



## Even Paid Internship Programs Come With Risk

Publication

4.15.13

There was a significant increase in the number of class actions in 2012 brought by former interns, many of whom were in unpaid positions working in the business sector. But recently the educational community received a wake-up call when Hamilton College was hit with a class action involving its paid interns.

In the Hamilton College case, former employee Benjamin Kozik, representing a class of over 40 former interns of the athletic department, claimed that his role as an intern as intercollegiate/assistant football coach did not qualify as exempt internship (for which minimum wage and overtime requirement did not apply); that he was not an exempt educational employee; and that the stipend he received each month was not enough to properly compensate him for all the regular and overtime hours he worked.

As a result, Kozik is seeking unpaid overtime wages of up to 40 hours per week, liquidated (double) damages, interest and attorneys' fees. Kozik is also asking the court to award similar amounts for each of the other members of the intern class. While no total damage figure is provided, these claims could easily reach over \$5,000,000. This figure does not include the possible award of attorneys' fees and other litigation costs which could add another \$1 million to the total.

The Hamilton College case serves as a stark reminder that internship programs — even paid ones — come with risk and should be carefully constructed and periodically reviewed to ensure that they do not run afoul of state and federal wage and hour laws. As we reflect on the new scrutiny of internship programs, several critical lessons arise.

Internship programs, whether paid or unpaid, create risks for schools if they are used as a substitute for low-cost or no-cost workers. Schools that take the time to plan and construct internship programs that are focused on the intern and provide them with an enriching educational experience have far less risk of challenge down the road.

Hopefully the lessons arising out of the Hamilton College dispute will help you navigate the initial decisions and create a program that is designed to minimize liability and create the best educational experience for your interns.

This article appeared on April 15, 2013 on *Employment Law360*.