

FILED
ATTEST, VINCENT FIGLIOS, CLERK
FEB 02 2015
FAYETTE CIRCUIT CLERK
DEPUTY

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT - DIVISION 3
CIVIL ACTION NO. 15-CI-387

JONATHAN C. BUSH,
on behalf of himself and as a class
representative for all others similarly situated

PLAINTIFF

vs.

**COMPLAINT
JURY TRIAL DEMANDED**

LOGAN'S ROADHOUSE, INC.
a Tennessee corporation

DEFENDANT

Serve: CT Corporation System
306 West Main Street, Suite 512
Frankfort, KY 40601
(registered agent for service of process)

Plaintiff Jonathan C. Bush, individually and as a class representative for all others similarly situated, for his Complaint against defendant Logan's Roadhouse, Inc., states as follows:

I

Nature of the Action

1. This is an action pursuant to the Fair Labor Standards Act (FLSA), 29 U.S.C. § 216(b), as amended, seeking recovery of unpaid wages and/or overtime, liquidated damages, attorney's fees, costs, litigation expenses and prejudgment interest.

II

Jurisdiction and Venue

1

EXHIBIT 1

2. This Court has jurisdiction over this action pursuant to KRS 23A.010. Venue is proper in Fayette Circuit Court because plaintiff was employed by defendant in Fayette County, Kentucky, and plaintiff's causes of action accrued in Fayette County, Kentucky.

III

Parties

3. Plaintiff Jonathan C. Bush is a citizen of the United States of America and a resident of Fayette County, Kentucky.

4. Defendant Logan's Roadhouse, Inc. (Logan's Roadhouse) is a Tennessee corporation that maintains at least three places of business in Fayette County, Kentucky, including one at 1908 Pavilion Way where it employed plaintiff. Logan's Roadhouse's agent for service of process, according to electronic database maintained by the Kentucky Secretary of State, is CT Corporation System, 306 W. Main Street, Suite 512, Frankfort, KY 40601.

IV

Facts Giving Rise to Lawsuit

(1) Class Allegations

5. Plaintiff brings a claim for unpaid wages on behalf of himself and other similarly situated current and former employees of defendant.

6. Plaintiff brings this claim for unpaid wages on behalf of himself and a class of all other similarly situated tipped employees, specifically servers, of defendant that have performed or perform general preparation and/or

maintenance and/or other nontipped work in excess of twenty percent (20%) of their time at work, and who are not paid at least the full hourly minimum wage while performing such duties and/or who perform duties not incidental to their tipped occupation and are not paid the full hourly minimum wage for such duties as required by the FLSA.

(2) General Allegations

7. Defendant, according to its website, www.logansroadhouse.com, is a leading casual dining steakhouse with corporate headquarters in Nashville, Tennessee; there are 235 company-operated and 26 franchised restaurants in 23 states.

8. Defendant was the employer of plaintiff within the meaning of 29 U.S.C. § 203(d) from approximately March 2013 to November 2014.

9. Plaintiff was an “employee” of defendant within the meaning of 29 U.S.C. § 203(e) from approximately March 2013 to November 2014.

10. Plaintiff was an hourly, non-exempt employee for defendant.

11. Plaintiff worked principally as a server for defendant. As such, he was a “tipped employee” within the meaning of the FLSA and its applicable regulations. Defendant applied to plaintiff the “tip credit” under the FLSA and its regulations.

12. Defendant applied the tip credit to all hours plaintiff worked.

13. Plaintiff and the proposed class members are covered employees within the meaning of the FLSA.

14. Plaintiff consents to be a party to this action as shown by his verification to this complaint.

15. Defendant is engaged in interstate commerce and has annual gross volume of sales exceeding \$500,000.

16. Defendant required/requires plaintiff and the class members, who are tipped employees, to perform non-tipped work, such as maintenance and/or preparatory work, in excess of twenty percent (20%) of their time at work and failed to pay them the minimum wage necessary to meet the requirements of the FLSA and/or requires tipped employees to perform duties that are not incidental to their tipped occupation and failed to pay them the minimum wage necessary to meet the requirements of the FLSA.

17. Defendant has and continues to willfully violate the FLSA by not paying plaintiff and the class members wages in accordance with the FLSA.

18. Defendant has willfully engaged in a pattern and/or practice of unlawful conduct by failing to record, credit, or compensate work performed by its employees for all the time such employees performed non-tipped work, such as maintenance and/or preparatory work, in excess of twenty percent (20%) of their time at work, and has willfully failed to pay employees full minimum wage for work performed that is not incidental to the duties of their tipped occupation.

(3) Plaintiff's Wage & Overtime Allegations

19. Plaintiff was an hourly, nonexempt employee for defendant.

20. Defendant's managers, acting within the course and scope of their agency for defendant, on occasion clocked plaintiff out while knowing that he continued to work, prevented plaintiff from clocking in while he was actually working and/or altered his time card to reduce the hours it reflected he worked in order to reduce the wages payable to plaintiff and/or preclude payment of any overtime wages to plaintiff.

21. Defendant maintained through its managers a pattern and/or practice of clocking employees out while knowing that the employees continued to perform work, preventing employees from clocking in while knowing that they were actually performing work and/or altering employees' time cards to reduce the wages payable to the employees and/or preclude payment of any overtime wages to the employees as required by the FLSA.

V

CAUSES OF ACTION

Count 1

Failure to Pay Minimum Wages to Plaintiff and the Class Members

22. Plaintiff incorporates paragraphs 1 through 21 hereof as if fully set forth herein.

23. Plaintiff brings this claim on behalf of himself and all others similarly situated class members of defendant that have performed or do perform general preparation and/or maintenance and/or other non-tipped work in excess of twenty (20%) of their time at work, and who are not paid at least the full hourly minimum wage while performing such duties and/or who

perform duties not incidental to their tipped occupation and not paid the full hourly minimum wage for such duties as required by the FLSA.

24. At all times during the FLSA class period, all of the class members were paid in substantially the same manner and under substantially the same employment guidelines and practices as plaintiff.

25. The class members like plaintiff are or were all subject to the same policy and/or practice whereby the defendant willfully failed to record, credit, or compensate work performed by the class members for all the time they performed non-tipped work, such as maintenance and/or preparatory work, in excess of twenty percent (20%) of their time at work, and the defendant has willfully failed to pay the class members full minimum wage for work performed that is not incidental to the duties of their tipped occupation.

26. The defendant's refusal to pay plaintiff and the class members the required wage differential and the defendant required or permitted plaintiffs and other class members to work in excess of twenty percent (20%) of their time at work performing general preparation and/or maintenance work for which they do not earn tips and/or required or permitted them to perform duties that were not incidental to their tipped occupation was and is repeated, willful and intentional.

27. Plaintiff and the class members have been damaged in the amount of difference between the wages they were actually paid and the amount of

wages they should have been paid pursuant to the FLSA and applicable regulations.

28. Defendant's refusal to pay plaintiff and the class members violated the FLSA.

Count 2

Failure to Pay Plaintiff Wages and/or Overtime

29. Plaintiff incorporates paragraphs 1 through 28 hereof as if fully set forth herein.

30. Plaintiff performed compensable work for defendant for which he was not paid wages and/or overtime in violation of the FLSA.

31. Plaintiff was not paid these wages and/or overtime because Defendant's managers, acting within the course and scope of their agency for defendant, on occasion clocked plaintiff out while he continued to work, prevented plaintiff from clocking in while he was actually working and/or altered his time card to reduce the hours it reflected he worked in order to reduce the wages payable to plaintiff and/or preclude payment of any overtime wages to plaintiff.

32. Plaintiff has been damaged in the amount of difference between the wages and/or overtime he was actually paid in the amount of wages and/or overtime he should have been paid pursuant to the FLSA and applicable regulations.

33. Defendant's refusal to pay plaintiff the wages and/or overtime he earned violated the FLSA.

VI

Demand for Relief

Wherefore, plaintiff Jonathan C. Bush for himself individually and as a class representative for all others similarly situated demand judgment as follows:

(1) entry of a judgment in his and/or their favor and against defendant requiring defendant to pay each of them the wages and/or overtime due and owing each of them along with an additional equal amount as liquidated damages as shown by the evidence at trial;

(2) entry of a judgment awarding him and/or each of the class members prejudgment interest on the unpaid wages and/or overtime compensation along with the costs, litigation expenses and reasonable attorney's fees pursuant to the FLSA and CR 54; and,

(3) the grant of all other relief to which each of them is shown to be entitled.

Demand for Jury Trial

Plaintiff demands trial by jury on all issues herein so triable.


Respectfully submitted,



ROBERT L. ABELL
120 N. Upper Street
Lexington, KY 40507
(859) 254-7076
(859) 281-6541 fax
Robert@RobertAbellLaw.com
COUNSEL FOR PLAINTIFF

Verification & Consent

I, Jonathan C. Bush, being duly sworn affirm and state as follows: (1) that I have read the foregoing complaint and its allegations are true and correct to be the best of my knowledge and belief; and, (2) I consent to make a claim for unpaid wages and/or overtime in this case against Logan's Roadhouse, Inc. pursuant to the Fair Labor Standards Act and be represented by Robert L. Abell.

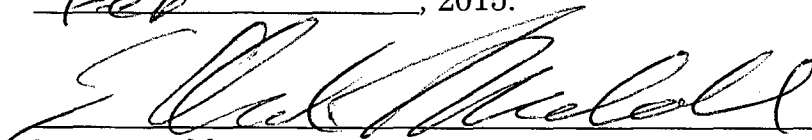


Jonathan C. Bush

COMMONWEALTH OF KENTUCKY)

COUNTY OF Boyd):

Subscribed and sworn to before me by Jonathan C. Bush on the 2 day of Feb, 2015.



Notary Public

My Commission Expires: 6/20/2018