

## Unpaid Interns Strike Back – Lawsuits On The Rise Alleging Unpaid Wages

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There has been a recent rash of lawsuits filed by unpaid interns against their former employers alleging that they should have been paid minimum wages and overtime. Unfortunately for employers, the plaintiffs have been successful and the lawsuits are escalating both individually and on a class basis.

It all began with a lawsuit by unpaid interns against Fox Searchlight. These interns worked on the film “Black Swan.” On June 11, 2013, a Federal District Court Judge sided with the interns in [his decision](#) stating that Fox Searchlight should have paid the two interns as if they were regular employees. The Judge cited to the [DOL’s Fact Sheet](#) on interns issued in April 2010 which enumerates a 6-part test for evaluating whether an individual qualifies as an unpaid intern. The DOL’s test focuses on the educational aspect of the internship program, the beneficiary of the internship, whether there is displacement of a regular employee and whether there is no immediate advantage to the employer for the activities of the intern. The DOL test also examines whether the intern was promised a job at the end of the internship and whether the intern understood that he/she would not be paid for the internship. In addition to the Fox Searchlight case, there have been lawsuits filed against Hearst Magazines (who publishes Harper’s Bazaar), NBC Universal, Atlantic Records, Warner Music, designer Norma Kamil, Gawker Media LLC, Fox Soccer Channel and others. Charlie Rose and his production company recently settled a lawsuit for \$110,000 for claims by unpaid interns.

While the potential for damages may appear to be small given the minimum wage claims, in the case of the NBC Universal case, the plaintiffs are seeking more than \$5 million in damages under both the FLSA and NY state law. Employers should re-evaluate whether they continue to offer an unpaid internship program and if they do, if it complies with the DOL’s test.

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