



# Should the Government Decide Who you Tip at Restaurants?

News

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The article, "Should the Government Decide Who you Tip at Restaurants?" featured in *Seattle Magazine* on March 3, 2016, discussed a 2-1 ruling on Feb. 23, in which the 9th Circuit Court of Appeals -- an intermediary court between the federal district court and the Supreme Court -- ruled that back-of-the-house employees are not entitled to your tips. Only the servers who serve you are.

Nick Beerman shedded light on what this case means and how did we got here.

He said it all started with Portland's Woody Woo in 2010.

Back then, he explained, an employee of the restaurant brought a case against Woody Woo, Inc. saying that the tip pool violated the Fair Labor Standards Act, which regulates wage and hour law in the United States. The 9th Circuit ruled no harm, no foul in 2010 because it determined that the employee made more than the federal minimum wage, the Fair Labor Standards Act didn't even address tips pools, and therefore the restaurant wasn't in violation of the Act.

"It has just taken this long for them to write up the law and enforce it," he explained. Why do they care? "So they can protect their federal rule-making agency and being in charge of making such rules."

Seriously? Yes. The next step: That same group of restaurant associations announced March 2 that they are seeking a review of the case before a full 11-judge panel of the 9th Circuit. That could happen any day. The case may even make it to the Supreme Court, Nick said. Not likely, but fascinating nonetheless.

"This is going to make everybody move toward service charge," Nick said. "Otherwise you're going to have angry back-of-the-house staff who will quit. I think people, especially those who don't make a lot of money, have come to expect and rely on those tips."

To read the full article, please visit [Seattle Magazine](#).

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