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Court Rules Waiters Are Entitled to Fees Disguised as Tips

By **STEVEN GREENHOUSE**

In a major victory for the state's restaurant employees, New York's highest court ruled on Thursday that restaurants must pay their wait staff any mandatory service fees that customers are led to believe are substitutes for tips.

The State Court of Appeals overturned an 11-month-old ruling that held that employers were obligated to share only voluntary tips with their workers, but not service fees charged automatically to large parties even when the customers had explicitly been told that the fees were gratuities.

In a lawsuit, employees of World Yacht, a luxury dining fleet that wines and dines customers in the waters around Manhattan, asserted that the company had cheated them by not sharing the proceeds of the mandatory service charges with them. Many times, World Yacht imposed a 20 percent banquet service charge on top of the dining bill.

"Today's ruling should finally put to rest the notion that restaurants and banquet halls can legally take a cut of the tips and service charges that customers leave for the wait staff," said David Colodny, a lawyer with the Urban Justice Center, which filed a brief for the plaintiffs.

The court's decision relied on a state law that says no employer shall demand or accept, directly or indirectly, any part of the gratuities received by an employee or any charge purported to be a

gratuity for an employee.

The appeals court backed the State Labor Department's view that "the reasonable patron standard should govern whether a banquet patron would understand a service charge was being collected in lieu of a gratuity."

Workers at World Yacht said they had received few tips because customers were led to believe that the mandatory service fees would go to them as tips.

The appeals court said that if restaurants made clear to customers that the mandatory service charges would not be paid to the workers as tips, then they would not have to share those fees with their workers.

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