



Cliff House server sues over alleged tip skimming

By [Susan Morse](#)

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YORK — A banquet server has brought a lawsuit against the Cliff House, on behalf of herself and other unnamed waitstaff, alleging that management at the upscale resort has been skimming tips.

Cliff House banquet server Allison Hayden-Tidd filed the lawsuit against Cliff House & Motels Inc. and owner Kathryn Weare.

The complaint, filed July 12 in York County Superior Court, is similar to a lawsuit brought by the same attorneys against the Union Bluff Hotel in York in December 2008, and against more than 50 restaurants in Massachusetts over the last seven years, according to court records.

The lawsuit against the Union Bluff resulted in a \$28,000 class action settlement in October 2009, according to the Superior Court ruling. That ruling was based on a 2007 state law that says tips are the property of service employees and are not to be shared with an employer.

The Union Bluff and the Cliff House are among the first cases to be prosecuted in Maine by the Boston law firm Lichten & Liss-Riordan.

Attorney Shannon Liss-Riordan acknowledges Maine restaurant owners and managers may be unfamiliar with the relatively new law. Restaurant owners in Massachusetts were also surprised when the firm began bringing lawsuits based on a similar tips law in that state, she said.

"I started bringing these cases in Massachusetts 10 years ago," Liss-Riordan said July 21. "In 2001, it hit food and beverage industry. The law on the books was not enforced. They didn't realize the law was there."

The lawsuits are brought in cases in which gratuities are pooled, such as banquet events, in which more than one server waits on numerous tables. Restaurants typically add gratuity onto the total bill, which is then split between those working the event, including waitstaff, bartenders, busboys and sometimes the employees who do set-up and break-down.

The statute cites that no tips are to be shared with the employer, according to information released by Lichten & Liss-Riordan. However, service workers can choose to share their tips with other employees who do not generally receive tips, it states.

Hayden-Tidd specifies no monetary amount in the request for damages in her complaint.

The Cliff House adds 19 percent gratuity to the total of banquet food and beverage bill, according to the complaint. The lawsuit contends the Cliff House did not remit the total proceeds of the gratuity to non-managerial employees who serve food or beverages.

"Instead, the Cliff House has a policy and practice of retaining for itself and/or distributing to management or other employees who do not serve food or beverages a portion of the gratuity," says the complaint.

"It's a way hotel and other food service establishments have traditionally boosted their revenues," said Liss-Riordan.

Weare denies wrongdoing. The restaurant distributes the entire tip amount, she said.

"I assure you, we're not skimming from anybody," she said July 23.

Banquet tips are divided among workers other than food and beverage servers, such as the employees who do set up and break down for the event, she said. It's a long-held practice, she said.

The Maine Department of Labor audited the Cliff House three years ago and found nothing improper, said Weare, who learned of the lawsuit the week of July 19.

If the Cliff House has done anything wrong, Weare said, "it was something technical."

She has referred the case to her attorneys, Pierce Atwood.

Hayden-Tidd is an on-call banquet server who hasn't been called in to work since June 2, Weare said.

Banquet servers at the Cliff House receive, on average, \$25 an hour for their work, she said.

Hayden-Tidd, who has a phone number listed in York, did not return a call for comment.

In the Union Bluff case, sisters and servers Joanne Hill and Noreen Horn said the restaurant gave some of their tips to the events coordinator.

Hotel owner Brent Merritt, through his attorney James Erwin, said he was unaware there was anything wrong with paying a small portion of tips to the events coordinator, which is a management position.

In that settlement of \$28,000, class action members were eligible to receive a distribution from \$18,667 of those funds. The attorneys fees and costs totaled \$9,333.

Liss-Riordan said she expects there will be more cases brought in Maine.

"I suspect we'll be hearing from more people," she said.