

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the matter of the Appeal of:)	Hearing Examiner File:
)	
BAJA CONCRETE USA CORP., ROBERTO)	No.: LS-21-002
CONTRERAS, NEWWAY FORMING INC., and)	LS-21-003
ANTONIO MACHADO)	LS-21-004
)	
from a Final Order of the Decision issued by)	RESPONDENT CITY OF SEATTLE'S
the Director, Seattle Office of Labor Standards)	WITNESS AND EXHIBIT LIST (FINAL)
)	

The City of Seattle and the Seattle Office of Labor Standards (collectively "City") intend to call the following witnesses and offer the following exhibits at the hearing beginning Monday, June 12, 2023. The City reserves the right to disclose additional witnesses and/or exhibits within 7 days from receipt of materials from the Appellants, including but not limited to: Witness and Exhibit Lists, responses to discovery requests, and additional information regarding the case.

The City reserves the right to call any witness identified by any other party, or introduce any exhibit identified by any other party, or to timely disclose additional witnesses and/or exhibits after receipt of materials or information from Appellants or other sources, including but not limited to, Witness and Exhibit Lists, responses to discovery requests, and additional information regarding the case.

I. WITNESS LIST

1. **Daron Williams, Senior Investigator**

Seattle Office of Labor Standards
c/o Asst. City Attorneys Lorna S. Sylvester and Trina Pridgeon
Seattle City Attorney's Office
701 Fifth Avenue, Suite 2050
Seattle, WA 98104
Email: lorna.sylvester@seattle.gov
trina.pridgeon@seattle.gov
cindi.williams@seattle.gov

Mr. Williams is expected to testify about the calculation of wages owed for each type of violation identified in the Findings of Fact, Determination, and Final Order. Mr. Williams is also expected to testify about information he received as a result of the Office of Labor Standards' investigation of Respondents in this matter.

Expected duration of testimony: 3-5 hours

2. **Ashley Harrison, Senior Investigator**

Seattle Office of Labor Standards
c/o Asst. City Attorneys Lorna S. Sylvester and Trina Pridgeon
Seattle City Attorney's Office
701 Fifth Avenue, Suite 2050
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cindi.williams@seattle.gov

Ms. Harrison is expected to testify about the calculation of wages owed for each type of violation identified in the Findings of Fact, Determination, and Final Order. Ms. Harrison is also expected to testify about information she received as a result of the Office of Labor Standards' investigation of Respondents in this matter.

Expected duration of testimony: 3-5 hours

3. **Katie Jo Keppinger, Enforcement Manager**

Seattle Office of Labor Standards
c/o Asst. City Attorneys Lorna S. Sylvester and Trina Pridgeon
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Ms. Keppinger is expected to testify about the assessment of liquidated damages, penalties, and fines in the Findings of Fact, Determination, and Final Order.

Expected duration of testimony: 1 hour

4. **Jonathan Ivan Parra Ponce, Worker at 1120 Denny Way**
c/o Asst. City Attorneys Lorna S. Sylvester and Trina Pridgeon
Seattle City Attorney's Office
701 Fifth Avenue, Suite 2050
Seattle, WA 98104
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Mr. Parra Ponce is expected to testify about the Baja Concrete/Newway Forming, Inc. working conditions at the 1120 Denny Way construction project. Mr. Parra Ponce's testimony regarding the working conditions is expected to include, but is not limited to, hours worked, payments, deductions, rest breaks, sick time, and supervisors/managers.

Expected duration of testimony: 3-4 hours

5. **Claudio Ivan Gamboa Lopresti, Worker at 1120 Denny Way**
c/o Asst. City Attorneys Lorna S. Sylvester and Trina Pridgeon
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Mr. Gamboa Lopresti is expected to testify about the Baja Concrete/Newway Forming, Inc. working conditions at the 1120 Denny Way construction project. Mr. Gamboa Lopresti's testimony regarding the working conditions is expected to include, but is not limited to, hours worked, payments, deductions, rest breaks, sick time, and supervisors/managers.

Expected duration of testimony: 2 - 3 hours

6. **Patricio Fernandez Borquez, Worker at 1120 Denny Way**
c/o Asst. City Attorneys Lorna S. Sylvester and Trina Pridgeon
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1 Mr. Fernandez Borquez is expected to testify about the Baja Concrete/Newway Forming, Inc.
2 working conditions at the 1120 Denny Way construction project. Mr. Fernandez Borquez's testimony
3 regarding the working conditions is expected to include, but is not limited to, hours worked,
payments, deductions, rest breaks, sick time, and supervisors/managers.

Expected duration of testimony: 2 – 3 hours

4 **7. Matias Catalan Toro, Worker at 1120 Denny Way**

5 c/o Asst. City Attorneys Lorna S. Sylvester and Trina Pridgeon
6 Seattle City Attorney's Office
701 Fifth Avenue, Suite 2050
7 Seattle, WA 98104
8 Email: lorna.sylvester@seattle.gov
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9 Mr. Catalan Toro is expected to testify about the Baja Concrete/Newway Forming, Inc.
10 working conditions at the 1120 Denny Way construction project. Mr. Catalan Toro's testimony
11 regarding the working conditions is expected to include, but is not limited to, hours worked,
payments, deductions, rest breaks, sick time, and supervisors/managers.

Expected duration of testimony: 2 – 3 hours

12 **8. Angel Martin Gomez Chavez, Worker at 1120 Denny Way**

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15 Seattle, WA 98104
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17 Mr. Gomez Chavez is expected to testify about the Baja Concrete/Newway Forming, Inc.
18 working conditions at the 1120 Denny Way construction project. Mr. Gomez Chavez's testimony
19 regarding the working conditions is expected to include, but is not limited to, hours worked,
payments, deductions, rest breaks, sick time, and supervisors/managers.

Expected duration of testimony: 2 – 3 hours

20 **9. Hector Amin Cespedes Rivera, Worker at 1120 Denny Way**

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1 Mr. Cespedes Rivera is expected to testify about the Baja Concrete/Newway Forming, Inc.
2 working conditions at the 1120 Denny Way construction project. Mr. Cespedes Rivera's testimony
3 regarding the working conditions is expected to include, but is not limited to, hours worked,
payments, deductions, rest breaks, sick time, and supervisors/managers.

4 Expected duration of testimony: 2 – 3 hours

5 **10. Luis Andres Arriagada Aguilera, Worker at 1120 Denny Way**

6 c/o Asst. City Attorneys Lorna S. Sylvester and Trina Pridgeon

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8 701 Fifth Avenue, Suite 2050

9 Seattle, WA 98104

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11 trina.pridgeon@seattle.gov

12 cindi.williams@seattle.gov

13 Mr. Arriagada Aguilera is expected to testify about the Baja Concrete/Newway Forming, Inc.
14 working conditions at the 1120 Denny Way construction project. Mr. Arriagada Aguilera's
15 testimony regarding the working conditions is expected to include, but is not limited to, hours worked,
16 payments, deductions, rest breaks, sick time, and supervisors/managers.

17 Expected duration of testimony: 2 - 3 hours

18 **11. John Edward Hinestroza Diaz, Worker at 1120 Denny Way**

19 c/o Asst. City Attorneys Cindi Williams and Lorna S. Sylvester

20 Seattle City Attorney's Office

21 701 Fifth Avenue, Suite 2050

22 Seattle, WA 98104

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trina.pridgeon@seattle.gov

Mr. Diaz is expected to testify about the Baja Concrete/Newway Forming, Inc. working
conditions at the 1120 Denny Way construction project. Mr. Diaz's testimony regarding the working
conditions is expected to include, but is not limited to, hours worked, payments, deductions, rest
breaks, sick time, and supervisors/managers.

Expected duration of testimony: 2 - 3 hours

12. Raul Alejandro Fiol Martinez, Worker at 1120 Denny Way

c/o Asst. City Attorneys Lorna S. Sylvester and Trina Pridgeon

Seattle City Attorney's Office

701 Fifth Avenue, Suite 2050

Seattle, WA 98104

Email: lorna.sylvester@seattle.gov

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cindi.williams@seattle.gov

1 Mr. Fiol Martinez is expected to testify about the Baja Concrete/Newway Forming, Inc.
2 working conditions at the 1120 Denny Way construction project. Mr. Fiol Martinez's testimony
3 regarding the working conditions is expected to include, but is not limited to, hours worked,
payments, deductions, rest breaks, sick time, and supervisors/managers.

Expected duration of testimony: 2 - 3 hours

4 **13. Jose Alfredo Acosta Caballero, Worker at 1120 Denny Way**

5 c/o Asst. City Attorneys Lorna S. Sylvester and Trina Pridgeon

Seattle City Attorney's Office

6 701 Fifth Avenue, Suite 2050

Seattle, WA 98104

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cindi.williams@seattle.gov

8 Mr. Acosta Caballero is expected to testify about the Baja Concrete/Newway Forming, Inc.
9 working conditions at the 1120 Denny Way construction project. Mr. Acosta Caballero's testimony
10 regarding the working conditions is expected to include, but is not limited to, hours worked,
payments, deductions, rest breaks, sick time, and supervisors/managers.

11 Expected duration of testimony: 2 - 3 hours

12 **14. Jose Ascension Estrada Parra, Worker at 1120 Denny Way**

c/o Asst. City Attorneys Lorna S. Sylvester and Trina Pridgeon

13 Seattle City Attorney's Office

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cindi.williams@seattle.gov

16 Mr. Estrada Parra is expected to testify about the Baja Concrete/Newway Forming, Inc.
17 working conditions at the 1120 Denny Way construction project. Mr. Estrada Parra's testimony
18 regarding the working conditions is expected to include, but is not limited to, hours worked,
payments, deductions, rest breaks, sick time, and supervisors/managers.

Expected duration of testimony: 2 - 3 hours

19 **15. Antonio Machado, Newway Superintendent**

c/o Allen McKenzie

20 Rocke Law Group, PLLC

500 Union Street, Suite 909

21 Seattle, WA 98101

Email: aaron@rockelaw.com

allen@rockelaw.com

Mr. Machado is expected to testify about the Baja Concrete/Newway Forming, Inc. working conditions at the 1120 Denny Way construction project. Mr. Machado's testimony regarding the working conditions is expected to include, but is not limited to, hours worked, payments, rest breaks, sick time, and supervisors/managers.

Expected duration of testimony is 2-3 hours.

16. Kwynne Forler-Grant, Newway Senior Manager

c/o Nicole Wolfe

OLES MORRISON RINKER & BAKER LLP

701 Pike Street, Suite 1700

Seattle, WA 98101

Email: wolfe@oles.com

Ms. Forler-Grant is expected to testify about the Baja Concrete/Newway Forming, Inc. working relationship, the working conditions at the 1120 Denny Way construction project, including all financials. Ms. Forler-Grant's testimony regarding the working relationship is expected to include, but is not limited to, invoices, payments, time clocks, timesheets, hours worked, rest breaks, sick time, and supervisors/managers.

Expected duration of testimony is 2-3 hours.

II. FINAL EXHIBIT LIST

Exhibit No.	Description
1	Forler-Grant Deposition - Newway Forming CR 30(b)(6) 05052022
2	Antonio Machado Deposition 02012022
3	De Armas Deposition – Baja Concrete USA 30(b)(6) 04262022
4	De Armas Affidavit (for deposition) 04262022
5	Daron Williams Deposition 02032022
6	Katie Jo Keppinger Deposition – OLS 30(b)(6) 04282022
7	Daron Williams Deposition – OLS 30(b)(6) 04282022
8	De Armas Deposition (individual) 05112022
9	Daron Williams Declaration – City's MSJ (no exhibits) 06292022
10	Newway Safety Sign-In Sheet 03212019
11	OLS Final Order - issued 08252021
12	Laura Hurley and Jonathan Parra Ponce Declarations (English/Spanish)
13	Paycheck Stubs - Cristhian Pelaez Ruiz
14	Paycheck Stubs - Alejandro Fiol

Exhibit No.	Description
15	Paycheck Stubs - John Hinestroz Diaz
16	Paycheck Stubs - Claudio Gamboa
17	Paycheck Stubs - Hector Cespedes Rivera
18	Paycheck Stubs - Matias Catalan Toro
19	Paycheck Stubs - Patricio Fernandez Borquez
20	Paycheck Stubs - Luis Andres Arriagada Aguilera
21	Paycheck Stubs - Jose Estrada Parra
22	Paycheck Stubs - Jose Acosta Caballero
23	Paycheck Stubs – Ivan Ponce_Redacted
24	Paycheck Stubs – Angel Gomez Chavez
25	Machado OLS Interview Notes
26	Angel Gomez Chavez Deposition 02142023
27	Angel Gomez Chavez Deposition Corrections 03102023
28	Jonathan Parra Ponce Deposition 02142023
29	Jonathan Parra Ponce Deposition Corrections 03102023
30	Matias Catalan Toro Deposition 02172023
31	Matias Catalan Toro Deposition Corrections 03152023
32	John Edward Diaz Deposition 02172023
33	John Edward Diaz Deposition Corrections 03192023
34	Baja Invoices and Timesheets 02022018 - 12222018
35	Baja Invoices and Timesheets 12302018 - 12282019
36	Baja Invoices and Timesheets 01132020 - 07112020
37	Baja USA Invoice 055 dated 05082020
38	Baja USA deductions and contributions
39	Baja Payroll Summary - June 2020
40	Baja Payroll Summary - July 2020
41	Baja Payroll Summary - August 2020
42	Baja Responses to OLS RFI
43	Baja Complaint v Newway KCSC Case 22-2-04760-7

Exhibit No.	Description
44	Newway Answer_Counterclaim v Baja KCSC case 22-2-04760-7
45	Baja Answer v. Newway KCSC case 22-2-04760-7
46	Paycheck Stubs – Antonio Yevenes
47	Paycheck Stubs – Bulfrano Brito
48	Paycheck Stubs – Cristian Navejas
49	Paycheck Stubs – David Giron
50	Paycheck Stubs – David San Roman Mendo
51	Paycheck Stubs – Diego Rojas Villaseca
52	Paycheck Stubs – Edison Chimborazo Macas
53	Paycheck Stubs – Emeterio Collins Lopez
54	Paycheck Stubs – Evelio Alvarez Ruiz
55	Paycheck Stubs – Gabriel Rios Ortiz
56	Paycheck Stubs – Gerardo Guzman Barragan
57	Paycheck Stubs – Gerardo Valencia
58	Paycheck Stubs – Israel Avila Gasca
59	Paycheck Stubs – Javier Alfaro Perez
60	Paycheck Stubs – Jesus Ramon Castro Mendoza
61	Paycheck Stubs – Jose Alvarez Rodriguez
62	Paycheck Stubs – Jose Vega Hernandez
63	Paycheck Stubs – Josue Osuna Tallabas
64	Paycheck Stubs – Julio Caballero Pacheco
65	Paycheck Stubs – Lucas Ayala_Redacted
66	Paycheck Stubs – Luis Fernandez Rosas
67	Paycheck Stubs – Luis Garcia_Redacted
68	Paycheck Stubs – Manuel Camus Valdes
69	Paycheck Stubs – Marco Villasenor Harbolte
70	Paycheck Stubs – Martin Ayala Ochoa
71	Paycheck Stubs – Miguel Alfaro Pinto
72	Paycheck Stubs – Noe Rios Estrada

Exhibit No.	Description
73	Paycheck Stubs – Ramon Duenas Gomez
74	Paycheck Stubs – Raul Hiraes Cuevas
75	Paycheck Stubs – Roberto Hiralez Colin
76	Paycheck Stubs – Roberto Lopez Hernandez
77	Paycheck Stubs – Ruben Gonzalez
78	Pay stub – Antonio Machado \$4878
79	Email - Forler-Grant to Claudia 12312020
80	Email Roberto to Newway 10262020
81	Email Forler-Grant 09172019 Baja Concrete
82	Email Forler-Grant 06152020 Baja Concrete
83	Email Forler-Grant L&I 09162019
84	Email Forler-Grant fine payment 05272020
85	Email Forler-Grant Baja sign in 09182019
86	Email Forler-Grant Baja Timesheets 04182019
87	Email Forler-Grant Baja payments 02112020
88	Email Forler-Grant Time clock 01142021
89	Email Nancy Chin Payments 12042019
90	Email Mercedes De Armas Worker's Comp 06182020
91	Newway Responses to RFI 06122020
92	Claudia Penunuri Contact Information
93	Baja Articles of Incorporation
94	Claudia Penunuri Annual Report
95	Denny Way Project Information
96	Baja License L&I
97	Baja Annual Report SOS
98	Baja Certificate of Registration
99	Newway – Dept of Revenue
100	Newway Company Information
101	Newway Projects Information

Exhibit No.	Description
102	Denny Way Project Information
103	Notice to Seattle Employees
104	Baja NOI & RFI
105	Newway & Machado NOI & RFI
106	Declaration of D. Williams SDT 07162020
107	Emails OLS & Mercedes De Armas
108	OLS Subpoena Duces Tecum 07162020
109	Forler-Grant Email 2-9 payment 03112019
110	Forler-Grant Email re Subs with Payroll 04072020
111	Baja Employment letter – Ruben Gonzalez
112	Roberto Email to payroll 12162018
113	W4 Emeterio Collins Lopez
114	W4 Raul Hiraes Cuevas
115	W4 Jose Acosta Caballero
116	W4 Luis Arriagado Aguilera
117	W4 Jesus Castro Mendoza
118	Calculations Final Combined (condensed)
119	Calculations Final Combined
120	Calculations Avg Hourly Rate
121	Calculations Baja Payroll Summary
122	Calculations Hours Worked
123	Calculations Overtime – Min Wage COPYCBE
124	Calculations PSST
125	Calculations Color Key Notes
126	Calculations Min Wage
127	Calculations Overtime – Min Wage
128	Newway Safety Sign In Sheets 2018
129	Newway Safety Sign In Sheet May 2018
130	Newway Safety Sign In Sheets 2019

Exhibit No.	Description
131	Newway Safety Sign In Sheets 2020
132	Email Newway Covid Updates
133	COVID Safety Sign In May 2020
134	Parra Ponce OLS Interview Statement 01292020
135	Forler-Grant Email RFI Responses 06122020
136	Forler-Grant RFI Responses (email attachment)
137	Claudio Gamboa OLS Interview Notes (redacted) 01292020
138	Patricio Fernandez Borquez OLS Interview Notes 02122020
139	Matias Catalan OLS Interview Notes 02192020
140	Angel Gomez Chavez OLS Interview Notes 03082020
141	John Diaz OLS Interview Notes 03152019
142	Newway Employee Handbook
143	Newway Timecards - March 2020
144	Baja Payroll Summary June 2018 – July 2020
145	Newway Safety Sign in Sheet 07152019
146	Newway Safety Sign in Sheet 03232020
147	Newway Safety Sign in Sheet 10022018
148	Newway Safety Sign in Sheet 12182018
149	Baja Invoices and Time Sheets – Fairview 06132019 - 12112020
150	Newway Timecards – Noe Rios
151	Newway Timecards – Marco Alvarez

[SIGNATURE ON THE FOLLOWING PAGE]

1 DATED this 24th day of May, 2023.

2 ANN DAVISON
3 Seattle City Attorney

4 By: /s/Lorna S. Sylvester
5 **Cindi D. Williams, WSBA #27654**
6 **Lorna S. Sylvester, WSBA #29146**
7 **Trina L. Pridgeon, WSBA #54697**
8 Assistant City Attorneys
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10 Seattle, Washington 98104-7097
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14 *Attorneys for Respondent,*
15 *The Seattle Office of Labor Standards*
16
17
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19
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21
22
23

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury under the laws of the State of Washington that, on this date, I caused to be served a true and correct copy of the foregoing document, **Respondent City of Seattle's Witness and Exhibit List (Final)** on the parties listed below and in the manner indicated:

Nicole Wolfe
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Seattle, WA 98101
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Newway Forming Inc.*

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Antonio Machado*

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the foregoing being the last known addresses and email address of the above-named party representatives.

Dated this 24th day of May, 2023, at Seattle, Washington.

/s/Natasha Iquina
NATASHA IQUINA