

The Boston Globe

Harvard Club servers sue over tips

Say they get no share of 17% surcharge

By **Katie Johnston** | GLOBE STAFF | NOVEMBER 11, 2011

The exclusive Harvard Club of Boston, which for more than a century has hosted former presidents and other luminaries, is being sued by its wait staff, who say they have been cheated out of potentially hundreds of thousands of dollars in tips.

According to a lawsuit filed yesterday in Suffolk Superior Court, members of the private alumni club pay a 17 percent surcharge on food and beverage bills (20 percent for banquets), which the club states is collected “in lieu of a gratuity.” But workers say they do not get a cent of that money.

“The rich, the famous, and the powerful go there to be wined and dined and waited on by a very dedicated workforce who happen to largely be immigrants,” said Brian Lang, president of Unite Here Local 26, the hospitality workers’ union that represents the Harvard Club servers. “The club members are being duped, and I would assume that they would be as outraged as any of the rest of us are about this practice.”

Harvard Club member Mac Caplan, a 28-year-old high school English teacher in Weston who uses the club mainly to play squash, said he was surprised the staff was not sharing in the surcharge.

“Because it says ‘in lieu of gratuity,’ I assumed part of it was gratuity going to the workers who were serving at the time,” he said. “Certainly [the club] could be more transparent with the membership about where that club charge goes.”

The club has a no-tipping policy, but member Francis J. Connolly said he thought that meant a gratuity was included in the bill.

“If I was there for dinner I thought the tip’s taken care of,” said Connolly, a 54-year-old analyst at the Boston public opinion research firm Kiley & Co. who held his wedding reception at the club nine years ago.

The Harvard Club, which has 250 employees, has two locations, in the Back Bay and the Financial District. Its 5,000 members - alumni from Harvard, Yale, and other elite schools - pay as much as \$165 a month and an initiation fee of up to \$2,000 to belong. General manager Eric Gillberg declined to comment on the lawsuit.

The club is not affiliated with Harvard University.

The Massachusetts tips law states that any service charge a customer would “reasonably expect” to be given to a server in lieu of a tip must be given to the employee.

Dozens of establishments have been sued for violating this law, including a Berkshires resort that last month reached a combined \$7 million settlement with some 700 current and former workers. Dunkin’ Donuts is facing a class-action suit because supervisors and managers share in tips - a case being brought by lawyer Shannon Liss-Riordan, who is also representing the Harvard Club workers.

“I am appalled that a club associated with my alma mater would be playing these games with its employees,” said Liss-Riordan, who earned her undergraduate and law degrees at Harvard. “An employer like the Harvard Club, they should know better.”

Bartender Andy Bertrand, one of the plaintiffs, knew he would not get tips when he started working at the Harvard Club six years ago, but he said the health care benefits and not having to deal with rowdy barrooms made it worth it. But Bertrand is drawing the line at what he says is a misleading practice.

“It’s like the management is tricking us and tricking the members,” said Bertrand, who makes \$18 an hour.

The Local 26 hospitality workers’ union, which encouraged the workers to bring the lawsuit, is in the midst of contentious contract negotiations with the club. Several months into negotiations, the Harvard Club sent the union a \$2,344 bill for using the meeting room at the club, retroactive to the first bargaining session in May.

The club said it has rescinded the bill; the union said it has not been notified.

Along with the bill, the club suggested that the bargaining committee, made up of workers, order from the club’s catering menu during negotiating sessions, and attached a menu. Among the options: a \$48 lunch combination of warm lobster and mushroom strudel, fondue finished with hollandaise, grilled petit filet mignon, mango cheesecake, and coffee.

The lawsuit also raises questions about the annual holiday gift, bonuses paid to employees from money donated by members. A portion of the collection is given to employees - \$60 for every year of service, Bertrand said - but the rest goes to management, according to the lawsuit.

Club member Bob Whelan, a Boston financial consultant, likes the idea of the holiday gift to reward the employees, but said he thought all the money went to the workers.

“I didn’t think anything would go to management,” he said.

As for the surcharge, Whelan, who eats in the club’s Grill Bar with his wife, said he was told the gratuity was included.

“I never questioned it,” he said. “Maybe I will from now on.”

Katie Johnston can be reached at kjohnston@globe.com. Follow her on Twitter [@ktkjohnston](https://twitter.com/ktkjohnston).