

S.F. Hilton may have to pay hotel workers for missed tips



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Nora Johnson works at the front desk as Hilton Union Square reopens for business in San Francisco, Calif., on Monday, May 24, 2021.

Hundreds of waiters, bartenders and other dining-room workers who have worked at San Francisco's Hilton Hotel at any point since 2010 can sue over a 20% "service charge" at banquets and dinners that the hotel partly keeps for itself rather than paying to employees as tips, a federal judge ruled Monday.

U.S. District Judge Jeffrey White of Oakland did not decide whether Hilton had violated the workers' rights, an issue to be decided when the case goes to trial. But he said the claims in the lawsuit had enough in common, and applied to enough workers, to meet legal standards for a class action.

The suit was filed in 2014, but the class will include service employees from January 2010 onward. As of 2017, when a federal appeals court reinstated the suit after White had previously dismissed it, there had been at least 399 workers affected by the hotel's policy, the judge said Monday.

The ruling was "a long-awaited victory," said Shannon Liss-Riordan, a lawyer for the workers. She said similar class-action suits are pending against other San Francisco establishments.

Lawyers for the Hilton Hotel were not immediately available for comment. In court filings, they had argued that the terms of the service charges varied from one occasion to the next, but that customers were generally aware that the 20% addition was needed "to cover the hotel's incidental expenses and administrative costs."

However, a state appeals court ruled in another San Francisco case in 2019 that, based on the evidence, a hotel service charge was "intended by the customer to be a gratuity," or a tip, which under California law must be paid entirely to the service employees. And the U.S. appeals court in the 2017 Hilton case said such issues must be decided under state law.

According to the Hilton lawsuit, hotel management keeps a portion of the service charge for itself, then apportions 25% of the remaining funds to management staff and the rest to the service workers.

While the hotel said it had no uniform practice of dividing the proceeds, and sometimes negotiated agreements with large banquet-holders, White said the workers had provided evidence that Hilton had "a common practice of ... failing to pay service employees the entire amount," and that "a reasonable patron would understand this was a gratuity."

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