

## Unpaid Interns Sue for Back Wages

The question of whether employers should pay interns remains a difficult one. While in some fields, it is traditional to hire college students and recent graduates as unpaid interns, this could become a costly mistake if a government agency or a court in a private lawsuit finds that the interns should have been classified as regular paid employees subject to federal and/or state minimum wage and overtime laws.

In a recent high-profile case, two law firms collaborating on unpaid-intern cases recruited a former intern for a national late-night television show to file a class-action suit against the show's network and its production company. While the plaintiff backed out of the lawsuit after being criticized on social media, the case is an example of a growing trend for plaintiffs' law firms to aggressively recruit former interns in order to launch class-action cases.

In the past few years, there has been a string of lawsuits that former interns have brought against high-profile media and entertainment companies, including a movie company, a PBS television show, a magazine and a basketball team.

The federal Department of Labor requires that an internship at a for-profit company be classified as employment – and thus subject to the minimum wage and overtime provisions of the federal Fair Labor Standards Act – unless the internship meets [all six](#) of the following criteria:

- Training received during the internship is similar to that received in an educational institution;
- The internship is for the benefit of the intern;
- The intern does not displace regular staff;
- The employer derives no immediate advantage from the activities of the intern;
- The intern is not guaranteed a job at the end of the internship; and
- Both the employer and intern understand the intern is not entitled to wages.

Interns won a victory in the lawsuit that started this intern-lawsuit trend, which was brought in 2011 by two unpaid interns who worked on the set of a major motion picture. In June 2013, a District Court judge ruled that the movie company had violated federal and state laws by not paying the interns. The case is currently under appeal.

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