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Wage and Hour Law Update

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New York Court of Appeals Issues Starbucks Tip Ruling

In a significant victory for New York employers, the New York Court of Appeals has now held that Starbucks' tip splitting practices did not violate New York law. In answering the certified questions in [In Re Starbucks](#), the Court held "an employee whose personal service to patrons is a principal or regular part of his or her duties may participate in an employer-mandated tip allocation arrangement even if that employee possesses limited supervisory responsibilities." Only employees with "meaningful authority" over subordinates may not participate in a tip splitting arrangement under New York Labor Law § 196-d, the Court held.

The Court also ruled that New York law does not provide an affirmative right for eligible employees to participate in a tip pool, and employers may exclude otherwise eligible employees from the pool, though the Court states there may be some "outer limits" to this ability (in the Court's example, giving all collected tips to a single employee, at the expense of the remainder of the service staff).

Two Judges wrote separately. Dissenting in part, Judge Robert Smith stated that the statute simply did not address tip splitting arrangements (only the taking of an employee's tips by his or her employer or a manager), and thus would have ruled in favor of Starbucks on that ground. Another Judge filed a separate opinion concurring in the Court's ruling relating to the applicable standard for participating in a tip splitting arrangement, but finding it unnecessary to decide the issue of whether an otherwise eligible employee could be excluded. The Court was unanimous, however, that Starbucks did not violate the law. The decision can be reviewed [here](#).

This decision adopts positions advocated by the New York State Department of Labor and the [New York State Restaurant Association](#), who both filed amicus briefs in the case. The New York State Restaurant Association was represented by Jackson Lewis.

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