

Shake Shack's Parent Co. Hit With Tipping Class Action

By **Matthew Perlman**

Law360, New York (December 11, 2015, 6:31 PM ET) -- Celebrity chef Danny Meyer's Union Square Hospitality Group, the parent company of [Shake Shack](#), was hit with a proposed class action on Friday in New York federal court that accuses the company of stiffing workers on tips, weeks after the restaurant mogul announced he would phase out gratuities at all of his restaurants by next year.

Uzzol Siddiky and Kawsar A. Maruf, who both worked as bussers at USHG's Gramercy Tavern in Manhattan, said that the restaurant regularly pooled the tips of service employees and distributed them among the workers, including to managers and other tip-ineligible employees. They said this practice resulted in them not being paid the required minimum wage and that it was done to help inflate the company's profits.

"Defendants did this in an attempt at 'robbing Peter to pay Paul,' that is, to unlawfully augment the wages defendants pay to tip-ineligible employees with the tips earned by plaintiffs and other service staff through their hard work and dedicated service to customers, resulting in higher profits to defendants," the complaint said.

Meyer made waves in the restaurant world back in October when he announced that he would phase out tipping at all of his company's restaurants. He said the practice was unfair because it left workers in the back of the house underpaid and that the change would allow the group to better compensate all of its 1,800 workers.

"Unfortunately, many of our colleagues — our cooks, reservationists, and dishwashers to name a few — aren't able to share in our guests' generosity, even though their contributions are just as vital to the outcome of your experience at one of our restaurants," Meyer wrote in a letter in October.

In their suit, the bussers said that Meyer "is the so-called 'poster child of all that is good about American food today'" but added that his workers don't benefit from that distinction.

"Unfortunately, for service employees of Union Square Hospitality Group, the parent company of Gramercy Tavern, Shake Shack and Union Square Cafe, among others, all that is good about American food today appears to include the practice of nickel and diming employees out of wages and tips they are lawfully entitled to receive," the complaint said.

Siddiky worked for Gramercy Tavern from July 2015 to November 2015, and Maruf worked there from June 2010 to December 2012. An attorney for the workers, Jeanne Christensen of [Wigdor LLP](#), said that the amount of time between their stints will make it difficult for USHG to claim that it only implemented a tip pooling policy recently.

"You can't really get away from the timing of this," she said.

The workers claimed that in addition to the tip pooling, the restaurant hosted private events where clients were required to pay a "service charge," which allowed customers to believe meant gratuities. But in fact, the workers said, they never received any payment from these charges.

"By not distributing the entirety of the service charge to plaintiffs and the NYLL class members, defendants unlawfully demanded and retained the gratuities or charges purported to be gratuities," the complaint said.

The proposed collective and class action includes claims for violations of the Fair Labor Standards Act and New York Labor Law, including minimum wage violations and illegal deductions and distributions of gratuities.

A spokeswoman for Union Square Hospitality, Kate Lindquist, said the company tries to comply with all employment laws, and will look into the accusations.

"Union Square Hospitality Group has systems in place to comply with all employment regulations. We have always cared deeply about cultivating a strong employee-first culture, and we will review this matter thoroughly," Lindquist said.

The workers are represented by Jeanne Christensen and Tanvir H. Rahman of Wigdor LLP.

Counsel information for USHG was not immediately available.

The case is Siddiky et al v. Union Square Hospitality Group, LLC et al, case number [1:15-cv-09705](#), in U.S. District Court for the Southern District of New York.

--Editing by Christine Chun.