#### Bruno W. Katz

#### Partner



- Rated by American Lawyer and Martindale-Hubbell as a Top Rated Lawyer in Labor & Employment
- Board Member California Restaurant Association-San Diego Chapter
- Captain in the U.S. Navy Reserves and 2010 Judge Advocate General's Association Outstanding Senior Officer





# Use of Surcharges and Best Tips to Avoid False Advertising and Other Consumer Claims

## **Increased Labor Costs**

- Increased Minimum Wage
- Mandatory Paid Sick Leave
- Cost of Healthcare
- Restrictive Scheduling
- Pay Inequity (tip v. nontipped)

# Options to Defray Costs

- Increase Prices
- Adopt Hospitality Included Model No Tips
- Impose Mandatory Service Charge
- Surcharge between 2% to 4%
- Do Nothing

# Surcharge — Wages

- If Distributed to Employees
  - Must report as Salaries and Wages on the business tax return.
  - Recalculation of employees' overtime rate.
  - Count toward regular rate of pay and factored into overtime calculation.

# Surcharge — Legal Attacks

- City Attorney Investigations and Lawsuits
- Private Civil Action-Class Action Allegations
- False Advertising Law
- Unfair Competition Law
- Consumer Protection Statutes
- Negligent and Intentional Misrepresentation

# Surcharge — Remedies

- Actual damages
- Penalties
- Injunction-methods, acts, or practices
- Restitution of property
- Punitive damages
- Any other relief as deemed by the court

## **Best Practices** — **Notice**

- Signage entrance, registrar and/or table
- Disclose on menus
- Disclose on websites
- Disclose in advertisements both paper and electronic
- Training on messaging

## **Best Practices** — **Notice**

- Stay away from the word mandate
- Keep any rationale as to the reason for the surcharge as broad as possible
- Consider different fonts, colors, background to make notice stand out
- Do not utilize smaller font than other items

# **Examples of Surcharge**

its chipotle mayo, lime, cotija,

 Cauliflower jalapeno aioli, ickled jalapenos and onions,

n, Mexican chocolate sauce

amel, whipped cream s banana, almond weet potato, piloncillo, nuez, Grilled Avocado bean puree, creamy corn salad, lime

Steak chile con carne, crema, olives, onions, jack cheese\*

Sweet Potato pickled onions, arugula, salsa roja

Grilled Fish fingerling potato, cherry tomato, bell pepper, jalapeno aioli (Add Uni +3) \*

\* These items are served raw or undercooked or may contain raw or undercooked ingredients

Galaxy Taco merchandise is available, ask the staff!

A 3.5% surcharge will be added to each bill to help cover increasing operations and labor costs

Avenida de la Playa La Jolla CA 92037 858.228.5655 galaxytaco.com

WE TAKE PRIDE IN OUR SERVICE.

A 3% surcharge is included on all guest checks to help offset increased labor costs due to new local, state, and federal ordinances.

# **Examples of Surcharge**



Baked pasta	\$14.00
Side salad	\$ 4.00
Wine	\$ 8.00
Subtotal	\$26.00
Restaurant Surcharge (3%)	\$ .78
Total sale	\$26.78
Sales tax [8.5% x 26.78]	\$ 2.28
Total due	\$29.06



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#### Thank you for attending!