



Employer Tip Interference is a Crime:

8 Ways to Determine If You Have a Case

To Insure Prompt Service (Tips)

The dictionary defines a “tip” (or *gratuity*) as a small monetary gift provided in exchange for a service. And while in a broad sense, that definition may be true, it fails to encompass the more complex significance this little word holds for millions of American employees. For the average waiter/waitress, hair stylist, hotel housekeeping staff person or bartender, tips are an economic necessity of working in the service industry. In fact, dozens of jobs fall into this category, making tipping a multi-billion dollar economy in itself.

If you are employed in the service sector and you rely on tips to make a living wage (or in some cases, simply minimum wage), then you have a vested interest in knowing your rights concerning this issue. More than likely, your job requires you to work long hours, be on your feet for long periods of time, and spend your energy catering to the needs of customers and clients.

Your job is not easy and you deserve every tip you get because you’ve worked hard to earn that money. If you’re one of the many who are feeling **overworked and underpaid**, then employer interference with your tips can be understandably frustrating.

We’ve seen countless cases of employer tip interference and the clients we help to defend often have the same initial questions and concerns:

- ***I just want to be heard.***
- ***I feel cheated and disrespected.***
- ***Do I even have a legitimate case against my employer?***
- ***I’m not sure that I would want to sue.***
- ***Won’t a lawyer cost me thousands?***
- ***I’m worried that my employer will fire me or threaten me.***

If the points above describe your situation, then we’re glad you landed here. This ebook will provide you with the information you need to know the law and protect yourself against unfair interference with your hard-earned tips.



Tell-Tale Signs of Illegal Interference

Remember that simply because a property is unsafe does not necessarily mean that the property owner is responsible. For example, anytime a warning sign is prominently displayed, proving responsibility on the owners is more challenging.

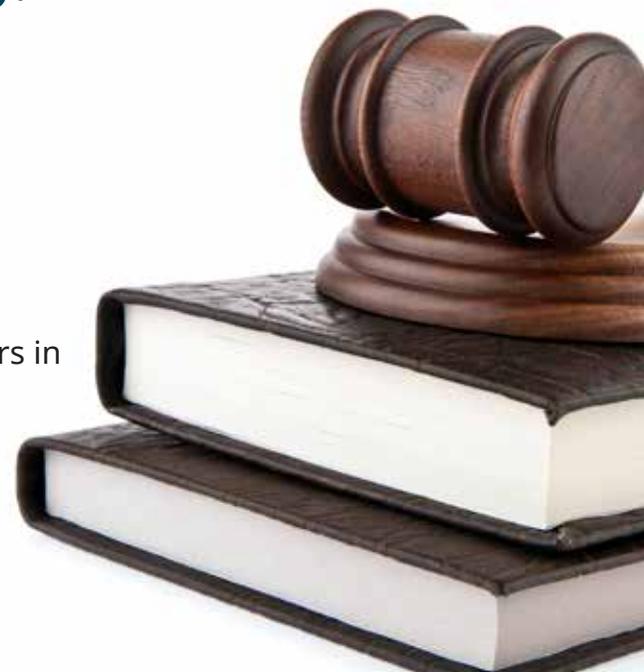
The details of a premises liability or fall down case should be entrusted to an experienced law firm. Do not talk to risk managers or other agents of the property owner. An attorney will be able to help answer your initial questions, such as:

- Are you forced to share your tips with management?
- Does your facility collect gratuity for you?
- Have you been forced to participate in a tip pool that has ambiguous protocol and is overseen by management?
- Is management collecting your tips and not giving them to you?
- Do you suspect that management has interfered with your tips before you are able to take them home?

If you answered “yes” to any of the above questions, then there is a high likelihood that you are the victim of illegal employer interference. As an employee who depends on tips for income, you need to know your rights according to the law. Of course, every situation is unique and the law does allow for some degree of employer involvement, but involvement is very different from interference. We will use the remainder of this ebook to help define some terms and outline the applicable laws.

The Fair Labor Standards Act (FLSA): What You Need to Know

The Fair Labor Standards Act is a federal law designed to protect every worker. As a general summary, it has established minimum wage and put laws in place that regulate overtime pay, recordkeeping, and child labor standards. The requirements of this act affect most employers and impact both full-time and part-time workers in the private sector as well as in federal, state, and local governments.



For purposes of your specific situation, here's what you need to know: the FLSA defines what an employer can and cannot do in relation to an employee's tips. It establishes a law against employer interference and it outlines what kinds of scenarios break that law.

If you have suffered from employer interference in your tips, the law is on your side. In court, the FLSA is the best friend of an employee who has been robbed of the tips they were rightly owed.

The Department of Labor: All About the Wage & Hour Division (WHD)

The Federal Government's Department of Labor has a Wage & Hour Division (WHD) we encourage you to visit that website.

The WHD is responsible for explaining, in detail, how the regulations established by the FLSA apply to employees who receive tips. Below, we will define necessary terms and provide more specific information for you, based on the WHD's fact sheets concerning this topic.

Employee Retention

Tipped employees are those who customarily and regularly receive more than \$30 per month in tips. Tips are the sole property of the employee regardless of whether the employer takes a tip credit.

Employer Involvement

The employer is prohibited from using an employee's tips for any reason other than as a credit against its minimum wage obligation to the employee ("tip credit") or in furtherance of a valid tip pool. Only tips actually received by the employee may be counted in determining whether the employee is a tipped employee and in applying the tip credit.

Tip Credit is allowed by the FLSA, which permits an employer to count an employee's tips toward its minimum wage obligation. This credit can be (as a maximum) equal to the difference between the required cash wage (which must be at least \$2.13) and the federal minimum wage (which is currently \$7.25).



Tip Pooling is a shared agreement among employees and is only valid if it exclusively includes those who customarily receive tips. An employer may require an employee to participate in a valid tip pool; however, the employee must be fully informed of any required contribution amount and the employer may not retain any tips for any reason.

8 Ways of Determining Illegal Activity

The following regulations help to outline what is and is not allowed by law when it comes to an employer's involvement with tips. Use this list to help determine whether you have a legitimate case against your employer:

- The FLSA prohibits any arrangement between the employer and the tipped employee whereby any part of the tip received becomes the property of the employer.
- Even in a situation where a tipped employee receives at least \$7.25 per hour in wages directly from the employer, the employee may not be required to turn over his or her tips to the employer.
- If an employee's tips and the employer's cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference.
- Where an employee receives tips only and is paid no cash wage, the full minimum wage is owed.
- An employee may not be required to contribute to an invalid tip pool (one in which participants include those not customarily tipped).
- Employees have the right to be informed upfront about any tip pools and the required contributions that have been agreed upon.
- Where deductions for walk-outs, breakage, or cash register shortages reduce the employee's wages below the minimum wage, such deductions are illegal.
- The employer may not take a larger tip credit for an overtime hour than for a straight time hour.



Call Us Now... Don't Wait Until It's Too Late!

The FLSA contains a two-year statute of limitations, which means that **waiting could cost you** back wage compensation that you may rightfully be due. A federal court lawsuit, if it is required, must be filed within the two-year period following the illegal interference in order for the employee to collect. **Every day that goes by, you risk losing the chance to get your hard-earned money back.**

At the Law Offices of Thomas More Holland, we work tirelessly to make certain that every client has been paid fairly and completely. But, in order to ensure we can complete our investigation before the statute of limitation expires, we encourage employees to **call us at (215) 977-435 as soon as illegal inference on the part of the employer is suspected.**

Here's Why We Think You'll Love Working With Us:

- We represent our clients with a thorough **knowledge of the law**, but also with personal **conviction**. We won't let anyone take advantage of you.
- Our attorneys advise you confidentially and ensure that attorney-client privileged conversations protect your anonymity.
- We'll educate you on all of your rights and **we'll guide you in your next steps** before you have to take them.
- We know you're already overworked and underpaid. That's why **working with us won't cost you a dime** unless you win or successfully settle.
- Our office knows how to **protect you from all forms of employer retaliation**. Read more about the law against this practice on our helpful **Guide to Knowing Your Rights**.

Remember, interference is a crime. If you're not being paid fairly or are not able to take home the money that is rightfully yours, then you deserve to be represented in court. Keep in mind, also, that if your employer has violated the Fair Labor Standards Act once, then it's likely they've violated it repeatedly in the past and will continue to do so until they are stopped. Your choice to seek legal counsel could be the catalyst to turn the tide at your workplace. Your efforts could result in a long-lasting, positive impact that will protect future co-workers and improve the lives of many.