

Manhattan Restaurant Prevails On Wage-and-Hour Claims Following Trial

Article By:

Noel P. Tripp

Demoralized by the attendant costs of litigation and a [shifting](#) compliance environment in numerous jurisdictions, many **hospitality industry employers** have resolved wage-and-hour lawsuits brought in New York City and elsewhere over the last number of years. Bucking this trend, one such employer recently successfully defended its wage practices at trial. ***Mendez v. Int'l Food House***, 2014 U.S. Dist. LEXIS 121158 (S.D.N.Y. Aug. 28, 2014).

In *Mendez*, after Judge Paul Oetken conducted a bench trial, the Court rejected all of Plaintiffs' claims, including the following New York Labor Law claims:

- Plaintiffs' claim that they spent too much time performing non-tipped duties and therefore should have not been paid at the tip-credit rate of those hours. As to this claim, Judge Oetken found far more credible Defendant's testimony that plaintiffs servers spent less than an hour on the setup and cleaning duties;
- Plaintiffs' claim they were "required by . . . management . . . to share tips with the bartenders, hostess, hookah preparers, and management" – In doing so, the Court noted that these were appropriately tipped positions and/or the credible evidence established that any such tip sharing was voluntary; and
- Plaintiffs' claim alleging unlawful deductions from their wages for uniform purchases and customer walkouts. As to the former, the Court ruled that the Plaintiffs voluntarily purchased costumes for certain theme nights, with the restaurant simply coordinating such purchases, and as to the latter found no evidence of an actual deduction for a customer walkout. The Court emphasized that Plaintiffs had clearly been "building a case by making recordings" for several years, and thus the absence of documentary proof as to this claim was especially telling.

The Court also rejected Plaintiffs' claims that they did not receive appropriate wage notices and statements, as well as their allegations that they were not paid for all hours worked.

Mendez is a reminder that allegations must be proven, and the employees failed to do so here.

National Law Review, Volume IV, Number 247

Source URL: <https://natlawreview.com/article/manhattan-restaurant-prevails-wage-and-hour-claims-following-trial>