

Insights, News & Events

'BLACK SWAN' FORCES CLOSER LOOK AT UNPAID INTERNS

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Unpaid summer internships are routine for some businesses, especially those in creative fields such as advertising, design, music, publishing and film — all areas that have flourished locally in recent years.

Each year, an estimated 1 million current and recent college students accept unpaid internships under the assumption the experience will lead to a paying job. While unpaid internships can be a win-win for both parties — job seekers earn marketable experience while businesses enjoy the fresh perspectives and extra hands of eager workers — they may also be the genesis of a new wave of employment litigation.

In a recent decision, U.S. District Judge William Pauley III ruled that Fox Searchlight Pictures violated wage and hour laws when it failed to pay two interns who worked on the production of the award-winning film “Black Swan.” The opinion found that the unpaid interns performed basic administrative work like running errands and making copies, and this work provided more value to the company than the interns. As a result, Pauley opined that the interns should have been paid.

The moral of the story: If the company appears to benefit more from the internship than the unpaid worker, that company is exposing itself to potential liability. Judge Pauley’s opinion is considered by some to be a game-changer, and it has already inspired similar lawsuits and caught the attention of human resources departments across the country.

While there is no guaranteed way to avoid litigation, a critical examination of your company’s unpaid internship program is necessary if your company continues to offer these positions. Companies especially need to examine who derives the benefit from these positions.

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