

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

**CHAD ELCHERT & TAMMY CROCHET,
on behalf of themselves and all others
similarly situated,**

Plaintiffs,

-against-

**LRI HOLDINGS, INC. & LOGAN'S
ROADHOUSE, INC.**

Defendants.

**COLLECTIVE ACTION
COMPLAINT**

JURY TRIAL DEMANDED

Plaintiffs Chad Elchert and Tammy Crochet (collectively "Plaintiffs"), individually and on behalf of all others similarly situated, by their attorneys, Yezbak Law Offices, Outten & Golden LLP, and Shavitz Law Group, P.A., allege as follows:

NATURE OF THE ACTION

1. This lawsuit seeks to recover overtime compensation for Plaintiffs and their similarly situated co-workers who have worked as Assistant Managers, Front of House/Guest Service Managers, Kitchen/Culinary Managers, Bar Managers, and Service Managers (collectively, "AMs") for LRI Holdings, Inc. & Logan's Roadhouse, Inc. ("Logan's" or "Defendants") anywhere in the United States.

2. Logan's is a national chain of approximately 234 "casual" restaurants throughout the United States.

3. Throughout the relevant period, Defendants' nationwide policy has been to uniformly classify AMs as exempt from federal overtime provisions and not to pay AMs any overtime wages, including during their time in training to be AMs.

4. This exempt classification is improper because the primary duties of AMs are non-exempt duties.

5. The primary duties of AMs are food preparation, cooking, customer service, sales, stocking, inventory, and cleaning.

6. AMs spend the majority of their time performing similar duties to the duties performed by non-exempt, hourly-paid employees.

7. The primary duties of the AM position do not vary among Defendants' restaurants.

8. In order to keep its restaurants adequately staffed, Defendants regularly require AMs to work in excess of 40 hours per week.

9. Defendants do not pay AMs for hours worked in excess of 40 in a workweek.

10. Defendants do not pay AMs overtime compensation.

11. By the conduct described in this Collective Action Complaint, Defendants have violated the Fair Labor Standards Act ("FLSA") by failing to pay AMs, including Plaintiffs, the overtime wages that they have earned and to which they are entitled by law.

12. Plaintiffs bring this action on behalf of themselves and similarly situated current and former employees of Defendants who elect to opt-in to this action pursuant to the FLSA, 29 U.S.C. §§ 201 *et seq.*, and specifically, the collective action provision of 29 U.S.C. § 216(b), to remedy violations of the wage and hour provisions of the FLSA by Defendants that have deprived Plaintiffs and others similarly situated of their lawfully earned wages.

THE PARTIES

Plaintiffs

Chad Elchert

13. Plaintiff Chad Elchert is an adult individual who is a resident of Tiffin, Ohio.

14. Elchert was employed by Defendants from approximately May 2014 to July 2015.

During this period, he worked as an AM in Defendants' restaurant located in Savannah, Georgia.

15. Pursuant to Defendants' policy, pattern, and/or practice, Elchert regularly worked more than 40 hours in a workweek, but was not compensated for overtime hours worked.

16. Elchert is a covered employee within the meaning of the FLSA.

17. A written consent form signed by Elchert is attached hereto as **Exhibit A**.

Tammy Crochet

18. Plaintiff Tammy Crochet ("Crochet") is an adult individual who is a resident of Biloxi, Mississippi.

19. Crochet was employed by Defendants from approximately April 2014 to December 2015. During this period, she worked as an AM in Defendants' restaurants located in Ruston, Louisiana and Gulfport, Mississippi.

20. Pursuant to Defendants' policy, pattern, and/or practice, Crochet regularly worked more than 40 hours in a workweek, but was not compensated for overtime hours worked.

21. Crochet is a covered employee within the meaning of the FLSA.

22. A written consent form signed by Crochet is attached hereto as **Exhibit B**.

Defendants

23. Defendant LRI Holdings, Inc. is a corporation registered in Delaware with its principal place of business in Nashville, Tennessee.

24. Defendant Logan's Roadhouse, Inc. is a corporation registered in Tennessee with its principal place of business in Nashville, Tennessee.

25. Throughout the relevant period, Defendants employed Plaintiffs and similarly situated employees within the meaning of the FLSA. Defendants have had substantial control over Plaintiffs' working conditions and the unlawful policies and practices alleged herein.

26. Defendants are covered employers within the meaning of the FLSA, and, at all times relevant, employed and/or jointly employed Plaintiffs and similarly situated employees.

27. At all times relevant, Defendants maintained control, oversight and direction over Plaintiffs and similarly situated employees, including timekeeping, payroll and other employment practices that applied to them.

28. Defendants apply the same employment policies, practices, and procedures to all AMs.

29. At all times relevant, Defendants' annual gross volume of sales made or business done was not less than \$500,000.

JURISDICTION AND VENUE

30. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337.

31. In addition, the Court also has jurisdiction over Plaintiffs' claims under the FLSA pursuant to 29 U.S.C. § 216(b).

32. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

33. Venue is proper in the Middle District of Tennessee pursuant to 28 U.S.C. § 1391 because Defendants operate there, and a substantial part of the events or omissions giving rise to

the claims occurred in this district. Defendants are subject to personal jurisdiction in Tennessee.

COLLECTIVE-WIDE FACTUAL ALLEGATIONS

34. Plaintiffs bring their First Cause of Action, pursuant to FLSA, 29 U.S.C. § 216(b), on behalf of themselves and all similarly situated persons who work or have worked for Defendants as AMs, including during the time spent training for the AM position, at any restaurant location in the United States, on or after March 11, 2013, who elect to opt-in to this action (the “FLSA Collective”).

35. All of the work that Plaintiffs and the FLSA Collective have performed has been assigned by Defendants, and/or Defendants have been aware of all of the work that Plaintiffs and the FLSA Collective have performed.

36. As part of its regular business practice, Defendants have intentionally, willfully, and repeatedly engaged in a pattern, practice, and/or policy of violating the FLSA with respect to Plaintiffs and the FLSA Collective. This pattern, practice, and/or policy includes, but is not limited to:

- a. willfully failing to pay Plaintiffs and the members of the FLSA Collective overtime wages for hours that they worked in excess of 40 hours per workweek, including during their time spent training to be AMs;
- b. willfully misclassifying Plaintiffs and the members of the FLSA Collective as exempt from the protections of the FLSA, including during their time spent training to be AMs; and
- c. willfully failing to record all of the time that its employees, including Plaintiffs and the FLSA Collective, have worked for the benefit of Defendants.

37. Defendants are aware or should have been aware that federal law required them to pay employees performing non-exempt duties, including Plaintiffs and members of the FLSA Collective, an overtime premium for hours worked in excess of 40 per workweek.

38. Plaintiffs and the FLSA Collective all perform or performed the same primary

duties.

39. Defendants' unlawful conduct has been widespread, repeated, and consistent.

COMMON FACTUAL ALLEGATIONS

40. Plaintiffs and the members of the FLSA Collective ("Collective Members") worked for Defendants as AMs.

41. Throughout their employment with Defendants, Plaintiffs and the Collective Members consistently worked more than 40 hours per week, including during their time spent training to be AMs.

42. Defendants were aware that Plaintiffs and the Collective Members worked more than 40 hours per workweek, yet Defendants failed to pay them any overtime compensation for any of the hours worked over 40 in a workweek.

43. Defendants did not keep accurate records of hours worked by Plaintiffs or the Collective Members. That is, although Plaintiffs and Collective Members routinely worked more than 40 hours, Defendants did not record those hours.

44. Plaintiffs' and the Collective Members' primary duty was not management.

45. Plaintiffs and the Collective Members primarily performed non-exempt hourly work, including duties such as food preparation, cooking, customer service, sales, stocking, inventory, and cleaning. Plaintiffs and the Collective Members spent the vast majority of their time performing these non-exempt duties. These duties are the same as the duties performed by hourly-paid employees, whom are routinely classified by Defendants as non-exempt.

46. Plaintiffs and the Collective Members were closely supervised by District Managers, General Managers, and Human Resources and their work was circumscribed by corporate policies and procedures.

47. Plaintiffs and the Collective Members did not exercise any meaningful degree of independent discretion with respect to the exercise of their duties, and were required to follow the policies, practices, and procedures set by Defendants. Plaintiffs and the Collective Members did not have any independent discretionary authority to deviate from these policies, practices, and procedures.

FIRST CAUSE OF ACTION
Fair Labor Standards Act – Overtime Wages
(Brought on behalf of Plaintiffs and the FLSA Collective)

48. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

49. Defendants have engaged in a widespread pattern and practice of violating the FLSA, as described in this Collective Action Complaint.

50. Plaintiffs have consented in writing to be parties to this action, pursuant to 29 U.S.C. § 216(b).

51. At all relevant times, Plaintiffs and other similarly situated current and former employees were engaged in commerce and/or the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

52. The overtime wage provisions set forth in §§ 201 *et seq.* of the FLSA apply to Defendants.

53. Defendants are employers engaged in commerce and/or the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

54. At all relevant times, Plaintiffs were employees within the meaning of 29 U.S.C. §§ 203(e) and 207(a).

55. Defendants failed to pay Plaintiffs and other similarly situated current and former employees the overtime wages to which they were entitled under the FLSA.

56. Defendants' violations of the FLSA, as described in this Collective Action Complaint, have been willful and intentional. Defendants failed to make a good faith effort to comply with the FLSA with respect to its compensation of Plaintiffs and other similarly situated current and former employees.

57. Because Defendants' violations of the FLSA have been willful, a three-year statute of limitations applies, pursuant to 29 U.S.C. § 255.

58. As a result of Defendants' willful violations of the FLSA, Plaintiffs and all other similarly situated employees have suffered damages by being denied overtime wages in accordance with 29 U.S.C. §§ 201 *et seq.*

59. As a result of the unlawful acts of Defendants, Plaintiffs and other similarly situated current and former employees have been deprived of overtime compensation and other wages in amounts to be determined at trial, and are entitled to recovery of such amounts, liquidated damages, prejudgment interest, attorneys' fees, costs and other compensation pursuant to 29 U.S.C. § 216(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all other similarly situated persons, seek the following relief:

A. That, at the earliest possible time, Plaintiffs be allowed to give notice of this collective action, or that the Court issue such notice, to the Collective Members. Such notice should inform them that this civil action has been filed, of the nature of the action, and of their right to join this lawsuit, among other things;

- B. Unpaid overtime pay, and an additional and equal amount as liquidated damages pursuant to the FLSA and the supporting United States Department of Labor regulations;
- C. Issuance of a declaratory judgment that the practices complained of in this Collective Action Complaint are unlawful;
- D. Pre-judgment interest and post-judgment interest;
- E. Appropriate equitable and injunctive relief to remedy violations, including but not necessarily limited to an order enjoining Defendants from continuing their unlawful practices;
- F. Reasonable incentive awards for Plaintiffs to compensate them for the time and effort they have spent and will spend protecting the interests of other AMs, and the risks they are undertaking;
- G. Attorneys' fees and costs of the action; and
- H. Such other injunctive and equitable relief as this Court shall deem just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

Dated: March 11, 2016
Nashville, Tennessee

Respectfully submitted,

/s/ Charles P. Yezbak, III

Charles Yezbak
YEZBAK LAW OFFICES
2002 Richard Jones Rd. Suite B-200
Nashville, Tennessee 37215
Telephone: (615) 250-2000
Facsimile: (615) 250-2020

OUTTEN & GOLDEN LLP
Justin M. Swartz (*pro hac vice* motion
forthcoming)
3 Park Avenue, 29th Floor

New York, New York 10016
Telephone: (212) 245-1000
Facsimile: (212) 977-4005

SHAVITZ LAW GROUP, P.A.

Gregg I. Shavitz (*pro hac vice* motion forthcoming)
1515 S. Federal Highway
Boca Raton, Florida 33432
Telephone: (561) 447-8888
Facsimile: (561) 447-8831

SHAVITZ LAW GROUP, P.A.

Michael J. Palitz (*pro hac vice* motion forthcoming)
830 Third Avenue, 5th Floor
New York, New York 10022
Telephone: (800) 616-4000
Facsimile: (561) 447-8831

***Attorneys for Plaintiffs and the Putative Collective
Members***