

1
2
3
4
5
6
7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR KING COUNTY
9

10 JAKE LONG, on his own behalf and on the behalf
11 of all others similarly situated,

12 Plaintiff,

13 v.

14 TRAPPERS SUSHI SILVERDALE INC, a
15 Washington Corporation, TRAPPERS SUSHI
16 TACOMA, INC, a Washington Corporation, and
17 TRAPPER O'KEEFFE, individually and/or the
marital community composed of Trapper O'Keeffe
and spouse,

18 Defendants.
19

CLASS ACTION

NO.

PLAINTIFF'S COMPLAINT FOR
DAMAGES

JURY TRIAL REQUESTED

20 Plaintiff, individually and on behalf of all others similarly situated, by and through his
21 counsel, for his Complaint against Defendants hereby states and alleges as follows:

22 **I. NATURE OF THE ACTION**

23 1. Defendants Trappers Sushi Silverdale Inc and Trappers Sushi Tacoma, Inc are in the
24 hospitality business of offering food and beverage services in Washington State. Defendant Trapper
25 O'Keefe ("Mr. O'Keefe") is the owner and governing officer of the other two Defendants and the
26 other Trappers Sushi restaurants licensed and operating in Washington State. Upon information and

1 belief, Mr. O’Keefe is responsible for the pay practices alleged herein, including for all Trappers
2 Sushi restaurants operating in Washington State during the Class period as defined below.

3 2. During the past several years, Defendants have employed employees at their locations and
4 the Trapper Sushi restaurants in Washington State whose primary job duty is to manage Defendants’
5 restaurant locations across Washington State and elsewhere. On information and belief, Defendants
6 have employed more than forty (40) such employees in Washington State in the last three years. As
7 set forth more fully below, Defendants have engaged in a systemic policy and practice to deny wages,
8 including overtime pay, to its manager employees, by willfully failing to pay them for all time
9 worked.
10

11 3. Defendants’ deliberate failure to pay manager employees their earned wages and overtime
12 compensation violates Washington law.
13

14 4. Plaintiff and Class members are current and former manager employees employed by
15 Defendant in the State of Washington who have been victimized by Defendant’s unlawful
16 compensation practices. This lawsuit is brought as a class action under state law to recover unpaid
17 wages owed to the individual Plaintiff and all other similarly situated employees.
18

19 5. Moreover, Plaintiff brings individual claims of Wrongful Termination in Violation of Public
20 Policy, and Retaliation.

21 **II. JURISDICTION AND VENUE**

22 6. Venue is proper in King County because Defendant transacts business in King County and
23 some of the specific acts alleged herein occurred in King County.

24 7. The Defendants are within the jurisdiction of this Court. Defendants conduct business in the
25 State of Washington and one or more of Defendants have operations in King County, Washington.
26 Defendants Trappers Sushi Silverdal and Trappers Sushi Tacoma are registered in the State of

1 Washington and Defendant O'Keefe is believed to be a resident of Washington. Defendants have
2 obtained the benefits of the laws of the State of Washington and the Washington retail and labor
3 markets.

4 **III. PARTIES**

5
6 8. Defendant Trappers Sushi Silverdale Inc is a Washington corporation, registered in the State
7 of Washington.

8 9. Defendant Trappers Sushi Tacoma Inc is a Washington Corporation, registered in the State
9 of Washington.

10 10. On information and belief, Defendant Trapper O'Keefe is a Washington resident and
11 governor of all Trappers Sushi locations, including Trappers Sushi Silverdale Inc and Trappers Sushi
12 Tacoma Inc. On information and belief, he is responsible for the alleged unlawful pay practices as
13 set forth herein. Upon information and belief, all acts alleged against Defendant O'Keefe were done
14 in pursuit of financial gain, or livelihood, for himself individually, and also on behalf of and for the
15 benefit of his marital community.
16

17 11. Named Plaintiff Jake Long is a resident of the State of Washington and has been an employee
18 of Defendants in Washington State during the last three years.
19

20 **IV. CLASS ACTION ALLEGATIONS**

21 12. Plaintiff brings this case as a class action pursuant to Washington Civil Rule 23 on behalf of
22 a class consisting of:

23 All current and former managerial employees who worked for
24 Defendants, including Trapper O'Keefe and all franchise locations
25 owned by Trapper O'Keefe, in their restaurant locations and who
26 were based or resided in the State of Washington for any period of
time in the last three years.

Excluded from this Class are Defendants, any entity in which Defendants have a controlling
interest or which has controlling interest in Defendants, and Defendants' legal representatives,

1 assignees, and successors. Also excluded are the Judge(s) to whom this case is assigned and any
2 member of the Judge's immediate family.

3 13. Plaintiff believes there are least 40-60 current and former managerial employees in the Class.

4 14. Plaintiff's claims are typical of the claims of the members of the Class because he is a
5 managerial employee who, like the members of the Class, sustained damages arising out of
6 Defendant's failure to pay wages, including overtime.
7

8 15. Plaintiff will fairly and adequately protect the interests of the Class members. Plaintiff has
9 retained counsel who are competent and experienced in complex and class action litigation, including
10 employment law.
11

12 16. Common questions of law and fact exist as to Plaintiff and all members of the Class and
13 predominate over any questions solely affecting individual members of the Class. Among the
14 questions of law and fact common to Plaintiff and the Class are:

15 a. Whether Defendants failed to properly compensate Plaintiff and the Class for all time
16 worked;

17 b. Whether Defendants failed to pay Plaintiff and the Class for the work Defendants
18 permitted them to perform;

19 c. Whether Defendants improperly deducted pay from Plaintiff and the Class for work
20 Defendants permitted them to perform.
21

22 d. Whether Defendants failed to keep true and accurate time records for all hours worked
23 by Plaintiff and the Class;

24 e. Whether Defendants violated RCW 49.46.130 as to Plaintiff and the Class;

25 f. Whether Defendants violated RCW 49.12 *et seq.* as to Plaintiff and the Class;

26 g. Whether Defendants violated RCW 49.48.010 as to Plaintiff and the Class;

- h. Whether Defendants violated RCW 49.52.050 as to Plaintiff and the Class;
- i. Whether Defendants violated WAC 296-128-010 as to Plaintiff and the Class;
- j. Whether Defendants violated WAC 296-126-040 as to Plaintiff and the Class;
- k. Whether Defendants violated WAC 296-128-020 as to Plaintiff and the Class;
- l. Whether Defendants violated WAC 296-128-532 as to Plaintiff and the Class;
- m. The nature and extent of class-wide injury and the measure of compensation for such injury.

17. Class action treatment is superior to the alternative for the fair and efficient adjudication of the controversy alleged herein. Such treatment will permit a large number of similarly situated persons to prosecute their modest, purely economic, common claims in a single forum simultaneously, efficiently, and without duplication of effort and expense that numerous individual actions would entail. No difficulties are likely to be encountered in the management of this class action that would preclude its maintenance as a class action, and no superior alternative exists for the fair and efficient adjudication of this controversy. The Class is readily identifiable from Defendants' records.

18. Defendants have acted on grounds generally applicable to the entire Class. Prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class that would establish incompatible standards of conduct for Defendants.

19. A class action is superior to other available methods for the fair and efficient adjudication of this controversy since joinder of all matters is impractical. Furthermore, the amounts at stake for many of the class members, while substantial to them, are not great enough to hire an attorney to prosecute individual suits against Defendants.

1 **V. SUMMARY OF CLASS ACTION FACTUAL ALLEGATIONS**

2 20. Beginning at a date currently unknown to Plaintiff, but at least as early as July 2022,
3 Defendants committed acts of wage abuse against its managerial employees, including, but not
4 limited to, forcing or permitting Plaintiff and Class members to work and failing to pay Plaintiff and
5 the Class their wages due and owing, including wages for overtime worked.
6

7 21. Despite classifying its managerial employees as “salary exempt,” Defendants treated and
8 paid their managerial employees as though they were hourly, non-exempt.

9 22. Defendants enforced a rule requiring its managerial employees to work no less than fifty
10 hours per week, and if a managerial employee did not meet the fifty-hour threshold, Defendants
11 deducted 8 hours’ worth of wages from the managerial employee’s paycheck.
12

13 23. Plaintiff and the Class frequently worked more than forty hours per week during weeks when
14 Defendants improperly docked their pay, but Defendants did not pay any additional compensation
15 for hours beyond forty.

16 24. Defendants have failed to pay Plaintiff and the Class for other time that they have worked
17 during weeks when Defendants improperly docked their pay. For example, Defendants have failed
18 to pay Plaintiff and the Class for work performed, including, but limited to, work performed when
19 not clocked in.
20

21 25. Defendants also violated the above-identified laws and regulations by not paying Plaintiff
22 and the Class for rest break periods and meal break periods during weeks when Defendants
23 improperly docked their pay. Defendants failed to schedule meal and rest breaks for Plaintiff and the
24 Class.
25

26 26. Defendant failed to pay Plaintiffs and the Class wages promised.

1 27. Upon information and belief, Defendant Trapper O’Keeffe is the governor of all of the
2 Trappers Sushi locations in Washington State, including Trappers Sushi Silverdale and Trappers
3 Sushi Tacoma, and is responsible for their pay practices.

4 **VI. SUMMARY OF FACTUAL ALLEGATIONS FOR PLAINTIFF LONG’S**
5 **INDIVIDUAL CLAIMS**

6 28. The following facts are not exhaustive and merely provide support for Plaintiff’s individual
7 claims.

8 29. On or about July 15th, 2022, Defendant Trapper O’Keeffe hired Plaintiff Long as an Assistant
9 General Manager at his Trappers Sushi location in Silverdale. This was a salaried position.
10

11 30. On July 18th, Plaintiff attended his orientation at Defendants’ Federal Way location.

12 31. Plaintiff began his required training period on July 20th, 2022, at Defendants’ Tacoma
13 location, where he remained working for approximately three weeks until he was transferred to
14 Defendants’ Silverdale location.

15 32. On August 10th, 2022, Plaintiff received his first paycheck from Trappers Sushi Tacoma Inc
16 for the pay period of 7/20/2022 through 8/2/2022. During this timeframe, Plaintiff worked 91.5
17 hours. However, the paycheck Plaintiff received on August 10th indicated he had only worked 72
18 hours. Plaintiff immediately brought this discrepancy to the attention of his training supervisor, Cory
19 Bennett, who is also the General Manager for Defendants’ Tacoma location.
20

21 33. During their conversation on August 10th, 2022, Mr. Bennett informed Plaintiff of
22 Defendants’ “50 hour policy.” Mr. Bennett explained to Plaintiff that all managerial positions at all
23 Defendants’ locations were subject to meeting or exceeding 50 hours of work per week, or else they
24 would not receive the entirety of their salary for that pay period.
25
26

1 34. Rightfully concerned, Plaintiff called Defendants' Regional Manager, Mr. Suka, on August
2 10th, 2022 to discuss the "50 hour policy." In this phone conversation, Mr. Suka informed Plaintiff
3 that such a policy was a "restaurant industry standard."

4 35. On August 11th, 2022, Plaintiff began working as an Assistant General Manager at
5 Defendants' Silverdale location.
6

7 36. On August 24, 2022, Plaintiff received his second paycheck from Trappers Sushi Silverdale
8 Inc for pay period 8/3/2022 – 8/16/2022. During this pay period, Plaintiff worked 87.56 hours.
9 However, much like his first paycheck, he was only paid for 72 hours.

10 37. On August 24th, 2022, Plaintiff sent an email to Mr. Suka and Ms. Alexa Fabrizius (HR
11 Manager) raising concerns about his paycheck, in addition to concerns regarding how many hours
12 Defendants was reporting to ESD. Plaintiff was concerned that the hours being reported to ESD by
13 Trappers were inconsistent with the actual number of hours he worked.
14

15 38. On or about September 8th, 2022, Defendant Trapper O'Keeffe, along with Ms. Alexa
16 Fabrizius and Ms. Farrah Scott, reported to each of Defendant's locations in-person to announce that
17 Defendants were discontinuing the "50 hour policy."

18 39. During this same announcement, Mr. O'Keeffe indicated that Defendants' managerial staff
19 now only needed to work forty or more hours per week to qualify for the entirety of their salary for
20 that pay period.
21

22 40. On October 4th, 2022, Plaintiff received another paycheck from Trappers Sushi Silverdale
23 Inc for the period of 9/14/2022 – 9/27/2022. During this period, Plaintiff worked 81.55 hours, yet he
24 was only paid for 72 of those hours.

25 41. On October 12th, 2022 Plaintiff called the Washington State Department of Labor &
26 Industries to inquire as to whether the pay-docking and hour-misreporting practices being utilized

1 by Defendants were legal. During this phone conversation, it was made clear to Plaintiff that these
2 practices were not legal.

3 42. On October 14th, 2022, Plaintiff sent an email to Defendant O’Keeffe’s HR representative,
4 Alexa Fabrizius, stating that their “50 hour policy” and misreporting of hours worked was likely
5 illegal. Ms. Fabrizius responded to Plaintiff’s concerns by stating that it would accept his message
6 as his “immediate resignation.”
7

8 43. Acting on behalf of one or more of Defendants, Ms. Fabrizius terminated Plaintiff for making
9 a protected complaint and failed to pay him for his actual hours worked.

10 **VII. FIRST CLAIM FOR RELIEF**
11 **(Minimum Wage Act: RCW 49.46 *et seq.*)**
12 ***On Behalf of Plaintiff and the Class***

13 44. Plaintiff and the Class reallege and incorporate by reference each and every allegation set
14 forth in the preceding paragraphs.

15 45. Under RCW 49.46.090, employers must pay employees all wages to which they are entitled
16 under the Washington Minimum Wage Act (“WMWA”), RCW 49.46 *et seq.*

17 46. RCW 49.46.130 provides that no employer shall employ any employee for a workweek
18 longer than 40 hours unless the employee receives compensation for his or her employment in excess
19 of the hours above specified at a rate not less than one and half times the regular rate at which he or
20 she is employed. Defendants failed to pay any overtime to Plaintiff and Class members for hours
21 they worked beyond 40 per week.
22

23 47. Defendants failed to pay Plaintiff and Class members for all time worked, including
24 overtime.

25 48. By the actions alleged above, Defendants violated the provisions of RCW 49.46.090 and
26 RCW 49.46.130 by failing to pay wages to Plaintiff and the Class for time they worked, including

1 but not limited to, any and all work they performed beyond 40 hours per week, and work performed
2 during meal breaks. Defendants failed to pay Plaintiff and the Class at all for certain hours worked.

3 49. Defendants also violated the WMWA by not allowing and/or paying Plaintiff and the Class
4 for mandated break periods during weeks when Defendants improperly deducted pay from Plaintiff
5 and the Class. Defendants engaged in a common course of conduct by permitting and/or encouraging
6 Plaintiff and the Class members to work during mandated meal and/or rest periods.
7

8 50. Defendants have had actual or constructive knowledge of the above facts.

9 51. By the actions alleged above, Defendants violated the provisions of RCW 49.46 *et seq.*

10 52. As a result of Defendants' unlawful acts, Plaintiff and the Class have been deprived of
11 compensation in amounts to be determined at trial, and pursuant to RCW 49.46 are entitled to recover
12 such amounts, including interest thereon, attorneys' fees, and costs.
13

14 **VIII. SECOND CLAIM OF RELIEF**
15 **(Unpaid Wages on Termination: RCW 49.48 *et seq.*)**
16 ***On Behalf of Plaintiff and the Class***

17 53. Plaintiff and the Class reallege and incorporate by reference each and every allegation set
18 forth in the preceding paragraphs.

19 54. RCW 49.48.010 provides that "when any employee shall cease to work for an employer,
20 whether by discharge or by voluntary withdrawal, the wages due him on account of his employment
21 shall be paid to him at the end of the established pay period." The statute further states that it shall
22 be unlawful for "any employer to withhold or divert any portion of an employee's wages."

23 55. By the actions alleged above, Defendants violated the provisions of RCW 49.48.010.

24 56. Defendants have had actual or constructive knowledge of the above facts.
25
26

1 57. As a result of Defendants' unlawful acts, Plaintiff and the Class have been deprived of
2 compensation in amounts to be determined at trial, and pursuant to RCW 49.48.030 are entitled to
3 recover of such amounts, including interest thereon, attorneys' fees, and costs.

4 **IX. THIRD CLAIM FOR RELIEF**
5 **(Willful Refusal to Pay Wages: RCW 49.52.050)**
6 ***On Behalf of Plaintiff and the Class***

7 58. Plaintiff and the Class reallege and incorporate by reference each and every allegation set
8 forth in the preceding paragraphs.

9 59. RCW 49.52.050(2) provides that any employer who "willfully and with intent to deprive the
10 employee of any part of his wages, pays any employee a lower wage than the wage such employer
11 is obligated to pay such employee by any statute, ordinance, or contract" is guilty of a misdemeanor.

12 60. RCW 49.52.070 provides that any employer who violates the foregoing statute shall be liable
13 in a civil action for twice the amount of wages withheld, together with costs of suit and reasonable
14 attorney fees.

15 61. Defendants' alleged unlawful actions against Plaintiff and the Class, as set forth above, were
16 committed willfully and with intent to deprive Plaintiff and the Class of part of their wages.

17 62. As such, based on the above allegations, Defendants violated the provisions of RCW
18 49.52.050.
19

20 63. As a result of Defendants' unlawful acts, Plaintiff and the Class have been deprived of
21 compensation in amounts to be determined at trial, and pursuant to RCW 49.52.070 are entitled to
22 recovery of twice such amounts, including interest thereon, attorneys' fees, and costs.
23

24 **X. FOURTH CLAIM FOR RELIEF**
25 **(Wrongful Discharge in Violation of Public Policy)**
26 ***On behalf of Plaintiff Long***

64. Plaintiff Long realleges and incorporates by reference each and every allegation set forth in
the preceding paragraphs.

1 65. RCW 49.46.100(2) provides that “[a]ny employer who discharges or in any other manner
2 discriminates against any employee because such employee has made any complaint to his or her
3 employer . . . that he or she has not been paid wages in accordance with the provisions of this chapter,
4 or that the employer has violated any provision of this chapter . . . shall be deemed in violation of
5 this chapter and shall, upon conviction therefore, be guilty of a gross misdemeanor.”
6

7 66. RCW 49.46.100(2) is a source of public policy that condemns retaliation by an employer
8 against an employee who asserts his rights under the Minimum Wage Act, chapter 49.46 RCW.

9 67. RCW 49.12.170 provides that “any employer employing any person for whom a minimum
10 wage or standards, conditions, and hours of labor have been specified, at less than said minimum
11 wage, or under standards, or conditions of labor or at hours of labor prohibited by the rules and
12 regulations of the director . . . shall be deemed guilty of a misdemeanor, and shall, upon conviction
13 thereof, be punished by a fine of not less than twenty-five dollars nor more than one thousand
14 dollars.”
15

16 68. RCW 49.12.170 is a source of public policy that condemns employer’s failure to pay for all
17 time worked.

18 69. RCW 49.52.050(2) provides that any employer who “[w]ilfully and with intent to deprive
19 the employee of any part of his or her wages, shall pay any employee a lower wage than the wage
20 such employer is obligated to pay such employee by any statute . . . [s]hall be guilty of a
21 misdemeanor.”
22

23 70. RCW 49.52.050(2) is a source of public policy that condemns the failure to pay wages in
24 accordance with Washington law.
25
26

1 71. Plaintiff Long engaged in protected activity when he complained to Defendant O’Keeffe’s
2 HR Representative about Defendants’ illegal pay docking practices and its misreporting of hours
3 worked.

4 72. Plaintiff’s complaints were a substantial factor in Defendant’s decision to terminate Plaintiff.

5 73. Plaintiff Long’s discharge jeopardizes the clear mandates of public policy in RCW
6 49.46.100(2), RCW 49.12.170, and RCW 49.52.050(2).
7

8 74. As a result of this unlawful act, Plaintiff Long has suffered damages, including but not limited
9 to lost wages past and future, emotional distress, humiliation, and embarrassment. Plaintiff Long is
10 entitled to the recovery of such damages, including interest thereon, as well as attorneys’ fees under
11 RCW 49.48.030, and costs.
12

13 **XI. SIXTH CLAIM FOR RELIEF**
14 **(Violation of RCW 49.46.100(2) — Implied Cause of Action)**
15 ***On behalf of Plaintiff Long***

16 75. Plaintiff Long realleges and incorporates by reference each and every allegation set forth in
17 the preceding paragraphs.

18 76. By the actions alleged above, including Defendants’ failure to keep accurate records of
19 Plaintiff’s time worked and to pay Plaintiff and the Class for all time worked, including overtime,
20 Defendants have violated and failed to pay Plaintiff Long the wages to which he was entitled under
21 the Minimum Wage Act and thus violated of RCW 49.46.070 and RCW 49.46.130.

22 77. Under RCW 49.46.100(2), it is a gross misdemeanor for an employer to discharge or
23 discriminate against an employee because the employee has complained that he has not been paid
24 wages under the Minimum Wage Act or that the employer has violated the Minimum Wage Act.
25

26 78. RCW 49.46.100(2) implies a cause of action for employees to enforce the terms of the statute.

79. Plaintiff Long is in the class for whose “especial” benefit RCW 49.46.100(2) was enacted.

1 80. The legislative history of RCW 49.46.100(2) supports a remedy for employees whose
2 employers violate RCW 49.46.100(2).

3 81. Implying a remedy for violation of RCW 49.46.100(2) is consistent with the underlying
4 purpose of the legislation.

5 82. As a result of this unlawful act, Plaintiff Long has suffered damages, including but not limited
6 to lost wages past and future, emotional distress, humiliation, and embarrassment. Plaintiff Long is
7 entitled to the recovery of such damages, including interest thereon, as well as attorneys' fees under
8 RCW 49.48.030, and costs.
9

10 **XIII. PRAYER FOR RELIEF**

11 Wherefore, Plaintiff, on his own behalf and on behalf of the members of the Class, pray for
12 judgment against the Defendants as follows:
13

14 A. Certification of the proposed Plaintiff Class;

15 B. A declaration that Defendants are financially responsible for notifying all Class members of
16 its wage and hour violations;

17 C. Appoint Plaintiff Jake Long as Class representative;

18 D. Appoint the undersigned counsel as Class counsel;

19 E. Declare that the actions complained of herein violate Washington law and administrative
20 codes;
21

22 F. Award Plaintiff and the Class compensatory and exemplary damages;

23 G. Award compensatory and exemplary damages to Plaintiff Long for wrongful termination and
24 retaliation, including non-economic and/or emotional distress damages, liquidated damages, in
25 amounts to be proven at trial;
26

1 H. Enjoin Defendants and its officers, agents, successors, employees, representatives, and any
2 and all persons acting in concert with them, as provided by law, from engaging in each of the
3 unlawful practices, patterns, and policies set forth herein;

4 I. Award Plaintiff and the Class attorneys' fees and costs, as allowed by law;

5 J. Award Plaintiff and the Class pre-judgment and post-judgment interest, as provided by law;
6
7 and

8 K. Grant such other and further relief as this Court deems necessary.

9
10 DATED this 6th day of February 2023.

11 **REKHI & WOLK, P.S.**

12 By: s/ Gregory A. Wolk
13 Gregory A Wolk, WSBA No. 28946
14 Hardeep S. Rekhi, WSBA No. 34579
15 529 Warren Ave N., Suite 201
16 Seattle, WA 98109
17 Telephone: (206) 388-5887
18 Facsimile: (206) 577-3924
19 E-Mail: greg@rekhiwolk.com
20 E-Mail: hardeep@rekhiwolk.com

21 **HONES LAW, PLLC**

22 By: s/ Ed Hones
23 Ed Hones, WSBA No. 58275
24 1201 Second Ave, Suite 900
25 Seattle, WA 98101
26 Telephone: (206) 899-5061
E-mail: ed@honeslaw.com

REKHI & WOLK, P.S.

By: s/ Hardeep S. Rekhi

529 Warren Ave N., Suite 201
Seattle, WA 98109
Telephone: (206) 388-5887
Facsimile: (206) 577-3924

Attorneys for Plaintiff