

Tips about Gratuity

By Reg P. Wydeven
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Now that Memorial Day has come, I stop wearing the vests of my three-piece suits and I can break out my white shoes and belts. In other words, summer is officially here. With summer, our family starts going up to my in-laws' cottage on weekends.

We have an absolute blast up north. We fish, swim, go boating, have campfires, grill out and play lots of cribbage. And if it rains, we play Xbox.

Another huge perk up north is The Dairy Cove. One of Cecil's institutions, The Dairy Cove is a restaurant that features burgers, hot dogs, fries, onion rings, nachos and a bunch more delicious items. But they specialize in desserts, specifically frozen treats. They have malts and shakes, sundaes, slushes, flurries, and frozen yogurt.

My wife and son get slushes, I get a chocolate shake and my daughter gets a Brownie Beast – a special flurry made with chocolate ice cream and big chunks of brownie. The Dairy Cove is manned by a bunch of high school kids who do a great job. Because of their great food, The Dairy Cove is constantly busy. The staff, however, works very hard to deliver tasty food quickly, all with a smile.

Since the staff is so terrific, we're always happy to stuff a few dollars into the tip jar. I'm not sure how they divide up the tips, but all the kids seem to work hard, so I'm sure their system is fair. How tips get divvied up, though, is at the center of multiple lawsuits in New York.

One lawsuit was filed on behalf of baristas, the employees of Starbucks who serve customers their gourmet beverages. The baristas are suing to prevent assistant managers from sharing in the tip jar. The other suit was filed by Starbucks assistant managers, seeking the right to share in tips.

At issue is the definition of "agent" under New York state law. Agents of a company are precluded from sharing in tips. The baristas, who share tips weekly based on hours worked, contend assistant managers should be considered agents because they receive higher wages and their job duties include assigning job stations and coordinating breaks.

The assistant managers argue that they clearly should not be considered agents of Starbucks because most of their shift is spent serving customers, so they deserve tips. In addition, they are not empowered with traditional managerial duties, such as hiring and firing employees.

Based in Seattle, Starbucks has nearly 18,000 locations worldwide, with 413 company-owned stores in New York. Last year, Starbucks had over \$13 billion in revenues. Starbucks employees aren't the only ones monitoring these lawsuits, though. New York has 42,000 hospitality industry groups statewide and 250,000 employees in New York City that will be affected by the decision.

The lawsuits are in front of the Second Circuit U.S. Court of Appeals.

I just wonder if the baristas are paying their attorneys with loose change.

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