

Dining: Restaurant Wages Reach Tipping Point

Continued from page 1

What's more, diners will need to adapt to the new cost structure – which isn't a sure thing. It's second nature for some couples to leave a \$20 tip on a \$100 dinner at their favorite restaurant. But seeing the bill for "the usual" jump to \$120 could be jarring, and have them looking for other date-night spots.

Restaurateur **Bill Chait** acknowledges that sticker shock has been an issue at his Barrel and Ashes in Studio City, where he implemented an 18 percent service charge in place of tips.

"People say, 'Oh, my God, we just spent \$75 for two people to eat tacos!'" he said. "They haven't gotten used to the idea that the service charge is included in the bill."

Tipping point

The dining industry got a jolt last month when New York restaurant mogul **Danny Meyer** said he would phase out tipping at 13 of his restaurants and compensate by raising prices. His sweeping commitment to raising wages for 1,800 employees could encourage many restaurants to follow suit, particularly given his stature in the industry – and the tremendous success of his eateries, such as New York's **Shake Shack** chain, Chait said.

But moving away from a long-established cost structure is a gamble, and in Los Angeles, the stakes are especially high as restaurants prepare to be squeezed by a new minimum-wage ordinance.

The city's minimum wage will rise from \$9 to \$10 an hour in January. It will ratchet up again in July to \$10.50 an hour, eventually reaching \$15 an hour by 2020.

California is one of a few states that doesn't provide for a lower minimum wage for tipped workers, so restaurant owners will have to dig deeper into their pockets. A bill proposed in February that would freeze the statewide minimum wage at \$9 an hour for tipped employees, sponsored by the **California Restaurant Association**, was tabled for lack of support.

To adapt to the changing economics, some restaurateurs such as Chait have chosen to use higher prices or service charges to replace tips, bringing in more revenue to cover the increased labor costs.

Chris Tilly, director of UCLA's Institute for Research on Labor and Employment, said local restaurants should embrace the opportunity to shake things up.

"This would be a great time for restaurants to say: We're thinking about fairness, we're thinking about simplicity, let's dispense with tipping and look for a new system," he said.

That was **Karen Hatfield's** approach. The prospect of an increased minimum wage con-



Feeling Heat: Karen Hatfield at L.A.'s Odys + Penelope, where she has nixed tipping but implemented a service charge.

vinced her to implement an 18 percent service charge when she and her husband, **Quinn**, opened Brazilian-inspired grill **Odys + Penelope** in Los Angeles on La Brea Avenue near the Miracle Mile in January. That allowed her to pay servers \$28 an hour and cooks as much as \$15, preempting any adjustments she'd have to make for wage increase.

She said that she would eventually like to add a modest service charge at her quick-service eatery **Sycamore Kitchen**, just down the street from **Odys + Penelope**, believing that all restaurants, even fast-food joints, could borrow the idea.

Her biggest challenge is educating customers. "People need to realize this is not an opportunity for restaurants to pocket this money and not pay our staff," she said, adding that even that extra revenue accounts for only half of her labor costs.

Chait can relate, but he said he doesn't mind the pushback if he can stop a practice he calls "archaic" and "discriminatory."

He plans to add service charges at two soon-to-be-opened restaurants and eventually ax tipping at nearly a dozen others, including downtown L.A.'s **Bestia** and **Redbird** as well as **Sotto** in West Los Angeles.

Some other restaurateurs who haven't

scrapped tipping yet are intrigued by this new business model and are closely watching how it all shakes out, including **Paul Hibler**, founder of **American Gonzo Food Corp.** in Venice and owner of several restaurants including the **Pitfire Pizza** chain.

"This is a great opportunity to balance out the economics of a restaurant company, creating a true environment of fairness for all," said Hibler, who said he might scrap tipping at his **Superba** restaurant in Venice.

Unintended consequences

But while the tipping economy has plenty of problems – not least, putting the server's income at the whim of a cranky diner – some restaurant owners believe the alternative is worse.

Umami Restaurant Group founder **Adam Fleischman** thinks Meyer's plan can only work for fine dining. Midlevel restaurants that add higher prices or service charges, he said, would scare off customers.

"There has to be a better solution for a \$20 check average," he said.

His own solution is to move away from service-oriented dining completely. Instead, he is opening fast-casual versions of **Umami Burger** and growing his **800 Degrees** pizza franchise.

Bob Spivak, chief executive of **Grill**

Concepts, which owns several restaurants including the **Grill on the Alley** in Beverly Hills and the **Daily Grill** chain, is also cautious about getting rid of tipping. He said bigger gross sales could mean higher taxes and rent, plus additional costs for worker's compensation.

"I'm guessing you would have to raise your prices in the area of 30 percent to pay your team members 18 percent to deal with the unintended consequences," he said. "I don't think it's doable."

The owner of Silver Lake's **Cowboys and Turbans**, **Baba Ji**, said he is willing to take on whatever extra expenses come his way if he can reduce costly staff turnover.

"I'm going to pay more taxes, more rent, whatever I have to pay more, but I know my servers aren't leaving," he said.

The challenge will be to get staff to agree to trade extra cash for a regular and fatter paycheck.

Ji said his servers are on board with his plan to pay \$18 an hour instead of \$9, and raise that wage one dollar a month until reaching \$25 an hour.

But that's not enough for at least one server there, who spoke to the *Business Journal* on condition of anonymity and said she doesn't want to work without tips. She is already looking for a new job.

Law: Firm Hems In Fashion Copyright Scofflaws

Continued from page 5

But that quickly changed after the firm garnered its first victory representing a local textile firm in a copyright dispute a decade ago.

"The fashion industry is really tight-knit and so word got around and a lot of other clients started coming to us," Doniger said. "We really grew organically."

He wouldn't disclose how much revenue his firm has generated in recent years, but noted that it has increased annually. Business has grown enough that the firm was able to start hiring more attorneys about three years ago. Today, it has nine in the Venice office, including the co-founders, who handle about 200 cases at any given time.

"We tend not to worry about the money,"

Burroughs said. "Underneath it all, we just have this view that we're protecting content creators."

Indeed, a core element of the firm's mission is to raise awareness in the fashion industry about the importance of protecting copyrighted designs and allowing designers to make money on their creations.

"The Copyright Act stands for this view that we're richer as a society when more people are creating artwork and literature and music," Doniger said, "so we're going to take a stand for those content creators."

Still, it's not uncommon for opponents to attack the firm's practice and label its clients as "copyright trolls," who are just looking to make a quick buck.

"When I hear assertions that we represent copyright trolls, it's an insult to the content creators," Doniger said. "What we heard for years was that these are frivolous lawsuits.

But you can't keep saying that when we've tried and won a dozen straight cases."

New era

Even though the vast majority of **Doniger/Burroughs'** cases cater to the fashion industry, the firm has recently seen an uptick in demand for its services from other artists, photographers, writers and the like.

One area in particular that Burroughs anticipates will keep his firm busy stems from the rise of what he calls "clickbait" cases, which typically involve online slideshows of photos that the author likely isn't authorized to republish.

"I'm sure you've seen the links for things like '37 Pictures of Llamas That Look Like Celebrities,'" he said. "Those sites don't have the rights to use those photos."

Last month, for example, Burroughs filed

a case on behalf of **Peter Menzel**, a photo-journalist in Napa who claims his photos were used in an online article published by "a clickbait website."

The case, filed in federal court in Los Angeles, seeks to collect \$150,000 from the website. It's the third clickbait case the firm has filed, Burroughs said, but it likely won't be the last.

The growing popularity of similar websites, Burroughs said, will likely drum up even more business for the firm, especially if its pending cases have anywhere near the success its fashion cases have had.

"We never saw ourselves only representing clients in the fashion industry," Burroughs said, adding that regardless of the industry, "it's important to go to court and take a stand because without compensation, content creators are going to stop creating."