

Brian Nietsche,

Plaintiff,

versus

Foyoro Energy, LLC,

Defendant.

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Civil Action H-13-2797

Opinion on Default Judgment

1. Brian Nietsche worked as an oil field operator at Foyoro Energy, LLC, from April 3, 2013, until August 21, 2013. He says that Foyoro (a) did not pay him overtime for his first fifteen weeks of work and (b) did not pay him at all for his last six weeks of work.
2. On June 12, 2014, the clerk entered default against Foyoro Energy because it failed to plead or otherwise defend itself in this case. The court ordered Neitsche to produce specific data showing the hours that he worked like time cards, e-mails, or telephone records.
3. Neitsche instead produced parts of a handwritten time card, an unsigned contract, an unexplained receipt, and a credit card. Rather than substantiate his dubious claim that he worked 70 hours per week for twenty-one consecutive weeks, these records contradict and confuse it.
4. There were twenty, not twenty-one, weeks between April 3rd and August 21st. The only time card that Neitsche produced shows that he worked eight hours per day. Assuming this card is representative, he worked no more than 56 hours per week.

5. Neitsche's only other evidence – his self-serving affidavit – is wholly lacking in facts. At best, it is legal jargon piled on bad math. He does not tell the court basic facts like whether he routinely worked on the weekend, the nature of his work, if he worked at night, or where he worked. It beggars belief that Neitsche worked precisely seventy hours per week for twenty consecutive weeks. Work in an oil field is not this neat.

6. Neitsche will take \$3,045 from Foyoro – the unpaid wages for his last six weeks of work. He will also recover \$535 in court costs and \$2,500 in attorney's fees.

Signed on July 22, 2014, at Houston, Texas.

A handwritten signature in black ink, appearing to read 'Lynn N. Hughes', written over a horizontal line.

Lynn N. Hughes
United States District Judge