

NORTHERN CALIFORNIA

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LODI, CALIFORNIA 95240
[BY APPT. ONLY – NO SERVICE ACCEPTED]

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November 20, 2023

SENT VIA ONLINE FILING (<https://dir.tfaforms.net/308>)

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

West Coast Tank Lines, Inc.
17800 Comconex Rd.
Manteca, 95336

Re: Justin Titus (DOB [REDACTED] SSN: [REDACTED])

To whom it may concern:

This firm represents Justin Titus relating to his former employment with West Coast Tank Lines, Inc. (“WCTL”). In accordance with California Labor Code § 2699.3, this letter shall serve as Mr. Titus’ written notice to the Labor and Workforce Development Agency (“LWDA”) and WCTL regarding the following violations of the California Labor Code as well as the facts and theories supporting the same.

Throughout his employment with WCTL, Mr. Titus worked as a non-exempt employee who was paid hourly. During the last year and beyond, as to Mr. Titus and its other current and former employees, WCTL has:

1. Failed to Pay Minimum Wage – Because of WCTL’s unlawful compensation system, and in violation of Labor Code sections 1197 and 1182.12 et seq., WCTL’s non-exempt employees were routinely denied at least minimum wage for all hours worked. Specifically, WCTL would (a) refuse to pay its employees minimum wage for each hour worked, (b) impermissibly cut their time, and/or (c) not pay drivers who transported hazardous loads for time they were required to remain with their trucks, including lunch breaks.
2. Overtime – Because of WCTL’s unlawful compensation system, and in violation of Labor Code section 510, WCTL’s hourly, non-exempt employees were routinely underpaid for their overtime hours worked. Specifically, WCTL would either (a) refuse to pay its employees for each hour of overtime worked, (b) impermissibly cut time, (c) not pay drivers who transported hazardous loads for time they were required to remain with their trucks, including lunch breaks or (d) pay its employees only at their base rate of pay rather than their regular rate of pay. For example, Mr. Titus and WCTL’s other non-exempt employees were entitled to and

often earned non-discretionary bonuses and other items of compensation including, but not limited to non-discretionary bonuses and training pay (See **Exhibits A, B and C**). Notwithstanding the foregoing, these non-discretionary bonuses and other items of compensation were not factored into their “regular rate of pay” for the purposes of calculating his overtime rate (See **Exhibits C and D**).

3. Failed to Provide Meal Breaks and/or Pay Premiums –WCTL’s non-exempt employees routinely were not relieved of all duties for their meal breaks, were not timely provided meal breaks, were not provided uninterrupted meal breaks and/or were not provided the requisite number of meal breaks for the duration of their shifts. When its non-exempt, hourly employees were not provided compliant meal breaks, WCTL either (a) failed to pay the appropriate premiums or (b) failed to pay premiums at the employee’s regular rate of pay (taking commissions, non-discretionary bonuses, and other items of compensation into account).

4. Failed to Provide Paid Rest Breaks and/or Pay Premiums –WCTL’s non-exempt employees routinely were not relieved of all duties for their duty-free rest breaks, were not timely provided duty-free rest breaks, were not provided uninterrupted duty-free rest breaks and/or were not provided the requisite number of duty-free rest breaks for the duration of their shifts. When its non-exempt, hourly employees were not provided compliant rest breaks, WCTL either (a) failed to pay the appropriate premiums or (b) failed to pay premiums at the employee’s regular rate of pay (taking commissions, non-discretionary bonuses, and other items of compensation into account).

5. Failed to Pay Sick Pay at Correct Rates – Mr. Titus and WCTL’s other non-exempt employees were also entitled to sick pay. Any sick pay used appeared on their wage statements as “Hourly Sick”. WCTL failed to include commissions, non-discretionary bonuses, and other items of compensation when determining Mr. Titus and its other non-exempt employees’ regular rate of pay for purposes of sick pay, in violation of Labor Code section 246(l).

6. Failure to Furnish Accurate Itemized Wage Statements – Because of the violations set forth above, the wage statements furnished by WCTL to its non-exempt employees violated Labor Code section 226(a) insofar as they failed to:

- a. Accurately show the gross wages earned in violation of section 226(a)(1);
- b. Accurately show the total number of hours worked by the employee in violation of section 226(a)(2);
- c. Accurately show the net wages earned in violation of section 226(a)(5); and
- d. Accurately show all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate in violation of section 226(a)(9).

Separately, and apart from the above, the wage statements WCTL furnishes to its non-exempt employees violate Labor Code section 226(a) insofar as they fail to accurately show the total hours worked in violation of section 226(a)(2). Specifically, they list multiple different categories of earnings including, but not limited to: (1) “Straight Time”, (2) “Hourly Overtime”, (3) “Training Pay”, and (4) “Bonus. See **Exhibit D**. With respect to the hours worked during the pay period, the wage statements (a) inaccurately include all of the different

categories of earnings together under the heading “Qty” and (b) fail to accurately set forth the number of hours Mr. Titus and the other non-exempt employees actually worked. The wage statements also do not include a line item for “total hours worked” at all.

For Example, during the pay period of April 23, 2023, through May 6, 2023, Mr. Titus’ wage statement indicates that he worked 80:00 “Straight Time” hours, 29:12 “Hourly Overtime” hours, and 15:42 “Training Pay” hours, for a total of 124:54 “Qty”. See **Exhibit D**. Mr. Titus did not work 124:54 hours during the pay period. *Id.* If Mr. Titus or another of WCTL’s non-exempt employees sought to calculate the total number of hours worked during a pay period and added the hours listed under each of the aforementioned categories, the total hours worked would be incorrect. *Id.*; see *McKenzie v. Federal Exp. Corp.*, 275 F.R.D. 290, 292 (C.D. Cal. 2011).

7. Failure to Timely Pay Wages – Because Mr. Titus and WCTL’s other employees are not compensated for all of their minimum wage, overtime, and sick pay, are not compensated for the same at the appropriate rates, and do not receive appropriate premium pay associated with missed meal and rest breaks, they are not timely paid each pay period and at the end of their employment in violation of Labor Code Sections 201-204 and 210.

8. Failure to Reimburse for Business Expenses – Because Mr. Titus and WCTL’s other employees were required to use their personal cell phones both on and off the job to communicate with WCTL and their co-workers, they were not reimbursed in violation of Labor Code Section 2802.

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or my client.

If the LWDA does not intend to investigate these violations, Mr. Titus intends to file a civil complaint against WCTL, pursuant to the Labor Code Private Attorney General Act of 2004 (Labor Code §§ 2698 – 2699.5), on his behalf and, as a proxy for the LWDA, on behalf of aggrieved current and other former employees. Thank you for your attention in this matter.

Regards,

MAYALL HURLEY P.C.

By /s / Robert Wassermann
Robert Wassermann

Exhibits

EXHIBIT A

DRIVER BONUS POLICY

Revised 12/29/2021

V:4

Effective immediately West Coast Tank Lines will be paying a monthly bonus based on several criteria. We will be running monthly reports checking for Speeding, Hard Braking, Harsh Cornering, Harsh Acceleration, and Engine Abuse. The company will also continue to monitor for excessive tardiness (ie. More than 3 times), cell phone usage while driving and seat belt usage and signed certified driver schedule that actual meals and rest periods were taken during the pay period. West Coast Tank Lines will pay a \$2.00 per hour bonus plus overtime provided all of these criteria have been met and you do not cost the company any money i.e. tank overfill, contamination, wrecking company property or customer property. Also, if a driver leaves the company prior to a bonus payout the money is retained by the company.

Thank You for your continued service



Driver Signature

A handwritten signature in black ink, written over a horizontal line.

EXHIBIT B

West Coast Tank Lines Inc
17800 Comconex Rd
Manteca, Ca 95336

Justin Titus

Employee Pay Stub

Check number: 9567

Pay Period: 03/01/2023 - 03/31/2023

Pay Date: 04/21/2023

Employee

Justin Titus,

SSN

Earnings and Hours

	Qty	Rate	Current	YTD Amount
Bonus		596.56	596.56	596.56
Straight Time				9,440.00
Hourly Overtime				5,108.91
	0.00		596.56	15,145.47

Vacation

	Accrued	Used	Available
Current	0:00		1:32
YTD		15:24	

Taxes

	Current	YTD Amount
Medicare Employee Addl Tax		
Federal Withholding		
Social Security Employee		
Medicare Employee		
CA - Withholding		
CA - Disability Employee		

Net Pay

EXHIBIT C

West Coast Tank Lines Inc
17800 Comconex Rd
Manteca, Ca 95336

Justin Titus



Direct Deposit

Employee Pay Stub		Check number: DD4205		Pay Period: 02/26/2023 - 03/11/2023		Pay Date: 03/17/2023	
Employee				SSN			
Justin Titus, [REDACTED]				[REDACTED]			
Earnings and Hours		Qty	Rate	Current	YTD Amount	Direct Deposit	
Straight Time		80:00	31.00	2,480.00	4,480.00	Amount	
Hourly Overtime		11:50	46.50	550.25	1,357.13	Checking - *****7757 2,418.73	
		91:50		3,030.25	5,837.13	Vacation	
Taxes				Current	YTD Amount	Accrued	Used
Medicare Employee Addl Tax						Current	Available
Federal Withholding						YTD	
Social Security Employee							
Medicare Employee							
CA - Withholding							
CA - Disability Employee							
Net Pay							

West Coast Tank Lines Inc
17800 Comconex Rd
Manteca, Ca 95336

Justin Titus



Direct Deposit

Employee Pay Stub		Check number: DD4241		Pay Period: 03/12/2023 - 03/25/2023		Pay Date: 03/31/2023		
Employee				SSN				
Justin Titus, [REDACTED]				[REDACTED]				
Earnings and Hours		Qty	Rate	Current	YTD Amount	Direct Deposit		Amount
Straight Time		80:00	31.00	2,480.00	6,960.00	Checking - *****7757		2,927.88
Hourly Overtime		29:40	46.50	1,379.50	2,736.63			
		109:40		3,859.50	9,696.63	Vacation		
Taxes				Current	YTD Amount	Accrued	Used	Available
Medicare Employee Addl Tax						Current	0:00	1:32
Federal Withholding						YTD	15:24	
Social Security Employee						Memo		
Medicare Employee						Direct Deposit		
CA - Withholding								
CA - Disability Employee								
Net Pay								

West Coast Tank Lines Inc
17800 Comconex Rd
Manteca, Ca 95336

Justin Titus



Direct Deposit

Employee Pay Stub		Check number: DD4275		Pay Period: 03/26/2023 - 04/08/2023		Pay Date: 04/14/2023	
Employee				SSN			
Justin Titus, [REDACTED]				[REDACTED]			
Earnings and Hours		Qty	Rate	Current	YTD Amount	Direct Deposit	
Straight Time		80:00	31.00	2,480.00	9,440.00	Checking - *****7757	
Hourly Overtime		51:01	46.50	2,372.28	5,106.91		
		131:01		4,852.28	14,548.91	Vacation	
Taxes				Current	YTD Amount	Accrued	Used
Medicare Employee Addl Tax						0:00	
Federal Withholding							15:24
Social Security Employee							
Medicare Employee							
CA - Withholding							
CA - Disability Employee							
Net Pay						Memo	
						Direct Deposit	

EXHIBIT D

West Coast Tank Lines Inc
17800 Comconex Rd
Manteca, Ca 95336

Justin Titus

Direct Deposit

Employee Pay Stub		Check number: DD4345		Pay Period: 04/23/2023 - 05/06/2023		Pay Date: 05/12/2023	
Employee				SSN			
Justin Titus, [REDACTED]				[REDACTED]			
Earnings and Hours		Qty	Rate	Current	YTD Amount	Direct Deposit	
Straight Time		80:00	31.00	2,480.00	14,400.00	Checking - *****7757	
Hourly Overtime		29:12	46.50	1,357.80	7,695.86		
Training Pay		15:42	2.00	31.40	31.40	Vacation	
Bonus					596.56	Accrued	
		124:54		3,869.20	22,723.82	Used	
Deductions From Gross				Current	YTD Amount	Available	
Health Insurance (pre-tax)		[REDACTED]					
Taxes		[REDACTED]					
Medicare Employee Addl Tax		[REDACTED]					
Federal Withholding		[REDACTED]					
Social Security Employee		[REDACTED]					
Medicare Employee		[REDACTED]					
CA - Withholding		[REDACTED]					
CA - Disability Employee		[REDACTED]					
Adjustments to Net Pay		[REDACTED]					
GT Life Voluntary (after-tax)		[REDACTED]					
Net Pay		[REDACTED]					
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