

TIP POOLING – Key Cases

(This summary of cases should not be regarded as providing any legal advice)

1. **Leighton v. Old Heidelberg, Ltd.**
(1990) 219 Cal.App.3d 1062
 - Mandatory tip pooling plan is legal under certain conditions
 - It is **ILLEGAL** for the employer to take part of tip pool

2. **Jameson v. Five Feet Restaurant, Inc.**
(2003) 197 Cal.App.4th 138
 - “Tip pooling is permissible under California law if an employer or agent does not take part of a gratuity given to an employee by a patron ...” 197 Cal.App.4th at 141
 - Floor manger was the agent of the employer and, therefore, it was illegal to give the floor manager 10% of tip pool

3. **Lu v. Hawaiian Gardens Casino**
(1/22/09) 170 Cal.App.4th 466 – review granted in May, 2009 by CA Supreme Court
 - Conversion – if an employee owns or has right to possess the property at the time, claim exists for conversion (for example, taking of tips)
 - Shift managers are agents of the employer and cannot take part of the tips

4. **Budrow v. Dave & Busers of CA, Inc.**
(2009) 171 Cal.App.4th 875
 - Tip pooling has two limitations: (1) tips CANNOT be taken by the employer and (2) share of the tips can only be given to certain hourly, non-exempt employees – those to whom the patron intended to give the tip
 - There are limits as to which employees get part of the tip pool, based on the *patron’s intent*

5. **Grodensky v. Artichoke Joe’s Casino**
(2009) 171 Cal.App.4th 1399
 - Individuals have a right to bring a lawsuit under Labor Code Section 351 to contest an illegal tip pooling scheme
 - A court can order the employer to disgorge (give back) and to make restitution

(give back) money improperly taken from tip pool

6. ***Etheridge v. Reins International California, Inc.***
(2009) 172 Cal.App.4th 908

- Tip pooling agreement must be “fair & reasonable” (concurring opinion)