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## Ex-Server Hits Fla. Beachside Grill With Tip Theft Suit

By **Caleb Drickey**

Law360 (May 3, 2022, 6:07 PM EDT) -- A Fort Lauderdale beachside bar and grill illegally siphons more than a third of all customer tips away from its servers and bartenders, a waiter has alleged in a complaint filed in Florida federal court.

In a proposed collective action filed Tuesday, Robert Conrey accused 411 South Bar and Grill and its owner, Krikor Kevorkian, of violating the Fair Labor Standards Act's tipped wage rules by withholding 35% of all employees' tips and of firing him in retaliation for complaining about its pay policies.

"A direct causal relationship exists between Plaintiff asserting his rights under the FLSA and the abrupt termination just minutes after Defendants were made aware of these complaints," Conrey said. "Any other justification for termination cited by Defendants is mere pretext."

Over the course of a roughly year-long stint at the restaurant that ended with his firing a day before he filed his complaint, Conrey says he worked both as a server and bartender.

In both capacities, he alleges that 411 South, which is formally incorporated as Beach Boys of Ft. Lauderdale LLC, withheld 35% of his tips, a policy he says extended to all other servers and bartenders at the restaurant.

Under the FLSA, tip deductions by management are illegal. While the FLSA permits non-tipped cooks and back-of-house workers to collect a portion of servers' tips, the 2018 Tip Income Protection Act amended the FLSA to prohibit employers from keeping any portion of worker tips "for any purposes."

According to Conrey, Kevorkian and 411 South chose for years to simply ignore its obligation to change its pay policies.

"Defendants were aware of the requirements of the FLSA ... yet acted willfully in failing to pay Plaintiff and the class members in accordance with the law," Conrey said.

Conrey proposes the creation of a class of servers and bartenders numbering in the dozens, representing all employees whose tips were deducted dating back to May 2019. Their claimed damages amount to their alleged lost wages plus an equal amount of liquidated damages.

Beyond his collective claims, Conrey also accused Kevorkian and the restaurant of illegally firing him in retaliation for preparing his lawsuit. Conrey says Kevorkian called to fire him on Sunday, moments after hearing that Conrey had complained about the restaurant's pay practices.

Conrey said his firing was an act of illegal retaliation.

On an individual basis, Conrey demands back wages, future wages and other damages to be proven at trial.

The parties did not immediately respond to requests for comment on Tuesday.

Conrey is represented by Jordan Richards of Jordan Richards PLLC.

Counsel information for 411 South and Kevorkian was not immediately available.

The case is Conrey v. Beach Boys of Ft. Lauderdale, LLC et al., case number 0:22-cv-60843 in the

U.S. District Court for the Southern District of Florida.

--Editing by Peter Rozovsky.

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