

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

**OREGON RESTAURANT AND LODGING
ASSOCIATION, et al,**

Plaintiffs,

v.

HILDA L. SOLIS, et al,

Defendants.

Case No.: 3:12-cv-01261-MO

JUDGMENT

JUDGMENT

Having considered Defendants' Motion for Summary Judgment and Plaintiffs' Cross-Motion for Summary Judgment, and finding good cause to do so, the Court hereby DENIES Defendants' Motion, GRANTS Plaintiffs' Cross-Motion, and hereby enters final judgment as follows:

1. Consistent with this Court's June 8, 2013 Opinion and Order, the provisions of the United States Department of Labor's 2011 Final Rule (*Updating Regulations Issued Under the Fair Labor Standards Act*, 76 Fed. Reg. 18,832 (Apr. 5, 2011)) revising 29 C.F.R. § 531.52, 29 C.F.R. § 531.54 and 29 C.F.R § 531.59 ("the 2011 Final Rule"), stating that tips are the property of the employee when his/her employer has not taken a tip credit against its minimum wage obligations pursuant to 29 U.S.C. 203(m), and extending tip pool limitations to employers who do not take a tip credit against their minimum wage obligations, are declared to be both invalid and set aside.

2. Defendants and their officers, employees, and agents are hereby enjoined from applying or enforcing the 2011 Final Rule against Plaintiffs and/or any entity, employer, or

individual who is able to demonstrate membership in the Washington Restaurant Association, Oregon Restaurant and Lodging Association, Alaska CHARR, and/or National Restaurant Association (“the Plaintiff Associations”) as of the date on which this judgment is issued, to the extent that such application or enforcement by Defendants and/or their officers, employees, and agents is pursuant to, or in accord, with the 2011 revisions to 29 C.F.R. § 531.52, 29 C.F.R. § 531.54, and 29 C.F.R. § 531.59, which have been invalidated consistent with this Court’s June 8, 2013 Opinion and Order.

3. As of the date on which this judgment is issued, Defendant and their officers, employees, and agents shall not take enforcement action or otherwise attempt to impose liability against Plaintiffs and/or any entity, employer, or individual who can demonstrate membership in at least one of the Plaintiff Associations as of the date of this judgment based on their tip pooling practices in circumstances where the Plaintiff or any such member of Plaintiff Associations does not take a tip credit against the federal minimum wage.

IT IS SO ORDERED.

Dated this 24th day of June, 2013.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge