



## BLOGS

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# Worth The Work? Why it is Risky To Not Pay Your Interns

Unless you were unplugged, you probably saw all the high profile names that made legal headlines last week. Included in that list was David Letterman. In a quick whirlwind of activity, a CBS intern filed a [wage and hour lawsuit](#) against CBS News and Letterman’s production company, Worldwide Pants, only to drop the suit a short time later with a public apology. In the lawsuit, the CBS intern claimed that unpaid Late Show student interns were employees and that the failure to pay them wages violated wage and hour laws. The suit, had it proceeded, would have sought to recover back wages, interest, and attorneys fees for six years worth of unpaid CBS interns. Ultimately, though, the intern dropped the suit. Several media outlets [reported](#) that the intern issued a public apology for the suit, claiming her attorneys coerced her into the filing.

Many employers who use unpaid interns have not been as lucky as CBS News and Letterman. As predicted in one of our [blog posts](#) two years ago, unpaid internships have created a wave of wage and hour class action lawsuits, many of them against well-known companies. The entertainment and media industries have been heavily targeted in particular, with lawsuits against Fox Searchlight, NBCUniversal, Warner Music Group, Conde Nast, and Clear Channel.

However, all variety of for-profit businesses that use unpaid student interns are vulnerable to wage and hour suits if they don’t tread carefully. Internship programs are a great way for students to get real-life work experience and get a foot in the door of a company. Because of these benefits to interns, companies sometimes lose track of their potential wage and hour obligations to interns. The U.S. Department of Labors Wage and Hour Division has issued [guidance](#) on strict requirements that must be met for an internship to be unpaid. Under this guidance, for-profit companies always have to pay interns even those getting academic credit for the internship to remain legally compliant because the company almost always derives an “immediate advantage” from an intern’s work. For an internship to be unpaid, the work done must be for the benefit of the student, not free labor for the company.

Admittedly, the Wage and Hour Division itself has not initiated as many investigations against companies with unpaid intern programs as some had expected. Still, that doesn’t mean that you can breathe a sigh of relief. The Division focuses its investigation resources on a number of competing priorities,

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but remains watchful for violations, as noted in an online [post](#) last spring. In addition, as noted above, the wave of lawsuit continues.

If you are a for-profit employer using unpaid interns, its a good time to review your risks and compliance requirements. Review your company's internship policies and practices, along with the Department of Labor guidance noted above. When in doubt, paying interns the applicable minimum wage is usually far more cost-effective than fighting a subsequent legal claim.