

WHISARD Compliance Action Report

U.S. Department of Labor Wage and Hour Division

Case ID: 1837161 Originating District: Los Angeles District Office
Local Filing Number: 2018-231-09297 Investigating District: Los Angeles District Office
WHMIS Case Number: Lead Investigator: (b) (6), (b) (7)(C)
Registration Date: 10/30/2017
Assignment Date: 10/30/2017

Employer Information

Trade Name: U.S. Postal Service - Santa Clarita P&DC Legal Name: United States Postal Service
Address: 28201 Franklin Parkway EIN: 41-0760000
County: Ventura
NAICS Code: 491110
Piru, CA93040 No. Of Employees: 1000

Investigation Information

Period Investigated From: 11/21/2015 BNPI:
To: 11/20/2017 Reinvestigation:
Investigation Type: (b) (7)(E) Recurring Violation:
Investigation Tool: Limited Investigation Future Compliance Agreed:
Compliance Status: Agree to Comply Involved in AG:

Recommended Action:

BWFS: RO/NO Review:
CMP: Follow Up Investigation:
Litigation: Other Action:
Civil Action: Denial of Future Certificate:
Criminal Action: BW Payment Deadline:
Submit For Opinion: Trailer forms attached:

CL

Violation / Compliance Status	Violations	EEs ATP	BWs Computed	BWs Agreed	LDs Computed	LDs Agreed	CMPs*
CL Totals:	0	0	\$0.00	\$0.00	\$0.00	\$0.00	

FLSNM

Violation / Compliance Status	Violations	EEs ATP	BWs Computed	BWs Agreed	LDs Computed	LDs Agreed	CMPs*
FLSNM Totals:	0	1	\$0.00	\$0.00	\$0.00	\$0.00	

Total Violations Under FLSNM: 3 \$0.00

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** CMPs computed do not necessarily indicate CMPs assessed.*

Unduplicated Employees Found:	0	Unduplicated Employees Agreed:	0
Total Amount BWs Computed:	\$0.00	Total Amount BWs Agreed:	\$0.00
Total Amount LDs Computed:	\$0.00	Total Amount LDs Agreed:	\$0.00

Conclusions & Recommendations:

Reinvestigation of FLSANM. Firm is US Postal Service. Enterprise Cov. est as named gov. entity. Firm violated sec7r1a, 7r1b & 15a3. Firm agreed to comply. Letter of Warning was taken of (b) (6), (b) (7)(C) record. Attorney Catherine V. Meek is currently writing a nursing mothers' policy to be implemented and distributed to the establishment

WHI Signature: _____ Date: 01/25/2018

Reviewed By: _____ Date: _____

Trade Name: United States Postal Service
Legal Name: United States Postal Service
28201 Franklin Parkway
Santa Clarita, CA 91383

Case ID: 1837161
Case File: 2017-231-09297
EIN: 41-0760000
Phone: (661) 775-7000

**Fair Labor Standards Act – Nursing Mothers (FLSANM)
Narrative Report**

Coverage

3(s)(1)(c): Enterprise coverage of the firm was established. The United States Postal Services (USPSC) is an independent public agency.

Section 7(r)(3) Less Than 50 Employees: The firm has in excess of 50 employees and as such are subject to the nursing mothers' provisions as stated in section 7(r)(3) of the Fair Labor Standards Act (FLSA)

Reason for investigation: The case was initiated (b) (7)(E) (b) (6), (b) (7)(C) recently gave birth and states that (b) (6), (b) (7)(C) requested space from (b) (6), (b) (7)(C) employer to express (b) (6), (b) (7)(C) milk and was provided spaces that were not private and were dirty and did not provide the appropriate amenities. (b) (6), (b) (7)(C) also (b) (7)(E) (b) (6), (b) (7)(C) was not allowed an adequate number of times to pump each day and was eventually written up for exiting the workplace and pumping in (b) (6), (b) (7)(C) car for an hour (Ex B-1 & D-3).

Period for this Investigation: This is a limited investigation of the processing department that covers the period of November 21, 2015 to November 20, 2017. An initial conference was held November 20, 2017 with attorney Catherina Meek at the Long Beach Law Department of the United States Postal Service (Ex C-1).

Nature of Business: The United States Postal Service is an independent public agency that is tasked with delivering mail and parcel throughout the United States of America.

Business Structure: The United States Postal Service is led nationally by the Postmaster General. The current Postmaster General is a Ms. Megan Brennan. The local Santa Clarita Processing and Distribution Center is broken into two primary departments; the customer care department and the processing department (**Ex C-2**).

Branch Establishments: The United States Postal Service operates thousands of branches across the United States and its territories. The headquarters are located at:

475 L'Enfant Plaza SW
Washington, D.C. 20260

MODO Information: The MODO process applies The Baltimore District Office is the MODO. (b) (7) No specific instructions were given by the MODO.

Workforce: During the time of the initial conference the Santa Clarita P&DC employed approximately (b) (4) employees. This includes employees in the processing/distribution and customer service departments.

Interstate Commerce: Members of the processing and distribution department handle mail (postcards, letters, envelopes and packages) that are regularly shipped in interstate commerce. Mail processed through the facility arrives from out of state and the facility as processes mail to be sent out of state.

Annual Dollar Volume: The firm's annual gross dollar volume of sales for 2014, 2015 and 2016 has been in excess of \$500,000. The firm has reported its annual revenue for the 2016 fiscal year as \$71 billion (**Ex C-3**).

Section 3(d) Employer: (b) (6), (b) (7)(C) is the 3(d) employer as defined under the FLSA. (b) (6), (b) (7)(C)

regularly makes suggestions for employees to be terminated and also makes decisions on behalf of the company, including setting employee schedules.

Prior Investigation: This is the 19 investigation and/or (b) (7)(E) of the United States Postal Service by the Los Angeles District Office within the last five years. This includes FLSA, FMLA and FLSANM investigations. This is also the approximately 661th investigation of USPS by the Wage and Hour Division within the last five years. There are also four additional investigations simultaneously being conducted by the Los Angeles District Office. This includes Case I.D. 1833068, 1828239, 1820738 and 1816036.

Representative: During the course of the investigation the firm obtained the services of in-house counsel Catherine Meek and Tuyet T. Nguyen. Both Ms. Meek and Ms. Nguyen are attorneys for the Pacific Area Law Office of the United States Postal Service (Ex D-5).

Exemptions

Section 13(a)(1): Executive, Administrative or Professional Exemption: The nursing mother who is subject of the investigation was determined to not be exempt from the overtime provisions of the act. (b) (6), (b) works as a mail processing clerk and was paid an hourly rate. As such, (b) (6), (b) was not considered exempt from the nursing mother provisions of the FLSA found in section 7(r).

Status of Compliance

During the course of this investigation it was determined that the firm was in violation of the nursing mothers' provision of the Fair Labor Standards Act and its retaliation provisions. The firm violated §7(r)(1)(a), §7(r)(1)(b) and §15(a)(3). The firm violated the nursing mother provisions of the act by failing to provide a reasonable amount of break time and failing provide an adequate space for one nursing mother. Discussions with the firm determined that they did not have a policy in place that would allow for successful implementation of the nursing mothers' provision of the act. As a result, managerial staff often made mistakes and caused violations to occur when the need arose for a mother to express (b) (6), (b) milk. The firm eventually retaliated against the employee by reprimanding (b) (6), (b) for expressing (b) (6), (b) milk in (b) (6), (b) car.

Section 6 Minimum: This investigation was limited to the nursing mothers' provisions of the act.

Section 7 Overtime: This investigation was limited to the nursing mothers' provisions of the act.

Section 7(r)(1)(a) Reasonable Break Time for Nursing Mothers: During the course of the investigation the firm was determined to be in violation of this section of the FLSA. The firm violated this section of the act by failing to provide an adequate amount of breaks for one employee. Employee (b) (6), (b) (7)(C) (Ex B-1) required at least five breaks to express (b) (6), (b) (7)(C) milk during (b) (6), (b) (7)(C) shift, however, the supervising staff did not allow (b) (6), (b) (7)(C) to take the necessary amount of breaks and also limited (b) (6), (b) (7)(C) time to 15 minutes (Ex B-1). The supervisor who denied the additional breaks and limited (b) (6), (b) (7)(C) time was a (b) (6), (b) (7)(C) eventually was allowed to only express milk during (b) (6), (b) (7)(C) lunch and (b) (6), (b) (7)(C) paid breaks. Due to the limitations, (b) (6), (b) (7)(C) was forced to go to the restroom and express (b) (6), (b) (7)(C) milk into the toilet to relieve the pressure.

Section 7(r)(1)(b) Adequate Space for Nursing Mothers: During the course of the investigation the firm was determined to be in violation of this section of the FLSA. The firm violated this section by failing to provide an adequate space for one employee to express (b) (6), (b) (7)(C) milk. Specifically, the firm failed to provide employee (b) (6), (b) (7)(C) (Ex B-1) with a space that was free from intrusion and shielded from view from (b) (6), (b) (7)(C) coworkers. The firm also failed to provide a space that was sanitary.

The firm initially provided (b) (6), (b) (7)(C) with a sanitary space that was free from intrusion; this space was a room within a supervisor's office. However, the room was not always made available and (b) (6), (b) (7)(C) was forced to utilize other spaces to express (b) (6), (b) (7)(C) milk. These spaces included an employee locker room, a supervisor locker room and (b) (6), (b) (7)(C) personal vehicle. The employee locker room is an open space that all employees have access to. Employees are able to walk in and out of the locker room to store or retrieve personal items. The space also lacks tables and only has benches. (b) (6), (b) (7)(C) has claimed that (b) (6), (b) (7)(C) saw ants and cockroaches on at least one occasion and was also forced to pump on the floor due to the layout of the benches and power outlets. The supervisor's locker room is similar to the employee locker room with the exception that it is smaller and a keycard is required to gain access. However, the space is not free from intrusion and supervisors have free access to the space while (b) (6), (b) (7)(C) expressed milk.

(b) (6), (b) (7)(C) began using (b) (6), (b) (7)(C) personal vehicle to express (b) (6), (b) (7)(C) milk On September 9, 2017 and continued to do so until October 2, 2017. (b) (6), (b) (7)(C) began using the space because (b) (6), (b) (7)(C) believed it was easier and

more sanitary for (b) (6), (b) (7)(C) than the other available options.

Timeline

- (b) (6), (b) (7)(C): First Day Back to Work
- (b) (6), (b) (7)(C): Used Employees' Locker Room to Express Milk
- (b) (6), (b) (7)(C): Began Using Supervisor's Locker Room
- (b) (6), (b) (7)(C) Began Using (b) (6), (b) (7)(C) Personal Vehicle
- (b) (6), (b) (7)(C): Last Day Using Personal Vehicle & Reprimanded
- (b) (6), (b) (7)(C): Began Using Employee Locker Room Again

Section 11: This investigation was limited to the nursing mothers' provisions of the act.

Section 12: The firm was determined to be in compliance with the child labor provision of the FLSA.

Section 15(a)(3) Prohibitive Acts: The firm violated the prohibitive acts provision of the FLSA by retaliating against employee (b) (6), (b) (7)(C). The firm retaliated against (b) (6), (b) (7)(C) by reprimanding (Ex D-3) (b) (6), (b) (7)(C) for utilizing time to express (b) (6), (b) (7)(C) milk outside the Santa Clarita PD&C premises. The firm's failure to provide an adequate consistent space for (b) (6), (b) (7)(C) to nurse ultimately resulted in (b) (6), (b) (7)(C) choosing to nurse in (b) (6), (b) (7)(C) vehicle in the Santa Clarita P&DC parking lot (Ex B-1). As a result of taking both the time and choosing this space the firm gave (b) (6), (b) (7)(C) a seven day suspension (Ex D-3). This seven day suspension was eventually reduced to a letter of warning and was to remain on (b) (6), (b) (7)(C) record for a period of 9 months (Ex D-3a).

(b) (6), (b) (7)(C) was contacted on January 25, 2018 and informed of the findings of the investigations. (b) (6), (b) (7)(C) was informed that the firm was found to be in violation of section 7(r)(1) and section 15(a)(3).

Disposition

A final conference (Ex D-1) was held on January 24, 2018 at the Long Beach Post Office located at 300 Long Beach Blvd. The final conference was held with attorneys Tuyet Nguyen and Alex Roberson as lead attorney Catherine Meek was out of town.

WHI (b) (6), (b) (7)(C) briefly explained coverage and reiterated the investigative period with each of them. They were informed of the violations under section 7r, the nursing mothers' provision of the FLSA and the retaliation provisions. Ms. Nguyen stated she was taken off of the case by Catherine Meek and was unaware of the status of the investigation. However, WHI (b) (6), (b) (7)(C) informed her of the status of the investigation and also the violations that occurred and how they occurred. They were each informed that the firm violated section 7(r)(1)(a) and 7(r)(1)(b) by failing to provide reasonable break time and an adequate space for employee (b) (6), (b) (7)(C) to nurse. Ms. Nguyen and Mr. Roberson were also informed that (b) (6), (b) (7)(C) recently had an equal employment and opportunity mediation meeting and a decision was made between varying parties that the letter of warning that was placed on (b) (6), (b) (7)(C) record would be removed. WHI (b) (6), (b) (7)(C) requested Ms. Nguyen to provide proof that this agreement took place. Ms. Nguyen stated that she would pass the information along to Ms. Meek

During a previous meeting that took place on November 20, 2017 attorney Catherine Meek agreed to come into compliance with the FLSA nursing mothers' provision by ensuring that management staff at both the Santa Clarita P&DC and Los Angeles P&DC are aware of what the regulations are and how to implement and respond to requests to nurse. Ms. Meek then stated that she is currently working on an internal policy that can be distributed to management. The policy will include information that discusses the spaces that are available to nursing mothers, the amount of times a mother may express milk, the pay policy, milk storage locations, status of bona-fide exempt employees and more. However, Ms. Meek stated the policy will take some time to write and may require a formal review process. WHI (b) (6), (b) (7)(C) informed (b) (6), (b) (7)(C) that this was a good step in the right direction and requested (b) (6), (b) (7)(C) to provide a copy of the policy once an adequate draft has been devised.

On January 24, 2018 (b) (6), (b) (7)(C) provided documentation (Ex D-4) showing that (b) (6), (b) (7)(C) and the postal service reached a settlement agreement to have the seven day suspension notice that was reduced to a letter of warning removed from (b) (6), (b) (7)(C) record. This was to be removed from (b) (6), (b) (7)(C) record no later than January 12, 2018. The document was signed by (b) (6), (b) (7)(C), supervisors (b) (6), (b) (7)(C) representative Brian Conrad.

Recommendations: It is recommended that this case be administratively closed (b) (7)(E)

U.S. Postal Service - Santa Clarita P&DC Case ID: 1837161

Publications provided: FLSA, HRG, Fact Sheets 44, 73, and 77A and Federal Register Vol. 75 No. 244.

(b) (6), (b) (7)(C)

Wage and Hour Investigator
January 25, 2017