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S.F.'s Moscone Center illegally kept servers' tips, lawsuit alleges



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Food servers at the Moscone Convention Center in San Francisco filed a lawsuit accusing the owners and caterer of illegally pocketing part of their banquet "service charges."

Benjamin Fanjoy/Special to The Chronicle

Food servers at the Moscone Convention Center in San Francisco say its owners and caterer illegally pocketed part of their banquet "service charges" that customers had considered tips for waiters and waitresses. A judge in a similar lawsuit recently ordered the Marriott Hotel to pay \$9 million to hundreds of its workers.

During banquets at the convention center at 747 Howard St., the center and its caterer, Savor, added a 22% service charge that “appears to be a gratuity,” or tip, the servers said in their lawsuit, filed Tuesday as a proposed class action in San Francisco Superior Court.

“Customers have paid these charges reasonably believing they were to be remitted to the service staff,” attorney Shannon Liss-Riordan wrote in the suit. Instead, she said, the Moscone Center and Savor “have had a policy and practice of retaining for themselves a portion of these gratuities and/or using a portion of these gratuities to pay managers or other non-service employees.”

Claiming violations of the state law against unfair or illegal business practices, the suit seeks refunds of the withheld payments and additional payments for attorneys’ fees and court costs.

Liss-Riordan filed similar suits Tuesday against Jon & Vinny’s restaurant in Los Angeles and Hyatt’s Andaz Hotel in West Hollywood. Owners of Jon & Vinny’s denied wrongdoing and said customers were clearly told the fee was not a tip, the Los Angeles Times reported.

The Moscone Center did not immediately respond to a request for comment.

A state appeals court ruled in 2019, in another San Francisco case, that portions of a bill identified as service charges belong to the employees under California law if they were reasonably viewed as tips by the customers who paid them.

Superior Court Judge Ethan Schulman cited that ruling in his decision in January that the Marriott Hotel, at 780 Mission St. near Union Square, had illegally withheld some tips that should have been paid to hundreds of food servers over a period of more than five years.

“It was common practice for employees, including banquet servers and their managers, to refer to service charges as gratuities or tip pay,” Schulman wrote.

The service charges added 23% or 24% to the bills. Food servers, whose wages were between \$11 and \$13.50 an hour, were paid \$70 million from those fees from 2012 through April 2017, while management kept \$9 million.

Starting in April 2017, Marriott added language to its contracts with customers specifying that part of the fee was a “house charge” and should not be considered a tip. Schulman said the hotel was entitled to keep that portion of the fee because it had clearly notified its customers.

But until then, the judge said, “a reasonable customer would understand and intend the service charges to be a gratuity for service staff.”

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