

Jin Ming Cao

I am Jin Ming Cao. I worked as a restaurant waiter for about 10 years. In 2006, I worked as a waiter at Wu Liang Ye Restaurant. My boss never gave me minimum wage or overtime. In 2008, my co-worker and I sued the restaurant. The judge awarded me \$140,000 personally. But until now, I have not received a penny. It exposed the weakness and inhumanity of the law and that enforcement was very difficult.

Today, I speak on behalf of CSWA and many restaurant workers. Now, the NYS tipped workers minimum wage is only \$5 an hour. But many bosses still only pay waiters \$400 a month who work more than 60 hours a week. Delivery workers only get paid \$600 per month and work over 65 hours a week. And some restaurants tell customers not to pay tips and hire non-tipped workers to do the work of tipped workers.

I think that eliminating tip credit is not the solution. Because it will only encourage bosses to make tipped workers become non-tipped workers and do non-tipped workers work. For example, in Manhattan's Chinatown, Queens Chinatown, and Brooklyn's Chinatown, already 30% of the restaurants have raised the prices of food on their menu and post no-tip notice on the wall, telling customers not to give tip and hire non-tipped workers to do the work of buser, or waiters. Also, the current law does not stop the employer from doing so.

Non-tipped workers wages at \$8 an hour is clearly not enough to survive on. Even if it's \$13 an hour, it's still difficult. New York rent is high and with soaring prices for goods, workers who rely on minimum wage jobs simply cannot support their families. We, workers, demand that the minimum wage for tipped workers should be at minimum, \$10 an hour. We also demand that the law should regulate employers not to prohibit customers from tipping or post a no-tip notice. Workers have a right to tell customers if the tip is not included in the bill. Non-tipped workers minimum wage should be more than tipped worker minimum wage. We demand that the Department of Labor enforce the labor law so that workers can get a REAL wage increase.

I am submitting the following proposed language to prevent the tip stealing to ensure tipped workers get REAL wage increase:

An employer shall not take affirmative steps to prohibit or discourage customers from leaving tips for tipped employees. A finding of a such interference will allow an affected employee to recover in a civil action damages of five hundred dollars for each day that the violations occurred or continue to occur, together with costs and reasonable attorney's fees. The court may also award other relief, including injunctive and declaratory relief, that the court in its discretion deems necessary or appropriate. The commissioner may also bring any legal action necessary, including administrative action, to collect such claim, and as part of such legal action, in addition to any other remedies and penalties otherwise available under this article, the commissioner may assess against the employer damages of fifty dollars for each work week that the violations occurred or continue to occur.