

Ex-Bussers File Tipping Lawsuit Against Danny Meyer's Gramercy Tavern

by [Ryan Sutton](#) Dec 11, 2015, 9:26p [@qualityrye](#)



[The tavern room at Gramercy Tavern]

The plaintiffs allege that the restaurant unlawfully paid the tipped-minimum wage and withheld so-called gratuities from private events; USHG says it is reviewing the matter.

Two ex-staffers at Danny Meyer's Union Square Hospitality Group — which [announced in October that it would end tipping](#) and raise wages at all of its New York restaurants — have filed a lawsuit against the group alleging minimum wage and tipping violations at one of its marquee properties, the Michelin-starred [Gramercy Tavern](#).

"Union Square Hospitality Group has systems in place to comply with all employment regulations," a spokesperson for Meyer says in an emailed statement. "We have always cared deeply about cultivating a strong employee-first culture, and we will review this matter thoroughly." The allegations, incidentally, deal with the type of scenarios that culinary establishments can entirely avoid by switching to a tip-free system. All thirteen of Meyer's restaurants, including Gramercy, will stop accepting gratuities by the end of 2016.

The suit, filed by Wigdor LLP on behalf of two ex-bussers, states that the employees should have been paid the full minimum wage, as opposed to the lower tipped-minimum, because Gramercy required service staffers to share or pool tips with "non-service employees such as Expeditors, Polishers, Wine Managers, and other employees who did not regularly and customarily perform 'tipped' duties," per the complaint. The tipped minimum, which is the wage earned by waiters and other restaurant staffers who collect gratuities, is currently \$5 per hour in New York, while the full minimum is \$8.75.

The suit also alleges that the plaintiffs were shortchanged during private events at Gramercy Tavern, because the restaurant "unlawfully" retained all or part of a 20 percent service charge during those functions. New York's strict labor laws hold that any additional charge on a bill is "[purported to be a gratuity](#)," unless the restaurant can prove with "clear and convincing evidence" that such a charge is not in fact a tip. Gratuities, under federal law, are considered the property of the employee and cannot be used to count as revenue, or to pay non-tipped employees.

The lawsuit asserts that Gramercy Tavern and USHG "led or knowingly allowed their customers to reasonably believe that the service charge was a gratuity," because they called that fee a "service charge" and because the restaurant did not, per the complaint, tell customers the charge was not a gratuity.

The lawsuit argues that the ex-bussers are entitled to recover "the total amount of their unpaid minimum wage" and "retained gratuities" from private events, as well as liquidated damages, attorney's fees, and interest. The plaintiffs are seeking collective and class action status to cover fellow staffers, including captains, runners, and fellow bussers, of which there might be at least 100, per the complaint.

The suit curiously refers to Danny Meyer as a "celebrity chef." He is not a chef. The suit also refers to USHG as the parent company to Shake Shack, It is not. It is a separate, public company. Here is the suit:

[1 - Collective and Class Action Complaint - FILED](#) by [Eater NY](#)