

Our opinion: Withholding tips is bad business

Posted: 10/24/2012 12:05:51 AM EDT

Updated: 10/24/2012 12:05:51 AM EDT

Wednesday October 24, 2012

If food service employees are indeed having tip money withheld from management at businesses in Pittsfield and Massachusetts, as a Boston attorney suggests, then they should learn from the examples of other businesses and rectify the situation. The practice is unfair, illegal, costly and provides bad publicity.

Crowne Plaza of Pittsfield in February settled a class-action lawsuit with a \$1.3 million out-of-court payout brought by employees who argued they did not receive all the tip money due them for serving customers at banquets between November 2006 and June 2010. Checks are now going out to 150 current and former food service employees at the hotel. Attorney Paul Holtzman of Boston said in Tuesday's Eagle that similar questions have been raised about country clubs, inns, hotels and resorts around the county and the state.

Canyon Ranch in Lenox (2008), Orchards Inn in Williamstown (2010) and Cranwell Resort in Lenox (2011) also reached settlements related to partial non-payment of services. Under state law, waitstaff members earn \$2.63 an hour as a minimum wage, but management must distribute full tips or compensate employees up to the state minimum wage of \$8 an hour. Tipping is an archaic but deep-rooted system that invites abuse. "It will just keep going on because by and large, employers just can't help themselves," said Brian Lang of Unite Here Local 26 in the Boston Globe. The Harvard Club reached a tentative settlement with Local 26 last month in a case similar to those in the Berkshires. Dunkin' Donuts is involved in a class action suit over tip-sharing.

These incidents provide good arguments for strong unions, as well as the whistleblower law, under which the lead plaintiff in the Crowne Plaza case received a \$10,000 "incentive award" for bringing these transgressions to light and representing fellow workers. It is apparent that many workers didn't realize they had any rights but the law was on their side in assuring they received their just wages.

Mr. Lang's concerns aside, employers have powerful incentives to do right by service employees. Patrons who learn that tips left for waitstaff didn't get to them may not return. And no matter how much money is saved by withholding tips, the bad publicity combined with the settlement costs won't justify the damage done.