
BEYOND PEOPLE V. CIPRIANI:
THE HIRING OF WOMEN
IN NEW YORK CITY'S ELITE RESTAURANTS:

A REPORT TO THE PEOPLE OF THE STATE OF NEW YORK
FROM THE OFFICE OF THE ATTORNEY GENERAL



ELIOT SPITZER
ATTORNEY GENERAL OF THE STATE OF NEW YORK

CIVIL RIGHTS BUREAU
JULY 6, 2000
NEW YORK, NEW YORK

SUMMARY OF FINDINGS

**BEYOND PEOPLE V. CIPRIANI:
THE HIRING OF WOMEN
IN NEW YORK CITY'S ELITE RESTAURANTS:**

**A REPORT TO THE PEOPLE OF THE STATE OF NEW YORK
FROM THE OFFICE OF THE ATTORNEY GENERAL**

SUMMARY OF FINDINGS

In May 1999, the Office of the Attorney General ("OAG") commenced an investigation into several of New York City's elite restaurants, and the extent to which women are systematically excluded from lucrative positions as servers¹ within those establishments. The investigation initially focused on a limited number of such restaurants -- most notably, the Cipriani family's restaurants -- where the Attorney General had obtained information that a manager had flatly refused to hire women as servers. Subsequently, the investigation expanded to include a number of other restaurants and, indeed, the elite restaurant industry as a whole. This Summary sets forth the findings of the OAG's investigation thus far.

The first outcome of the investigation was the Attorney General's decision in August 1999 to sue the two leading Cipriani restaurants -- "Harry Cipriani," located at 781 Fifth Avenue and "Downtown," located on 376 West Broadway in SoHo -- for sex discrimination. The OAG's lawsuit was based, in part, upon audiotape recordings of a

¹ The term "servers" refers to applies to employees who work on the restaurant floor serving customers. At New York's most expensive restaurants some servers can earn total annual compensation of \$100,000 or more.

senior Cipriani manager insisting that the companies' "philosophy" was not to hire "girls" to work as servers. The Attorney General has now settled that lawsuit with a court-ordered consent decree that sets hiring goals for women and requires expanded recruitment to meet those goals. (The details of the Cipriani decree are discussed in greater detail in Part (B), infra).

The Cipriani suit, however, is only one part of the Attorney General's overall investigation. The OAG has also undertaken a more general review of this problem throughout New York City's world famous, elite restaurant industry. Its findings are set forth immediately below.

A. The Restaurant Report Commissioned By The OAG Provides, For The First Time, A Quantitative Analysis Of The Ways And Extent To Which Women Are Excluded From Working As Servers In New York City's Elite Restaurants.

As part of the OAG's more general review of the restaurant industry, the Attorney General commissioned a first-of-its-kind study of gender segregation and labor pool issues in elite New York City restaurants. The study was conducted by Professor Jerry A. Jacobs, Ph.D, a leading sociologist at the University of Pennsylvania, and Sara Rab, a Ph.D. candidate in sociology at U/Penn.² Professor Jacobs and Ms. Rab

² In addition to serving as the Merriam Term Professor of Sociology at the University of Pennsylvania and a member of the American Sociological Association, Prof. Jacobs is the author of two books on the subject of gender segregation in the workplace (Revolving Doors: Sex Segregation and Women's Careers, (Stanford Univ. Press, 1989) and Gender Inequality at Work (Sage Publications, 1995)), and more than 50 academic papers published in sociological and economics journals.

surveyed 68 New York City restaurants listed in Zagat's Restaurant Guide as appropriate for "visitors on expense accounts"³ -- that is, the most expensive and elite restaurants in New York City, including Lutece, Tavern on the Green, and the "21" Club -- concerning their practices regarding women servers. The report of the survey's findings (the "Restaurant Report") provides a detailed, statistics-based, look at the state of the elite restaurant industry in New York City and the extent to which women are, and are not, excluded from server positions in that industry.

The Restaurant Report paints a picture of an industry where women have made substantial gains, but where further pressure -- and more progress -- are necessary. For example, the Restaurant Report found that, while many of New York City's most expensive restaurants now hire women for lucrative server positions, a significant number still do not. Notably, however, the Report undercuts the argument -- often proffered by elite restaurants who have no women on their waitstaff -- that there are "no qualified women" available or willing to work as servers in elite restaurants. The Report found just the opposite -- that such a labor pool clearly exists. "The claim that there are no women in the pool of experienced servers cannot be sustained, even if the restaurant were to insist on experience at a very elite restaurant."

The Restaurant Report also determined that a restaurant's method of recruiting new servers can dramatically effect the number of women hired. When

³ The survey began with the 73 "expense account restaurants" listed in the Zagat's Restaurant Guide. Five of the 73 were not included in the survey pool for various reasons, including that they were actively under investigation by the OAG or had closed since the publication of the guide.

restaurants used word-of-mouth hiring -- asking their predominantly male staffs to recommend new servers -- women suffered. When restaurants used newspaper advertising to recruit new staff, however, more women were hired. Thus, the Cipriani decree, along with any future settlements or court orders pursued by the OAG, will pay close attention to the method of recruiting servers.

Based upon the Jacobs/Rab study, the OAG has determined the following:

- Roughly two-thirds of New York City's most elite restaurants now hire women for server positions. The other third do not.
- The average wage (salary and tips) per night for a waiter at these establishments is \$209, though waiters at some establishments earn as much as \$350 per night.
- Of the restaurants that do hire women, women comprise roughly 30% of the servers in those establishments.
- It is estimated that almost 300 women now work as servers in New York's most expensive restaurants.

B. The Cipriani Consent Decree: A Guide For Future Reform.

At the same time that the OAG received the results of the Restaurant Report, it also effectuated a settlement of its litigation against the Cipriani Restaurants. This settlement -- which takes the form of a court-ordered consent decree -- addresses many of the issues raised in the Restaurant Report. By setting hiring and retention goals that are commensurate with practices at those elite restaurants which have effectively recruited, hired and retained women servers, the Cipriani decree provides a workable blueprint for bringing the Cipriani Restaurants into conformance with the law

and into line with the best in the industry. Moreover, the decree requires certain recruiting methods shown by the Restaurant Report to be most effective for attracting women to the workplace.

The details of the Cipriani consent decree are as follows:

- The decree puts an end to unlawful gender discrimination and requires the Cipriani Restaurants to adopt an affirmative action plan to remedy their past discrimination. It requires the Cipriani companies to pursue both hiring goals and workforce composition goals for women in both restaurants.
- Specifically, at Fifth Avenue's "Harry Cipriani," the goals call for at least 50% of the servers hired over the next three years to be women, and for at least 33.3% of the server workforce after three years to be women. The goals for bussers at Harry Cipriani is to hire at least 25% women, and for female representation in the busser workforce is set at a minimum of 15% after three years. The restaurant's goal is also to promote at least one woman to the highest ranking floor staff position -- captain -- by the end of three years from the date of the settlement.
- At Soho's "Downtown", the goals call for at least 50% of the new hires for servers and bartenders (combining both positions) to be women, and for a workforce composition goal for the combined positions of 33.3%. For bussers, the goal is to hire 25% women, with a workforce composition goal of 12% after three years. There are no captain positions at "Downtown".
- The decree also significantly alters recruitment at both restaurants. At "Harry Cipriani", after complying with collective bargaining requirements, the restaurant must advertise publicly in The New York Times for bussers, specifically encouraging both women and men to apply. If "Harry Cipriani" does not meet its hiring goals in the first year for other positions, it must advertise in The New York Times for those positions thereafter. To the extent that the Ciprianis are permitted to use employment agencies to locate applicants, they must send a letter informing those agencies that they are equal opportunity employers and that both women and men are encouraged to apply for floor staff positions at the two restaurants.

- The decree requires extensive recordkeeping of hiring and retention practices at both restaurants, and mandates that quarterly reports be made to the OAG for analysis of compliance with civil rights laws and the settlement.
- Further, the settlement requires the Ciprianis to reimburse the OAG for the costs of its investigation (\$10,000) and to pay for the monitoring of the Decree for three years (at an expected cost of \$12,000).
- The court order lasts for three years, assuming the Cipriani Restaurants reach their workforce composition goals. The decree will continue in full force if they do not reach their goals for servers at both restaurants.

* * * *

In sum, progress has been made in ensuring that women are not excluded from this lucrative profession. At the same time, the OAG hopes that the data from the Restaurant Report, along with the Cipriani Consent Decree, will serve as a model and guide for future progress. The OAG's investigation is ongoing.