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NYC Restaurant Servers Nab Collective Cert. In Tip Theft Suit

By **Caleb D icke**

Law360 (October 18, 2022, 10:00 PM EDT) -- A New York federal judge found Tuesday that a group of servers who claimed that a pair of Manhattan Chinese restaurants underpaid them and stole tips adequately alleged that they were subjected to the same pay policies and granted them conditional collective certification.

U.S. District Judge Lewis J. Liman **led** that a trio of declarations rose above hearsay asserting that the owners of Manhattan eateries The Bao and Uluh uniformly required tipped workers to perform untipped work at subminimum wage rates and misappropriated tips. Collective certification, the judge therefore held, was appropriate.

"Plaintiff has offered evidence of a uniform practice engaged in by defendants across the two integrated restaurants that affected all tipped workers similarly and that, if proven, would violate the [Fair Labor Standards Act]," Judge Liman said.

place of employ or, in the case of Mangahas, at both restaurants. That is to be expected," the judge said. "The similarities among the declarations here do not entitle them to less weight."

The judge, therefore, approved the dissemination of collective action notices to a list of tipped workers provided by the restaurants.

Mangahas **ed he e a an** , along with owner Richard Lam and his wife, Joanne Hong Bao, in May. Last month, Hong Bao asked to be dismissed from the suit, arguing that her **hhe .**