

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION at LEXINGTON

JONATHAN C. BUSH,)	No. 5:15-CV-77-DCR
)	
Plaintiff)	Amended Complaint
)	
vs.)	
)	
LOGAN'S ROADHOUSE, INC.,)	
)	
Defendant)	
_____)	

Plaintiff Jonathan C. Bush 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

2. This Court has jurisdiction over this action because it involves questions of federal law under the FLSA. Venue is proper herein 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

5. 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.

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

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

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

9. 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.

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

11. Plaintiff is a covered employee within the meaning of the FLSA.

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

13. Defendant required plaintiff to perform non-tipped work, such as maintenance and/or preparatory work, in excess of twenty percent (20%) of his time at work and failed to pay him the minimum wage necessary to meet the requirements of the FLSA and/or required plaintiff to perform duties that were not incidental to his tipped occupation and failed to pay him the minimum wage necessary to meet the requirements of the FLSA.

14. Defendant violated the FLSA by not paying plaintiff wages in accordance with the FLSA.

15. 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.

16. 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

17. Plaintiff incorporates paragraphs 1 through 16 hereof as if fully set forth herein.

18. Plaintiff performed general preparation and/or maintenance and/or other non-tipped work in excess of twenty (20%) of his time at work and was not paid at least the full hourly minimum wage while performing such duties and/or performed duties not incidental to his tipped occupation and was not paid the full hourly minimum wage for such duties as required by the FLSA.

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

20. Defendant's refusal to pay violated the FLSA.

Count 2

Failure to Pay Plaintiff Wages and/or Overtime

21. Plaintiff incorporates paragraphs 1 through 20 hereof as if fully set forth herein.

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

23. 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.

24. 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.

25. 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 demands judgment as follows:

(1) entry of a judgment in his favor and against defendant requiring defendant to pay him the wages and/or overtime due and owing him along

with an additional equal amount as liquidated damages as shown by the evidence at trial;

(2) entry of a judgment awarding him 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,

By: /s/ Robert L. Abell
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