell their units what to do?

1 A. Newway, yes.

2 Q. When you say Newway, did Newway leads tell  
3 their units -- I guess did they tell subcontractors  
4 what to do?

5 A. Through their superintendents.

6 Q. Okay. Was Roberto the superintendent for  
7 Baja?

8 A. Yes.

9 Q. Let me think. Just a moment.

10 So is there anything else that Newway leads  
11 were responsible for?

12 A. Possibly just making sure people are  
13 attending the safety meetings, their employees, their  
14 staff underneath them.

15 Q. Were Newway leads responsible for ensuring  
16 that Baja workers attended the safety meeting?

17 A. It's our policy that all subcontractors come  
18 to the meetings but that would still be instructed  
19 through Roberto.

20 Q. Was there an instruction from Newway to  
21 Roberto that Baja workers needed to attend those  
22 trainings?

23 A. Yes.

24 Q. Did Newway leads supervise the day-to-day  
25 work of their units?

1           A.    If it was noticed -- any subcontractor, if  
2   it's noted that somebody doesn't have the skillset  
3   then it would be reported to their supervisor, super.  
4   In this case Roberto Soto.

5           Q.    Okay.  Were Baja workers on the relevant  
6   worksites ever fired during the relevant time period?

7           A.    I wouldn't know that.  You'd have to ask  
8   Baja.

9           Q.    Did Newway play any role in firing workers?

10          A.    For Baja?

11          Q.    Yes.

12          A.    No.

13          Q.    But Newway might notice that a worker did  
14   not have the right qualifications and inform the  
15   subcontractor's lead person, right?

16          A.    Right.  But they didn't directly hire or  
17   fire anybody.  A lot of times if we get a carpenter  
18   that doesn't have the skillset they are moved to labor  
19   because the union took them in improperly.  They  
20   weren't the level that they should have been.

21                I don't know what Baja did with somebody  
22   that the foreman said that they didn't have the  
23   skillset.  I'm not sure.

24          Q.    I'm going to ask you generally about all  
25   workers.  How were workers on the relevant worksites



1     disciplined?

2           A.     Two writeups, on a third, termination.

3           Q.     And what about Baja workers, was that the  
4     same process?

5           A.     We didn't have any control over their  
6     workers for hiring or firing.

7           Q.     If a Baja worker needed a writeup, would  
8     someone from Newway communicate that to Roberto?

9           A.     I suppose so. It would be Roberto.

10          Q.     If Roberto fired a worker would Newway be  
11     notified?

12          A.     No.

13          Q.     What about -- I'm sorry, I didn't mean to  
14     talk over you. Go ahead and finish.

15          A.     No, go ahead.

16          Q.     If Roberto disciplined a worker would anyone  
17     at Newway be notified?

18          A.     No.

19          Q.     Okay. So now I want to step back a little  
20     bit and ask you about the work that was being done on  
21     this worksite. And again you're going to have to  
22     excuse me because I don't know much about construction  
23     work.

24                    So what was Newway brought on to the  
25     relevant worksites to do?

1 I'll do it on a piece-by-piece basis.

2 A. Okay.

3 Q. You talked about the early morning meetings  
4 where tasks are assigned.

5 What's the basis for the assignment of those  
6 tasks? In other words, who comes up with what tasks  
7 need to be done and where does that come from?

8 A. The scope of work.

9 Q. Where is that defined?

10 A. It's defined by a schedule.

11 Q. Who creates the schedule?

12 A. Onni.

13 Q. Onni. And Onni is the general contractor?

14 A. Yes.

15 Q. So if I understand correctly, every day Onni  
16 prepares the schedule and you guys know what you're  
17 supposed to do, you have a meeting.

18 What's discussed at the meeting?

19 A. Each individual subcontractor's scope of  
20 work.

21 Q. Okay. Is it the subcontractor's  
22 responsibility to determine how they perform that  
23 scope of work?

24 A. Yes.

25 Q. Is it their responsibility to determine how

1 many people they need to complete that scope of work?

2 A. Yes.

3 Q. Does Newway have any say in the means and  
4 methods and the labor that goes into a subcontractor's  
5 performance of their scope of work?

6 A. No.

7 MR. WANDLER: That's all I have.

8 MR. LARKIN: I have a few follow-up  
9 questions if this is my time.

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

11 BY MR. LARKIN:

12 Q. You testified, if I got it right this  
13 morning, that it was about a year and a half into the  
14 relevant time period when you spotted, I think you  
15 said, what appeared to be maybe three irregularities,  
16 correct?

17 A. Yes.

18 Q. That was "Yes" for the record. I'm not sure  
19 if that was clear.

20 So a year and a half in. So by that time  
21 there had been a whole lot of daily labor provided by  
22 Baja to Newway, correct?

23 A. Yes.

24 Q. And prior to the time clock, so during that  
25 first year and a half portion of the relevant time

# EXHIBIT 3

BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

In the matter the Appeal of: ) Hearing Examiner File:  
)  
**BAJA CONCRETE USA, CORP.,** ) No.: LS-21-002  
**ROBERTO CONTRERAS, NEWWAY** ) LS-21-003  
**FORMING INC., and ANTHONY** ) LS-21-004  
**MACHADO** )  
) APPELLANT ANTONIO MACHADO'S  
from a Final Order of the Decision issued by ) FIRST REQUESTS FOR ADMISSION TO  
the Director, Seattle Office of Labor Standards ) APPELLANT BAJA CONCRETE USA,  
) CORP. AND BAJA CONCRETE USA,  
) CORP.'S RESPONSES THERETO  
)

**TO: BAJA CONCRETE USA, CORP., Appellant;**

**AND TO: MARK KIMBALL and ALEX LARKIN, Attorneys for Appellant Baja Concrete.**

Pursuant to Washington Superior Court Civil Rules 36, Appellant Antonio Machado hereby requests that Appellant Baja Concrete answer the following requests for admission separately and fully, in writing, and under oath within twenty (20) days after service.

We are happy to meet and confer to discuss any discovery request and a protective order. Please initiate that conversation during the 20 days after service, rather than waiting until answers are due. Any extension of time will be for answers, not objections.

Throughout these requests for admission, "you" and "your" refers to Appellant Baja Concrete USA Corp and any employee or agent or owner or manager thereof.

"Work Sites" means the construction projects at 1120 Denny Way, Seattle, WA 98109 (the "Denny Site"), 707 Terry Avenue, Seattle, WA 98104 (the "Terry Site"), and 2014 Fairview Avenue, Seattle, WA 98121 (the "Fairview Site").

"Workers" means individuals identified on Attachment B of the Findings.

**REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1:** Admit Antonio Machado did not hold an ownership interest in Baja Concrete USA.

**RESPONSE:**

Objection as to "Baja Concrete USA" on grounds that that phrase is ambiguous and not defined herein. To the extent that this Request for Admission No. 1 is requesting Baja Concrete USA Corp. admit or deny that Antonio Machado did not hold an ownership interest in Baja Concrete USA Corp., ADMIT.

**REQUEST FOR ADMISSION NO. 2:** Admit Antonio Machado was not an employee of Baja Concrete USA.

**RESPONSE:**

Objection as to "Baja Concrete USA" on grounds that that phrase is ambiguous and not defined herein. To the extent that this Request for Admission No. 2 is requesting Baja Concrete USA Corp. to admit or deny that Antonio Machado was not an employee of Baja Concrete USA Corp., ADMIT.

**REQUEST FOR ADMISSION NO. 3:** Admit Antonio Machado was not on Baja Concrete USA's payroll at any time.

**RESPONSE:**

Objection as to "Baja Concrete USA" on grounds that that phrase is ambiguous and not defined herein. To the extent that this Request for Admission No. 3 is requesting Baja Concrete USA Corp. to admit or deny that Antonio Machado was not on the payroll of Baja Concrete USA Corp. at any time, ADMIT.

**REQUEST FOR ADMISSION NO. 4:** Admit Antonio Machado did not exercise operational control over aspects of Baja Concrete USA's day-to-day functions.

**RESPONSE:**

Objection as to "Baja Concrete USA" on grounds that that phrase is ambiguous and not defined herein. To the extent that this Request for Admission No. 4 is requesting Baja Concrete USA Corp. to admit or deny that Antonio Machado did not exercise operational control over aspects of Baja Concrete USA Corp.'s day-to-day functions, ADMIT.

**REQUEST FOR ADMISSION NO. 5:** Admit that Antonio Machado did not have authority to make decisions on behalf of Baja Concrete USA.

**RESPONSE:**

Objection as to "Baja Concrete USA" on grounds that that phrase is ambiguous and not defined herein. To the extent that this Request for Admission No. 5 is requesting Baja Concrete USA Corp. to admit or deny that Antonio Machado did not have authority to make decisions on behalf of Baja Concrete USA Corp., ADMIT.

**REQUEST FOR ADMISSION NO. 6:** Admit that the check to Antonio Machado attached as **Exhibit A** was a repayment for a loan.

**RESPONSE:**

ADMIT.

**REQUEST FOR ADMISSION NO. 7:** Admit the loan Antonio Machado made to Baja Concrete USA Corp. was unrelated to any work performed by Workers at any of the Work Sites.

**RESPONSE:**

Objection to the word "Workers" as the definition appears to include persons who were not paid by Baja Concrete USA Corp. Objection to the phrase "unrelated to any work performed by Workers" on grounds that this phrase is vague and ambiguous. Objection to the phrase "the loan Antonio Machado made to Baja Concrete USA Corp." on grounds that this phrase is vague and ambiguous. To the extent that this Request for Admission No. 7 is asking for Baja Concrete USA Corp. to admit or deny that Antonio Machado loaned funds to Baja Concrete USA Corp. and that the loaned funds were not related to the performance of those Workers who were paid by Baja Concrete USA Corp. at the Work Sites, ADMIT.

**REQUEST FOR ADMISSION NO. 8:** Admit that the check to Antonio Machado in **Exhibit A** is unrelated to what the Workers were paid by Baja Concrete USA Corp. for work performed at any of the Work Sites.

**RESPONSE:**

Objection to the word "Workers" as the definition appears to include persons who were not paid by Baja Concrete USA Corp. To the extent that this Request for Admission No. 8 is asking Baja Concrete USA Corp. to admit or deny that the check to Antonio Machado shown in **Exhibit A**

hereto is unrelated to what persons, who form a subset of the defined term "Workers," whom were paid by Baja Concrete USA Corp., is unrelated to how much said persons were paid by Baja Concrete USA Corp., ADMIT.

**REQUEST FOR ADMISSION NO. 9:** Please admit that Claudia Penunuri signed the letter attached as **Exhibit B**.

**RESPONSE:**  
DENY.

**REQUEST FOR ADMISSION NO. 10:** Please admit that **Exhibit B** is a true and correct copy of an October 21, 2018, letter signed by Claudia Penunuri.

**RESPONSE:**  
DENY.

**REQUEST FOR ADMISSION NO. 11:** Please admit that **Exhibit C** is a true and correct copy of a business card You provided Roberto Soto Contreras.

**RESPONSE:**  
  
DENY as stated. The definition of "You" is vague in that it includes "agents" of Baja Concrete USA Corp. but fails to define "agent." To the extent that this Request for Admission No. 11 is requesting Baja Concrete USA Corp. to admit or deny that the item shown in Exhibit C hereto depicts a business card provided to Roberto Soto Contreras by Baja Concrete USA Corp.,  
ADMIT.

DATED this \_\_\_\_ day of February 2022.

ROCKE LAW Group, PLLC

Aaron V. Roche, WSBA No. 31525  
Sara Kincaid, WSBA No. 55846  
Rocke Law Group, PLLC  
500 Union Street, Suite 909  
Seattle, WA 98101  
Telephone: (206) 652-8670  
Fax: (206) 452-5895  
Email: aaron@rockelaw.com  
sara@rockelaw.com  
Attorneys for Appellant

#### **CERTIFICATION**

I, Claudia Leticia Penunuri, am the appellant to whom these discovery requests are directed. I have read and reviewed the foregoing answers and objections to these discovery requests, know the contents thereof, and certify to the best of my knowledge, information, and belief, formed after a reasonable inquiry, that they are true and correct. I make this declaration under penalty of perjury under the laws of the State of Washington.

Executed at Miami-Dade County, Florida this 22 day of \_\_\_\_\_ February, 2022

Baja Concrete USA, Corp.

STATE OF FLORIDA )

) ss.

COUNTY OF MIAMI-DADE )

Claudia Leticia Penunuri, being first duly sworn on oath, deposes and says:

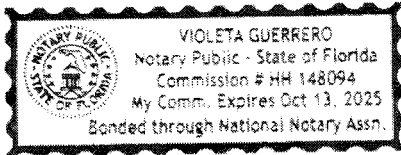
That she is the authorized representative of Appellant, Baja Concrete USA Corp, she has read the foregoing Appellant Antonio Machado's First Set Requests for Admission, knows the contents thereof, that the same is true of her own knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters, she believes it to be true.



SUBSCRIBED AND SWORN TO before me this 22 day of February, 2022 by  
CLAUDIA LETICIA PENUNURI



(print notary's name)



Notary Public in and for the State of Florida,

residing at 12080 SW 12TH AVENUE, MIAMI, FL. 33186

My commission expires: OCTOBER 13, 2025

#### CERTIFICATION OF COUNSEL

The undersigned attorney for appellant has read and reviewed the foregoing interrogatories and requests for production and made objections in compliance with CR 26(g).

DATED this 22<sup>nd</sup> day of February, 2022.



Alex T. Larkin, WSBA  
Attorney for Appellant

No. 36613

APPELLANT ANTONIO MACHADO'S FIRST ROCKE |

LAW Group, PLLC

REQUESTS FOR ADMISSION TO 500 Union Street,

Suite 909

APPELLANT BAJA CONCRETE USA CORP. Seattle, WA

98101

— Page 16 (206) 652-8670



# EXHIBIT 4

1           **things like that.**

2       Q     Okay. But I just wanted you to be clear on what I  
3           mean when I say the word "workers."

4                 When I ask about the relevant time period, I'm  
5           referring to the period that the investigation  
6           covered, which is February -- February 2018 through  
7           August 2020.

8       A     **Uh-huh.**

9       Q     And when I say "Baja," I'm referring to Baja Concrete  
10           USA Corp.

11      A     **Yeah.**

12      Q     Okay. So once we've got this straight, I would like  
13           to move into the list of topics that's listed here on  
14           Exhibit A on the screen.

15                 So first I'm going to start with topic No. 1,  
16           "Payment of wages to all workers listed on  
17           Attachment B to the findings in this matter, including  
18           the recording of hours, the method of determining  
19           wages owed, withholding of wages, payment of bonuses,  
20           and other deductions."

21                 How did Baja keep track of how many hours the  
22           workers worked?

23      A     **We -- Baja didn't do that. Actually, Roberto**  
24           **Contreras was in charge completely of all of the**  
25           **employees, of all of the reporting.**

1                   And I believe also Newway Forming was keeping  
2                   track of the hours on the side. And they were just --  
3                   they were having a time card there measuring that.

4                   Is that your question?

5       Q       Yes.

6                   At any point, did the workers switch from using  
7                   time cards to using a time clock?

8       A       You're asking if they switched from a time card to a  
9                   time clock?

10      Q       That's correct, to record their hours.

11      A       Well, I really don't know. That would be a question  
12                   for Roberto Soto, I guess, or somebody that was on the  
13                   site.

14      Q       Okay. Did Baja review worker time cards?

15      A       Never.

16      Q       Did Baja review any time card records?

17      A       Never.

18      Q       How do you know that Mr. Soto was tracking worker  
19                   hours?

20      A       He was providing to Baja for payroll a summary of each  
21                   employee with the hours worked and with the amount  
22                   of -- the amount of the money that should be on the  
23                   paycheck or whatever. You know, he would do all of  
24                   the -- a very good summary, putting hours and putting  
25                   in detail. If there was bonus, if there was whatever,

he would put all of that in there.

And that's what Baja used through Mercedes Accounting. Mercedes Accounting was running the payroll, and so that was provided to Mercedes Accounting for them to run the Baja --

(Claudia Penunuri joined the deposition.)

Q (By Ms. Franklin) Okay.

MS. FRANKLIN: I think we have a little bit of feedback.

THE COURT REPORTER: Could we go off  
the record?

MS. FRANKLIN: Sure. Let's go off the record for a moment.

(Discussion held off the record.)

(By Ms. Franklin) So you mentioned that Roberto Soto Contreras was keeping track of worker hours for Baja.

Is that something that Baja asked Roberto to do?

Roberto Soto was an independent contractor, and he was doing totally on his own, all of this and that. That started since the very moment was hired by Baja. He would do the whole thing. The whole hiring, the whole thing. He will do it on his own.

How did Baja make sure it was getting what it needed

1 Q Okay. But you're prepared today to speak on behalf of  
2 Baja?

3 A Yeah.

4 Q Okay.

5 A But Roberto was the one on the site, and Roberto is  
6 not part of Baja, even though he put there Baja, I  
7 guess he's trying to charge, you know, for the labor  
8 because we needed to process -- I have no idea. We  
9 needed to process the payroll for those workers.

10 I mean, this is the invoices Roberto Contreras  
11 did to collect -- to invoice Newway Forming. I mean,  
12 when you see the first page, it says the project that  
13 they were -- that he was billing and the amount of  
14 hours and the amount of things. So this is, like, the  
15 backup that Newway Forming requested to be attached to  
16 the invoice. And so that signature belongs to Newway  
17 Forming.

18 Q Okay. Who provided the invoice to Newway?

19 A Baja -- Roberto Contreras emailed directly to Kwynne  
20 and -- the invoices. And, of course, Claudia was in  
21 the emails.

22 Q Okay. Did someone at Baja have any role in the  
23 generating of the invoice?

24 A I think he would talk to Claudia regarding this.

25 Q What would they talk about?

1     **A**     I think just to let her know because he was the one on  
2             the field, he was the one with the workers, he was the  
3             one taking care of all of the labor, and he was also  
4             preparing the invoices for her. And I think he needed  
5             to let her know that that was the amount of  
6             receivables or invoices.

7     **Q**     Did Baja -- did anyone at Baja have any input into the  
8             content of the invoices?

9     **A**     I believe that was Claudia.

10    **Q**     And what kind of input did she provide?

11    **A**     I think it's just to let her know.

12    **Q**     Did anyone --

13    **A**     You know, Claudia lives in Florida, in Miami.

14    **Q**     Okay. Did anyone at Baja verify that these time  
15             sheets were correct?

16    **A**     Did anyone in Baja verify that that time sheet was  
17             correct?

18    **Q**     Yeah.

19    **A**     Well, I'm going to tell you, Roberto will -- I believe  
20             Roberto will do that. He was the only one because  
21             Claudia is in Miami.

22             So -- and I guess the signature of Newway  
23             Forming, you are very fine, that that is correct.  
24             Newway Forming is saying there, that is correct. They  
25             are signing that.

1           doing the job there. And if he said those are the  
2           hours, those are the hours. Now ...

3       Q     Okay. Who determined the pay raises for the workers?

4       A     Roberto Contreras did.

5       Q     I'm sorry?

6       A     Roberto Contreras determined the pay for the workers.

7       Q     I'm not talking about how much they were owed, but I'm  
8           talking about -- well, let's back up for a minute.

9           Were employees -- were the workers paid on an  
10          hourly basis?

11      A     At the beginning they were paid by a net. The workers  
12          will want a certain amount of -- like, a peace -- you  
13          know, like, for peace -- additional wage, you're going  
14          to give me \$5,000 net and there was going to be 5,000  
15          given to them in the net paycheck.

16           And so -- and there was a time that there was a  
17          switch into hours and showing everything over time and  
18          everything.

19      Q     Okay. Can you describe to me what you mean by the  
20          "net payment"?

21      A     I understood that labor was difficult to find. And  
22          the labor that Roberto -- Roberto who was finding  
23          labor that they only will work with a net pay. That  
24          means the company, Baja, will need to pay all taxes,  
25          all over time, and everything included in that

1           paycheck. So it was all included in the payment. In  
2           the payment that they will receive, everything was  
3           included there.

4       Q     How did you -- how did Baja determine the gross amount  
5           for the workers, that they were owed?

6       A     Well, because they will all have a bonus and they will  
7           all have taxes paid on their pay stub.

8       Q     Okay. Was the amount that they worked, was it based  
9           the number -- the amount that they were paid, was that  
10          based on the number of hours that they worked?

11      A     Well, it was more than the hours that they worked.

12      Q     Can you explain?

13      A     Well, when you -- if they want to get 5,000 net, they  
14          wanted to get 5,000 net, so for you to come 5,000 net,  
15          you need to give them a bonus, you need to show taxes  
16          paid. So they were overpaid to cover everything.

17            So some of the workers, you know, will get a  
18          better deal that way. You know, that was it. But  
19          there were no labor. Apparently -- apparently Roberto  
20          hired these people with that agreement with them  
21          because there was no way they would work otherwise.

22            And that's why -- that they later were switched.  
23          But there was a big year that the company spent a lot  
24          of money just giving the workers what they wanted,  
25          everything included.



1 billed Newway for one amount -- for one rate of pay  
2 and then the worker ended up receiving a lower rate of  
3 pay, you said that the difference went to Baja's  
4 expenses; is that correct?

5 **A Yeah.**

6 **Q** So are you saying that Baja billed Newway for an  
7 amount that it stated to Newway would be used to pay  
8 workers and, in fact, Baja used that money to pay  
9 other expenses besides payroll expenses?

10 **A Well, everything -- you know, everything is included**  
11 **in a rate. Everything. If I give you a worker and**  
12 **I'm going to charge you for that worker, even profit**  
13 **should be included in that rate and all the expenses**  
14 **that I have for that worker, because Baja is a**  
15 **business, it's a corporation. It has licensing, it**  
16 **has all kinds of things. It has Mercedes Accounting,**  
17 **it has all kinds of things that I need to have to pay**  
18 **for payroll services, I mean, administrative. All**  
19 **kinds of things.**

20 So that rate should include all kinds of expenses  
21 in the invoice to Newway to be able to operate and  
22 have the payroll, you have to include all of that in  
23 there. And even profit. Nobody works for free.

24 **Q** So Baja billed -- are you saying that Baja billed  
25 Newway for a certain amount for labor and used some of

1 Q Was Baja interacting with the workers -- was Roberto  
2 interacting with the workers on Baja's behalf?

3 A No. I think it was on his own.

4 Q You think it was what? I'm sorry.

5 A He's on his own.

6 Q Okay. Was anyone from Baja with supervisory authority  
7 present on the worksite with the workers?

8 A You mean from Baja?

9 Q Yes.

10 A No. It was just Roberto.

11 Q Did Baja give any direction to Roberto on interacting  
12 with the workers on the worksite?

13 A No.

14 Q Did Baja and Roberto agree that Roberto would be  
15 present at the worksite?

16 A No. I think Roberto knew that. He was hired to do  
17 all of that. So ...

18 Q He was hired to do -- can you tell me what he was  
19 hired to do what?

20 A The agreement that I talk all day, he's supposed to  
21 contract the labor, hiring, set up, everything. He  
22 was in charge of all of the labor. Not Baja. He was  
23 in charge. He was -- his own company, in other words.  
24 Remember, he's coming from Canada.

25 Q Okay. Did Baja put him in charge of the workers while

needed to report to work?

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

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

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

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

**A No.**

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

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

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

**A Roberto.**

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

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

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

1     **A     Roberto.**

2     Q     Did Baja pay a worker when a worker was calling out  
3           sick?

4     **A     Roberto report it, it was paid.**

5     Q     What was the purpose of Baja -- of Roberto reporting  
6           the worker was sick to Baja?

7     **A     He was not reporting to Baja. None of that.**

8                 Roberto will take care of the sick worker. Will  
9     do whatever is necessary. And Roberto would report to  
10    payroll to put three sic days and to inform that that  
11    employee need to use sick pay, all that. Roberto will  
12    report to payroll.

13    Q     Did payroll have a policy on how to pay a person when  
14           they were calling out sick?

15    **A     You mean payroll?**

16    Q     Yeah.

17    **A     No. Payroll has no -- payroll is independent. It's**  
18    **not like it receives accounts.**

19    Q     Let me rephrase that. You're right.

20                 Did Baja have a paid sick time policy during the  
21    relevant time policy?

22    **A     I believe there was one.**

23    Q     If a worker called out sick, would they be paid or not  
24           paid based on Baja's policy on sick workers?

25    **A     Well, you know, Roberto was handling all of that, so**

1 I'm trying to remember. But Roberto was in charge  
2 when they will get sick. Roberto will report if they  
3 were sick a few days and they needed to pay sick pay,  
4 Roberto would report to payroll.

5 So -- and the question will be, did Roberto knew  
6 about any procedures and stuff? Well, we need to ask  
7 Roberto.

8 Q How did payroll know what to do with a worker's pay  
9 when a worker was calling out sick?

10 A I'm sorry. Could you clarify again or repeat?

11 Q How did the payroll company, Mercedes Accounting,  
12 determine what a worker should be paid or not paid  
13 when they called out sick?

14 A Mercedes Accounting payroll will never determine  
15 anything. Roberto will report that in the summary and  
16 that will go in the payroll.

17 Q Okay. Did someone from Baja determine when workers  
18 would get to take meal and restroom breaks?

19 A I'm sorry. Could you --

20 Q Did someone from Baja determine when workers would  
21 take meal and rest breaks?

22 A No. Roberto was with them and will determine that  
23 together with Newway Forming because they were on the  
24 site and on the projects for Newway Forming. So I  
25 guess they would coordinate the breaks between them.

1                   And so -- but he work as a peace work. So we  
2                   will -- you know, the hours -- Roberto will say too.  
3                   So it was all a combination. Okay, this is what  
4                   you're getting and this is the net and that's it.

5       Q       So there was some kind of calculation that was done to  
6               determine how much an employee was owed; correct?

7       A       Yeah. And that was done between Roberto and the  
8               worker. That was the agreement with them.

9       Q       Did Baja -- how does Baja know that in every case  
10              Roberto made an agreement with the worker?

11      A       Well, Baja knows. Baja -- Roberto was the one  
12              reporting. Roberto was the one hiring. Roberto was  
13              the one disciplining, firing. He was on his own. And  
14              this is the agreement, and he was doing all of that.

15              Remember, he comes an agreement with Canada. So  
16              he will hire. He will do every single thing. The  
17              only intervention from us would be that he reported a  
18              summary. He gave it to payroll in Baja, and then Baja  
19              will do the payroll and will pay everything that is  
20              needed.

21      Q       Whose responsibility was it to ensure that workers  
22              were paid in accordance with the law?

23      A       Roberto. Roberto needed to make sure, and Roberto  
24              knew we -- not we. I myself explained to Roberto all  
25              the things that he needed to pay to the government.

1           this document?

2     **A**     **Yes, I am.**

3     **Q**     And can you tell me what it is, please?

4     **A**     That was a check that Claudia was out of the country  
5           and Antonio Machado needed because there was a loan --  
6           Antonio Machado gave to Baja Concrete in Canada.  
7           There was a loan there at that time. I don't know too  
8           much about it because that happened in Canada way  
9           before me. But I know there was a payment of a loan  
10          that he gave to Baja Concrete, and then he got paid.

11           As you noticed, that's not a pay stub. And  
12          because she wasn't there, Claudia would write the  
13          checks, right, and she wasn't available. There was no  
14          check.

15           Then we -- our payroll system can write checks to  
16          people. And then we issued this for him because he  
17          needed the thing it says, "Receipts pending." That  
18          means it was, like, an emergency reimbursement thing.  
19          But I believe it was a loan.

20     **Q**     And was it a loan from Baja or --

21     **A**     Antonio Machado gave a loan to Baja.

22     **Q**     Okay. Was it a loan to Baja or to Baja as an entity?

23     **A**     Well, it was not Baja USA. That was a loan that  
24          Antonio Machado gave Carlos and the people in Canada,  
25          I don't know exactly how that worked. And so

1           **apparently Baja was paying him a portion of the loan**  
2           **or whatever it was.**

3       Q     Did this check -- was it cut out of Baja, the company  
4           in Canada, or the Baja Concrete USA Corp.?

5       A     **No, that's not Baja Concrete USA.**

6       Q     Was there a loan made to Baja Concrete USA or a loan  
7           made to Baja Concrete in Canada?

8       A     **Well, we're talking about Carlos; right? And then**  
9           **that would be charged to be a receivable of Baja**  
10          **Concrete when we pay Machado because that's not a debt**  
11          **for -- Baja Concrete USA owes to Antonio Machado.**  
12          **Antonio Machado owes Carlos.**

13               And so it was promised through Baja Concrete USA  
14           because Claudia was not available. Nobody is going to  
15           be wiring funds or whatever the way he was getting  
16           paid that loan. I didn't see anything. This is the  
17           only thing that I remember a check that was issued.  
18           And that was because Claudia was not available, and he  
19           really needed to get paid.

20               So that was part of the loan. It's a loan  
21           payment.

22       Q     Does Baja normally -- if it cut the check to an  
23           individual, does it request documentation to  
24           substantiate the amount owed?

25       A     **Yes. But that check was requested by Claudia to give**



1 A You mean money from Baja for Baja Concrete employees  
2 and the Baja Concrete payroll, you're saying any Baja  
3 Concrete payroll employees, how -- what do you mean  
4 they get money to Newway?

5 Q To Newway employees.

6 A To Newway employees? I don't know what you're saying.  
7 What do you mean?

8 Q I'm just trying to understand how money flowed back  
9 and forth between --

10 A There's absolutely no money given from employee here  
11 and employee there. If they do it, we do it in a  
12 loan. We won't know about it.

13 Q Right. For this check to Machado, Antonio Machado?

14 A Well, he's not an employee of -- he's not a Baja  
15 Concrete payroll employee, Machado, no he's not. He  
16 was just somebody that helped Carlos in Canada. He  
17 probably gave a little money. And I have no idea  
18 because I'm not in Canada and I don't have anything  
19 there. I don't recall any documents. I will need to  
20 think about it.

21 But for sure we requested about the loan. We  
22 probably have something. You now, that's how I know  
23 that he gave the loan to Carlos. And so the agreement  
24 probably was that Baja Concrete would pay. I don't  
25 know. But that's the only thing, this check.

1 section of this document. And it's titled "Section  
2 III Payment."

3 Do you see that here?

4 **A Yes.**

5 Q And then going down to Question 3, the question says,  
6 "Have your employees ever worked more than 40 hours in  
7 a workweek during the past three years?"

8 Do you see that question?

9 **A Yes.**

10 Q And what was your response to that?

11 **A The one that I put in there, "Prior years included as  
12 compensations" --**

13 MR. LARKIN: It's just a yes-or-no  
14 question.

15 **THE WITNESS: Oh, okay.**

16 So have you ever worked more than 40 hours in a  
17 workweek?

18 I believe some of them did.

19 Q (By Ms. Kincaid) And in Subsection A, can you read  
20 the additional response that you included there?

21 **A "Prior years included as compensations currently shown  
22 on a pay stub. Agreement with employees change due to  
23 prior agreement was too costly for company."**

24 Okay. So I was understanding this -- you see,  
25 the agreement that Roberto made with employees was to

1 pay the amount that included everything. That's why  
2 they were getting bonus, and that's why they -- if you  
3 do the calculations, all the employees got paid  
4 correctly and accurately. All of them. Even if you  
5 go and put over time, they will have more money. I  
6 calculated this for about two or three employees.

7 The employees will get even more money, including  
8 overtime, they will get extra money in their pockets  
9 because the way Roberto and the labor and the  
10 employees agree was to have a fixed amount.

11 Later on, that was changed to just the hourly  
12 rate and the overtime, later.

13 Q And so when you came --

14 A At the beginning it was this way. This was too  
15 costly. To do it this way was too costly for the  
16 company. The company was paying a lot of money, and a  
17 lot of money reporting to IRS and L&I and all of  
18 those, a lot of money.

19 And that's why they were probably changed to --  
20 and "they," I mean Roberto, changed to the hourly rate  
21 and the overtime because hourly rate and overtime is  
22 less costly than the full amount he was paying them  
23 before. And that's what he says there, employees  
24 changed due to prior agreement was too costly for  
25 company, and it was too costly, yeah. Every employee

1 got a very good deal with extra money. Paid overtime,  
2 paid everything.

3 MR. LARKIN: Okay.

4 THE WITNESS: I got excited about  
5 this. I'm sorry.

6 MS. KINCAID: That's all right.

7 THE WITNESS: I know they change it  
8 to the way it should have been in the very beginning.  
9 But the employees do not want to work. The labor did  
10 not want to work unless it was for the fixed amount.  
11 And that was benefit for them but no benefit for the  
12 company. So I'm glad later on it was changed.

13 Q (By Ms. Kincaid) Okay. And so if I understood your  
14 testimony from earlier, Roberto was an employee of  
15 Baja Canada; correct?

16 A An employee, no. I mentioned that I believe he's more  
17 like a partner, not an employee of Canada. I believe  
18 it's more like a partner because he had power for  
19 doing all of this.

20 Q But you also said earlier that you weren't sure  
21 whether he was a partner; you just assumed that based  
22 on certain information?

23 A Based on the power that he had, the decisions he was  
24 making, I don't think -- I don't think he ever an  
25 employee of Baja Ltd. in Canada. No, I think he's

1           probably with the deductions in that report that you  
2           guys show earlier. I'm assuming that's the attach  
3           report.

4                           MR. LARKIN: Just read it.

5                           THE WITNESS: "Per attached report,  
6           you can see deductions are either payroll advances or  
7           personnel items purchased by the company credit card  
8           and deducted in the employee paychecks per their  
9           request. Some employees run out of funds and request  
10          the supervisor personal help with shoes, flight  
11          tickets, et cetera, and the supervisor is using the  
12          company credit card for this type of payroll advances.  
13          We do not have any complaints from any employee  
14          regarding the deductions. The use of the company  
15          credit card to purchase items for employees is  
16          discontinued. Currently, the company is giving  
17          payroll advances and loans to employees if they  
18          qualify. Company policy does not include benefits for  
19          any living costs."

20       Q       Okay. Thank you, Ms. De Armas. You can stop reading  
21       there.

22                       So you mentioned a supervisor in this paragraph.

23                       Who are you referring to there?

24       A       Well, when they are -- the laborers, the people that  
25       is hired, there are hired people. They have different

1 levels. We see this in payroll. We see what is the  
2 labor, we see what is the finishers, we see what is  
3 the helper, and we see what is supervisor. So some of  
4 them were supervisors.

5 Q Okay. So when you say "some of them," you're saying  
6 some of the Baja USA employees were supervisors?

7 A Yeah. The ones that we run in payroll. Some of them  
8 supervisors, were in charge.

9 Q And who was running payroll?

10 A Baja -- Roberto had sometimes people in two projects  
11 at the same time. So there was somebody in charge in  
12 one, and he probably was at the other one. I don't  
13 know. But they were supervisor, personal among those  
14 employees.

15 Q And so you say the supervisor is using the company  
16 credit card.

17 So did someone other than Roberto Contreras have  
18 access to Baja USA's credit card?

19 A Yeah.

20 Q And who would that have been?

21 A Well, I'm trying to remember the name, but I can give  
22 it to you. I can see the records. Because there  
23 aren't very many people, so I need to -- I think one  
24 of them -- wow, it's a guy from -- let me see if I can  
25 remember his name. But if I review the payroll, I can

1                   Were the services that Roberto Contreras was  
2                   providing, were they for Baja USA's benefit?

3       **A**       **Yeah. Well, that's an agreement between -- it needs**  
4                   **to be very clear: Roberto belongs to the Canadian**  
5                   **company, Ltd. The Canadian company and Claudia here**  
6                   **in Baja Concrete USA had an agreement.**

7                   They sent Roberto from Canada to hire the people.  
8                   The Canadian company hire the people and do all of the  
9                   work here. They hire, they fire, they located, they  
10                  do whatever, okay. And, of course -- of course, the  
11                  Canadian company bill -- invoice Baja Concrete USA for  
12                  all the time because they will pay Roberto Contreras  
13                  in Canada.

14       **Q**       **Ms. De Armas, that's still not my question.**

15                  My question is -- and it sounds like you were  
16                  starting to answer but maybe you were taking back your  
17                  answer, so I just want to clarify.

18                  Were the services that Roberto Contreras was  
19                  providing to -- under this agreement for Baja USA's  
20                  benefit?

21       **A**       **Of course, Baja USA.**

22       **Q**       **Okay.**

23       **A**       **But it wasn't Roberto Contreras directly. It was the**  
24                   **company. He's representing a company.**

25       **Q**       **Understood.**

# EXHIBIT 5



BEFORE THE SEATTLE OFFICE OF LABOR STANDARDS

INTERVIEW STATEMENT

INTERVIEWEE: Johnathan Ivan Parra Ponce (non-disclosure)  
Rachael Scheibert (Interpreter)

ADDRESS:

PHONE (HOME) (WORK) NA

**NO PERSON MAY RETALIATE AGAINST YOU FOR TESTIFYING IN THIS INVESTIGATION**

The Seattle Labor Standards Ordinances prohibit discrimination or retaliation against a person who assists in an investigation by the Seattle Office of Labor Standards. If you experience discrimination or retaliation because you testified in this investigation, please contact the Seattle Office of Labor Standards at (206) 684-4500.

In most circumstances, you have a right to a private interview with OLS. If you want another person to be present during the interview, please discuss that request with the Investigator.

I give the following statement as a response to questions asked of me regarding this case by the Seattle Labor Standards Investigator, Daron Williams, in a personal interview on January 29, 2020:

**Background**

OLS's role is to serve as a neutral and objective fact-finder. Investigators do not advocate or represent either party, but gather and analyze information and then apply the law to determine if there's been a violation of the Seattle Labor Standards Ordinances.

The **purpose of this interview** is to gather more information to determine if a violation of the ordinance has occurred.

Based on the answers to my questions, I will draft an **interview statement**. I will send it to you for your review. If anything is incorrect or inaccurate, please mark through and change it, then sign it and send it back to me. This statement is certified under **penalty of perjury**, so please ensure it is accurate and complete.

This statement is **subject to public disclosure laws**.

**Q: Do you understand what public disclosure means?**

1 **Yes/No Non-disclosure**

2 You should also know that no person may retaliate against you for testifying in this  
3 investigation and you have a right to a private interview.

4 **Q: Do you understand what retaliation means?**

5 **Yes/No**

6 You have the right to have **legal representation** during the investigation. In most cases,  
7 you have the right to private interview. You may also voluntarily request that someone be  
8 present during this interview.

9 **Q: Would you like to request that anyone be present?**

10 **Yes/No**

11 **Background on Interviewee**

12 Q: When did you start working for the company?

- 13 - I started around November 2, 2018.

14 Q: When was your last day with the company? (if applicable)

- 15 - I left around November 1, 2019.

16 Q: List all the projects including dates that you worked on over the past three years.

- 17 - February – March 2019. Majority of my work was on Denny Way, we were  
18 building two towers that were condos in one but they were apartments.  
19 Currently, they are still building it. It's on the corner of Fairview Ave. N and  
20 Denny Way. However, from February – March 2019 I was working in  
21 Bellevue. Newway and Onni are the main owners of the Project, but we are  
22 closely connected to Newway. The only two group of employees on the  
23 project was Newway and Baja. We have around 20-25 employees at Baja.  
24 Newway also had a project in Bellevue moved us there when they needed help  
25 (Feb – March 2019). The owner of Baja Concrete is in Miami but the  
26 (foreman/operations manager) is Chilean and his name is Roberto Soto  
27 Contereas, he is leading the operations here. The owner of Newway is in  
28

Canada and his name is Tony. Baja has Cement, Laborers and carpenters.

Roberto would pay for 60 hours but at the regular rate but not overtime.

Q: How were you paid?

- I get paid by direct deposit. I started \$18, then it went to \$20, to \$21 and then to \$22 an hour. I was told I was paid by the hour. I would work 55 or 65 hours a week. They put 7 or 8 dependents on my taxes and change my name on my taxes as Ivan Alejandro Ponce. Roberto charged us for gas and parking, typically \$50. We had to pay for our own supplies, mask, hammer, and the tool used to iron down cement.

Q: How often were you paid?

- Every 15 days.

Q: For payroll purposes, when did the week start/when did the week end?

- I think Tuesday is when the work week would start.

Q: Were pay checks stubs provided? How? What type? (do you have copies)

- Yes, I did and I have some copies.

Q: What benefits did you receive?

- We did not receive anything. I know he didn't treat as well if we were sick.

Q: How was overtime paid? (Time and one-half after 8 in a day or 40 in a week, comp time, not at all).

- I was never paid overtime.

Q: Did you receive any bonuses?

- Not that I know of.

Q: Were you paid for all the hours you worked?

- No

1  
2 **Background on Interviewee job duties**

3  
4 Q: Who directed your work?

5 - Roberto.

6 Q: Who hired you?

7 - Roberto.

8 Q: How many employees worked for this company?

- 9  
10 - There are around 20 employees. There are employees who have been there  
11 longer than me, for a few years. There are around 4 carpenters, 12 cement, 4  
12 laborers. When Baja first started, they only did concrete but changed to  
13 laborers to carpenters. The past couple of years there was around 50 people  
14 total who worked there.  
15 - We normally start around 7am but usually get there around 6:30am. Then the  
16 workers would leave at 4:30-5:30pm. The cement and laborers would  
17 sometimes arrive 3:30am – leave around 7pm a few times a week. Roberto has  
18 been threatening us, so a lot of workers are scared. Newway's owner is the  
19 Godfather of the owner of Baja Concrete (Carlos).

20 Q: How often do employees work in Seattle?

21 - Pretty much the whole time is in Seattle.

22 Q: Were there any employees under 18 years of age working for the company?

23 - No.

24 Q: List all employees and include phone numbers of any employees not paid  
25 correctly

26 **Wage Theft Ordinance Questions**

1 Q: Do you report to the shop or the jobsite each day?

- 2 - We all lived in surrounding apartments so he would pick us up or we would  
3 report to his house. There were a few minivans and people in cars as well  
4 driving us to work each day.

5 Q: What time did you generally start?

- 6 - Would start around 7am but usually get there around 6:30am.

7 Q: What time did you generally get off?

- 8 - I would leave around 5:30pm. Occasionally we would work until 3:30pm but  
9 that is once every couple of days. We would be done once Roberto is done.

10 Q: What days of the week did you work?

- 11 - Typically, 6 days a week. Monday – Saturday.

12 Q: How long and how many breaks did you take each day?

- 13 - We were given two breaks, one from 10am - 10:30am, then the other 12:30pm  
14 -1pm one was paid each time. It would be the same amount of breaks and time  
15 each day regardless if it was an 8-hour day or a 14-hour day. Typically, three  
16 days a week we never get a break once (days we started at 3:30am). On those  
17 days we would just eating crackers from our pockets.

18 Q: What do you do as soon as you get to work?

- 19 - We know what we have to do as soon as we get there, occasionally we would  
20 meet in the morning and be told what we need to do.

21 Q: Who kept track of the hours your worked?

- 22 - Roberto kept track of the hours. We have a witness who was the direct  
23 foreman of Newway, who knew we were working too many hours and not  
24 getting paid. His name was **Government's Informant** and he was the foreman of  
25 Newway from **Government's Informant**

26 Q: What were the hours documented on?

- 1 - Roberto would have us fill out a form of how many hours you worked at the  
2 end of the day and then we signed it and gave it back to him at the end of the  
3 week. It was a sheet for a week and we would receive it on Monday or  
4 Wednesday. We did that for about 2 months (Nov 2018 – February 2019).  
5 Then after that he would tell you to record it on your phone and keep your  
6 own record. He would ask for it every 15 days. We usually sent that to him via  
7 the Whatsapp app or text.

8 Q: Did you record all the hours that you worked?

- 9 - I would record them on my phone for two months. Usually one person from  
10 the group (in the minivan group) sometimes would record hours.

11 Q: Were the hours recorded accurate?

- 12 - No, they weren't.

13 **Paid Sick and Safe Time Ordinance Questions**

14  
15 Q: Did your company have a paid sick leave policy?

- 16 - No, he said something paying for medical insurance. When I was sick one day  
17 (in the winter) he punished me for being sick. He wouldn't let me work the  
18 next day because I called out sick. This happened to a lot of people, but one  
19 worker was out of work for 10 days and they wouldn't let him come back to  
20 work for a week because he called in sick. The Godfather (Tony), through  
21 Roberto, would threaten our immigration status and say he would work to  
22 make sure we wouldn't get jobs anywhere else if we called in sick again. That  
23 they would call immigration (ICE) on us. I got hurt on the job once and was  
24 out for three days and was never paid for them (September 2019).

25 Q: Did you receive a written notice of a paid sick time policy?

- 26 - No.

27 Q: How much PSST did you receive?

1 - None.

2 Q: Did you accrue PSST as soon as you started?

3 - No.

4 Q: What is the process of calling in sick if you needed to?

5 - No process really, we would just call Roberto and say I'm sick today and  
6 can't go.  
7

8 **Q: Do you have any other questions about any of this?**

9 **Yes/No**

10 - What is the next steps?  
11

12 This statement was drafted at the time of the interview and edited by the Investigator for  
13 clarity and conciseness. This statement is not a transcript. By signing below, I  
14 acknowledge that I have been provided an opportunity to review and correct the accuracy  
of this statement based on my recollection of the interview.

15 I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE  
16 OF WASHINGTON THAT THIS STATEMENT IS TRUE AND CORRECT.

17 \_\_\_\_\_  
Date Signed

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on today's date.



1  
2 I declare under penalty of perjury under the laws of the United States that the foregoing is  
3 true and correct to the best of my belief.

4 Signed and DATED this 17<sup>th</sup> day of August 2022, in Seattle Washington.

5  
6 *s/Elena Maltos*

Elena Maltos, Legal Assistant  
ROCKE | LAW Group, PLLC