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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:

BAJA CONCRETE USA CORP., ROBERTO
CONTRERAS, NEWWAY FORMING, INC.,
and ANTONIO MACHADO

from a Final Order of the Decision issued
by the Director, Seattle Office of Labor Standards

Hearing Examiner File Nos.:

LS-21-002
LS-21-003
LS-21-004

**APPELLANT NEWWAY FORMING,
INC.'S WITNESS AND EXHIBIT LIST**

Appellant Newway Forming, Inc. ("Newway") identifies the following witnesses and
exhibits that may be offered at the hearing beginning on June 12, 2023.

I. WITNESS LIST

Newway lists below the witnesses it may call at the hearing:

- 1. Kwynne Forler-Grant**
C/O Oles Morrison Rinker Baker LLP

Expected length of testimony: 2 hours

Summary of testimony: Ms. Forler-Grant is the Senior Manager for Newway. She
will testify about the organizational set up of Newway, along with the work that
Newway performs. Ms. Forler-Grant will testify about the policies and procedures

1 for its own employees. She will also testify about Newway's policies and practices
2 for managing its work provided to general contractors, subcontractors, duties of
3 foreman and supervisors. She will testify about the role of Newway's
4 subcontractors and the construction industry.

5 Ms. Forler-Grant will testify about Newway's relationship with Baja Concrete USA
6 Corp. ("Baja"), Baja Concrete LTD., Roberto Soto Contreras, Antonio Machado,
7 and the subject workers, including but not limited to any agreements. She will
8 testify about the communications and correspondence exchanged between the
9 parties.

10 Ms. Forler-Grant will testify about the work performed by the subject work sites
11 during the relevant time period. She will testify regarding facts pertinent to the
12 OLS' contention that Newway was a joint employer of the subject workers at issue.

13 Ms. Forler-Grant will also testify about the OLS investigation and Newway's
14 cooperation and response, including but not limited to any
15 interactions/communications with OLS.

16 Ms. Forler-Grant will provide testimony to support the authenticity and
17 admissibility of any exhibits in the event that there are objections to the
18 admissibility of any documentary evidence.

19 **2. Sal Giantomaso**
20 **C/O Oles Morrison Rinker Baker**

21 **Expected length of testimony: 1 hour**

22 **Summary of testimony:** Mr. Giantomaso is the President and Owner of Newway
23 Forming, Inc. He will testify about the history of Newway along with its current
24 projects, including but not limited to the Denny Way site. He will also testify about
25 the organizational set up of Newway, along with the work that Newway performs.
26 He will testify about the OLS investigation and determination, and the impact
thereof. He will also testify about Newway's policies and practices for managing
its work provided to general contractors, subcontractors, duties of foreman and
supervisors. He will testify about the role of Newway's subcontractors and the
construction industry. He will testify regarding facts pertinent to the OLS'
contention that Newway was a joint employer of the subject workers at issue.

He will testify about Newway's relationship with Baja Concrete USA Corp.
("Baja"), Baja Concrete LTD., Roberto Soto Contreras, Antonio Machado, and the
subject workers, including but not limited to any agreements. He will also testify
about the OLS investigation and Newway's cooperation and response, including
but not limited to any interactions/communications with OLS.

1 Mr. Giantomaso may also provide testimony to support the authenticity and
2 admissibility of any exhibits in the event that there are objections to the
3 admissibility of any documentary evidence.

4 **3. Adam Pilling**
5 **C/O Oles Morrison Rinker Baker LLP**

6 **Expected length of testimony: 1 hour**

7 Mr. Pilling was a superintendent for Newway. He may testify regarding the
8 operation of the Newway sites, and regarding facts pertinent to the OLS' contention
9 that Newway Forming, Inc. is a joint employer of the subject employees.

10 Mr. Pilling may also provide testimony to support the authenticity and admissibility
11 of any exhibits in the event that there are objections to the admissibility of any
12 documentary evidence.

13 **4. Antonio Machado**
14 **C/O Rocke Law Group, PLLC**

15 **Expected length of testimony: 1 hour**

16 **Summary of testimony:** Mr. Machado may be called to testify regarding facts
17 pertinent to the OLS' contention that Newway Forming, Inc. is a joint employer of
18 the subject employees.

19 He may also provide testimony to support the authenticity and admissibility of any
20 exhibits in the event that there are objections to the admissibility of any
21 documentary evidence.

22 **5. Katie Jo Keppinger**
23 **C/O Seattle City Attorney**

24 **Summary of testimony:** Ms. Keppinger will be called to testify as to all aspects of
25 the OLS investigation of Appellants, including the interviews with the subject
26 workers, the determination, and fines assessed.

She may also provide testimony to support the authenticity and admissibility of any
exhibits in the event that there are objections to the admissibility of any
documentary evidence.

Expected length of testimony: 1 hour

1 **6. Daron Williams**
2 **C/O Seattle City Attorney**

3 **Summary of testimony:** Mr. Williams will be called to testify as to all aspects of
4 the OLS investigation of Appellants, including the interviews with the subject
5 workers, the determination, and fines assessed.

6 He may also provide testimony to support the authenticity and admissibility of any
7 exhibits in the event that there are objections to the admissibility of any
8 documentary evidence.

9 **Expected length of testimony: 1 hour**

10 **7. Ashley Harrison**
11 **C/O Seattle City Attorney**

12 **Summary of testimony:** Ms. Harrison will be called to testify as to all aspects of
13 the OLS investigation of Appellants, including the interviews with the subject
14 workers, the determination, and fines assessed.

15 She may also provide testimony to support the authenticity and admissibility of any
16 exhibits in the event that there are objections to the admissibility of any
17 documentary evidence.

18 **Expected length of testimony: 1 hour**

19 **8. Mercedes De Armas**
20 **C/O MDK Law**

21 **Summary of testimony:** Ms. De Armas may be called to testify regarding facts
22 pertinent to the OLS' contention that Newway Forming, Inc. is a joint employer of
23 the subject employees. She will also testify about the relationship between
24 Newway, Baja, Machado, and Roberto Soto Contreras. She will also testify about
25 the OLS determination and Baja's response thereto.

26 She may also provide testimony to support the authenticity and admissibility of any
27 exhibits in the event that there are objections to the admissibility of any
28 documentary evidence.

29 **Expected length of testimony: 1 hour**

30 **9. Claudia Peninuri**
31 **C/O MDK Law**

1 **Summary of testimony:** Ms. Peninuri will be called to testify regarding facts
2 pertinent to the OLS' determination, including Baja's employment and
3 involvement with the workers at the subject worksites. She will also testify about
4 the relationship between Newway, Baja, Machado, and Roberto Soto Contreras.
5 She will also testify about the OLS determination and Baja's response thereto.

6 She may also provide testimony to support the authenticity and admissibility of any
7 exhibits in the event that there are objections to the admissibility of any
8 documentary evidence.

9 **Expected length of testimony: 1 hour**

10 **10. Johnathan Ivan Parra Ponce**
11 **C/O Seattle City Attorney**

12 **Summary of testimony:**

13 Mr. Parra Ponce will be called to testify about his personal knowledge relating to
14 his employer, Baja, as well as Newway, Machado, and Roberto Soto Contreras. He
15 will testify about the subject worksite, and will testify about all facts pertinent to
16 the OLS determination.

17 He may also provide testimony to support the authenticity and admissibility of
18 any exhibits in the event that there are objections to the admissibility of any
19 documentary evidence.

20 **Expected length of testimony: 30 minutes**

21 **11. Angel Martin Gomez Chavez**
22 **C/O Seattle City Attorney**

23 **Summary of testimony:** Mr. Gomez Chavez will be called to testify about his
24 personal knowledge relating to his employer, Baja, as well as Newway, Machado,
25 and Roberto Soto Contreras. He will testify about the subject worksite, and will
26 testify about all facts pertinent to the OLS determination.

 He may also provide testimony to support the authenticity and admissibility of any
 exhibits in the event that there are objections to the admissibility of any
 documentary evidence.

Expected length of testimony: 30 minutes

12. Matias Catalon Toros
 C/O Seattle City Attorney

Exhibit No.	Name
1	OLS Determination
2	Baja Business Card
3	Newway Organizational Chart
4	Baja Invoice to Newway
5	Newway Safety Sign-in Sheet
6	Email from K. Grant to Roberto (1/2/19)
7	Email from K. Grant to Roberto (9/16/19)
8	Email from K. Grant to Roberto (9/18/19)
9	Baja Employee Details
10	Baja Invoice to Newway
11	Email Casa Latina to OLS (1/10/2020)
12	Hinestroz Diaz Paystub
13	Baja Information Responses
14	L&I Paperwork – Gomez Chavez
15	L&I Paperwork – Parra Ponce
16	L&I Paperwork - Gamboa Lopresti
17	L&I Paperwork – Catalan Toro
18	Email thread De Armas to Williams (12/7/20)
19	Baja Letter Employment Gonzalez (10/21/18)
20	OLS Letter to Baja (5/22/2020)
21	OLS Letter to Newway (5/22/2020)
22	OLS Subpoena Duces Tecum
23	Williams Dec. SDT

24	Interview Notes – Machado
25	Interview Notes (5/13/2020)
26	Interview Notes - Ponce
27	Interview Notes - Catalan
28	Interview Notes (3/8/2020)
29	Interview Statement (3/8/2020)
30	Interview Notes – Gomez Chavez
31	Interview Summary - Borquez
32	Interview Notes – Gamboa
33	Interview Statement – Hinestroza Diaz
34	12/7/2020 Email De Armas to Williams
35	Check to Machado
36	Baja Registration Status
37	Baja Invoices to Newway
38	Baja Employee Paystubs
39	Baja Payroll Summaries
40	Newway OLS Response
41	Onni Answers to OLS Questionnaire

III. RESERVATION OF RIGHTS

Discovery is ongoing. Newway reserves the right to call additional witnesses and identify additional exhibits based on information and documents obtained in discovery. Newway further reserves the right to call any witness identified by the City of Seattle, Baja, and Machado, and the right to call rebuttal witnesses as circumstances warrant. Appellant reserves the right to offer additional exhibits for purposes of cross-examination or to rebut

1 testimony or evidence offered by the other parties.
2

3 DATED this 24th day of May, 2023.
4

5 OLES MORRISON RINKER & BAKER LLP

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12 *Attorney for Appellant Newway Forming Inc.*
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CERTIFICATE OF SERVICE

I hereby certify on Wednesday, May 24, 2023, I caused the foregoing document to be served on the persons noted below via the methods indicated:

Office of the Hearing Examiner The Hon. Ryan Vancil, Hearing Examiner 700 Fifth Avenue, Suite 4000 Seattle, WA 98104	<input checked="" type="checkbox"/> E-File <input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery/Legal Messenger <input type="checkbox"/> Facsimile <input type="checkbox"/> Email: Hearing.Examiner@seattle.gov
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DATED this 24th day of May, 2023.

OLES MORRISON RINKER & BAKER LLP

By: /s/ Christine J Smith

Legal Assistant