

Waiter sues Boston steakhouse Dispute over wages

By Donna Goodison | Saturday, July 4, 2009

A former server for Ruth's Chris Steak House in Boston is suing the restaurant chain for only paying him the state's \$2.63 per hour minimum service wage when he was performing duties other than waiting on customers and receiving tips.

Edward Kehoe's proposed class-action lawsuit claims he should have been paid the full \$8 minimum wage for doing set-up and closing work such as cleaning and setting tables when no customers were in the restaurant, and side work during his shift such as emptying the garbage. The Wellesley man was a waiter at the restaurant from September 2006 to December 2007.



The federal Fair Labor Standards Act requires employers to pay servers the full minimum wage when more than 20 percent of their time is spent on non-tip-producing work.

The alleged underpayments to servers are commonplace in the restaurant industry, according to Shannon Liss-Riordan, the Boston attorney who filed the lawsuit on behalf of Kehoe in U.S. District Court in Boston on Wednesday.

"Restaurants save a lot of money by putting their \$2- to \$3-an-hour employees to work performing all of these tasks instead of paying employees the full minimum wage," Liss-Riordan said.

Kehoe's federal lawsuit mirrors a class-action suit filed in 2007 by two other former servers for Ruth's Chris' Boston restaurant. More than 500 Ruth's Chris servers nationwide have signed on as plaintiffs in the case, which is scheduled to go to trial in October.

In that suit, Ruth's Chris, which has more than 100 locations, has denied that the duties in question don't contribute to the tips that servers receive, court documents state. It also has said that servers don't spend "hours" performing those tasks. The chain did not return calls for comment yesterday.

Kehoe's lawsuit will give those servers who failed to sign on to the first suit in time a chance to pursue back wages, Liss-Riordan said.