PALMDALE WATER DISTRICT

2029 East Avenue Q • Palmdale, California 93550 • **Telephone (661) 947-4111**
Fax (661) 947-8604
www.palmdalewater.org

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March 27, 2014

Agenda for a Meeting
of the Personnel Committee of the Palmdale Water District
Committee Members: Kathy Mac Laren-Chair, Joe Estes
to be held at the District's office at 2029 East Avenue Q, Palmdale

Monday, March 31, 2014

5:30 p.m.

NOTE: To comply with the Americans with Disabilities Act, to participate in any Board meeting please contact Dawn Deans at 661-947-4111 x1003 at least 48 hours prior to a Board meeting to inform us of your needs and to determine if accommodation is feasible.

Agenda item materials, as well as materials related to agenda items submitted after distribution of the agenda packets, are available for public review at the District's office located at 2029 East Avenue Q, Palmdale. Please call Dawn Deans at 661-947-4111 x1003 for public review of materials.

PUBLIC COMMENT GUIDELINES: The prescribed time limit per speaker is three-minutes. Please refrain from public displays or outbursts such as unsolicited applause, comments, or cheering. Any disruptive activities that substantially interfere with the ability of the District to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.

Each item on the agenda shall be deemed to include any appropriate motion, resolution, or ordinance to take action on any item.

1) Roll call.

2) Adoption of agenda.

3) Public comments.

4) Action Items: (The public shall have an opportunity to comment on any action item as each item is considered by the Committee prior to action being taken.)

4.1) Consideration and possible action on approval of minutes of meeting held February 24, 2014.

4.2) Consideration and possible action on development of an Internship Program. (Human Resources Manager Emery)

5) Project Updates:

5.1) Status on Organizational Assessment. (General Manager LaMoreaux)

5.2) Status on Employee Handbook. (Human Resources Manager Emery)

6) Information items.

7) Board members' requests for future agenda items.

8) Adjournment.

DENNIS D. LaMOREAUX,
General Manager

DDL/dd

Palmdale Water District Internship Program

Goals for internship program.

1) Identify top talent for recruitment
2) Give back to industry by providing a thorough structured training program which will supplement formal education.
3) Give back to community by providing on the job training to local students.

Paid or Unpaid

Unpaid Interns – Program designed to give industry relevant training to students. Unpaid internships have received significant negative press when the interns are performing actual job duties rather than a strict on the job educational opportunity. I've attached the criteria applied to for-profit entities and although this does not apply to a special district, there is growing public sentiment against using interns to fill the place of an employee.

Paid Interns – The program can generally have a greater focus on completion of needed tasks since the Intern is an actual employee making at least minimum wage. AVC will still require that the internship program include aspects that will meet the student's educational goals.

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NOVEMBER 2013
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FRESH FACES

A well-planned internship program can energize your enterprise.

By Dori Meinert

Three years ago, Quincy Newspapers Inc., a family-owned chain of newspapers and television stations based in Illinois, had a handful of unpaid interns. There was no internship "program" per se; many business divisions opted not to have unpaid interns because of federal restrictions on such positions.

Under U.S. Department of Labor rules, unpaid interns are trainees who aren't allowed to provide any services to a for-profit company. They can only observe.

"It just became clear to us that if we were going to get anything of value out of an internship program that it needed to be a paid internship so we could stop worrying about the compliance issue," says Jena Schulz, SPHR, HR director for the Quincy media group. "It wasn't good for us, and it wasn't good for the students."

Last year, the company launched a paid internship program complete with a standardized application process and curriculum. In the first two years, the company has hired almost 100 interns at its two newspapers, 12 television stations and two radio stations located in seven states. ›

For some employers, interns may simply provide an extra pair of hands. Or perhaps business leaders see the internship program as a way to give back to the community.

But many, like Quincy, realize that well-structured paid internships can be a valuable pipeline for recruiting new talent, especially in highly competitive industries.

"It was important to us to build our own farm team, to build our own bench strength, to give us an opportunity to attract the best and the brightest university students ... and introduce them to our company," Schulz says.

So far this year, Quincy has hired five of its former interns as full-time

Unpaid Internships Raise Legal Risks for Employers

Although unpaid internships have long been seen as a way for students to get needed experience, a rash of legal challenges has cast a shadow over corporate intentions.

A federal judge in New York ruled in June 2013 that Fox Searchlight Pictures Inc. violated minimum-wage and overtime laws by not paying interns who worked on the production of the 2010 movie "Black Swan." The film company should have paid the two interns because they did the same work as regular employees, provided a benefit to the employer and performed low-level tasks not requiring specialized training, concluded U.S. District Judge William H. Pauley.

Juno Turner, an attorney for the interns in the Fox Searchlight case, says the lawsuit "should be a wake-up call to employers that many [unpaid] internship programs as they are currently structured are probably violating the federal Fair Labor Standards Act" as well as state labor laws.

Camille A. Olson, a Chicago attorney who represents employers on workplace issues, says the case is just one of a number of conflicting decisions on unpaid internships and no clear pattern has emerged.

Yet many employers are choosing to pay interns to avoid potential problems, she says.

"You eliminate all risk—and these lawsuits are very costly—by paying minimum wage," Olson says.

Among 2013 college graduates who had internships, 48 percent were unpaid, according to a survey by the National Association of Colleges and Employers (NACE). Of those, 38 percent were conducted in the private sector, raising questions as to their legality, says NACE Executive Director Marilyn Mackes.

For-profit employers that offer unpaid internships must meet the U.S. Labor Department's Wage and Hour Division's six-prong test:

- The internship must include a significant training component.
- It must be for the intern's benefit.
- It must not displace paid employees.
- The employer must derive no immediate benefit from the intern's activities, "and on occasion its operations may actually be impeded."
- The intern must not be promised a job at the end of the internship.
- The intern and the employer both must understand that the position is unpaid.

For employers that choose unpaid internships, Olson recommends that HR have an open-door policy to give interns an outlet to complain on a timely basis so issues can be resolved without going to court.

Unpaid internships in the public sector or for nonprofit charitable organizations, where the intern volunteers without expecting to be paid, are generally permissible, according to the Labor Department.

In recent months, more than a dozen other lawsuits have been filed against employers, primarily in the entertainment, sports and fashion industries, according to ProPublica, an investigative website tracking the legal challenges

Ross Perlin, author of *Intern Nation* (Verso, 2011), contends the proliferation of court cases shows that young people "have reached a boiling point. People are starting to think of it as a political issue. They're understanding that their parents weren't asked to work for free."

He also argues that unpaid internships are widening the nation's already critical economic divide. "What happens to those who can't afford unpaid internships? It's narrowing the range of voices we hear," Perlin says. "You're narrowing the field to only those people who can afford to work for free."

Philip Gardner, director of the Collegiate Employment Research Institute at Michigan State University, also sees problems with unpaid internships, but he cautions that eliminating them will hurt a lot of students who need the work experience for their chosen field.

"We've got to do it in a way that students don't get penalized," Gardner says.

—Dori Meinert

employees. While still in its infancy, the new program is getting rave reviews from business leaders and the HR team.

"We are getting our name out there in the industry and building relationships with students who will come back as part of our future," Schulz says.

Interns Rising

About 63 percent of this year's college graduates held internships during their undergraduate years, according to a National Association of Colleges and Employers (NACE) survey of 9,215 college graduates earlier this year. That's the highest percentage since the annual student survey was first fielded in 2007.

Internships are becoming more popular because they can give students a competitive advantage when applying for jobs and because there's been a shift in the way internships are viewed by employers.

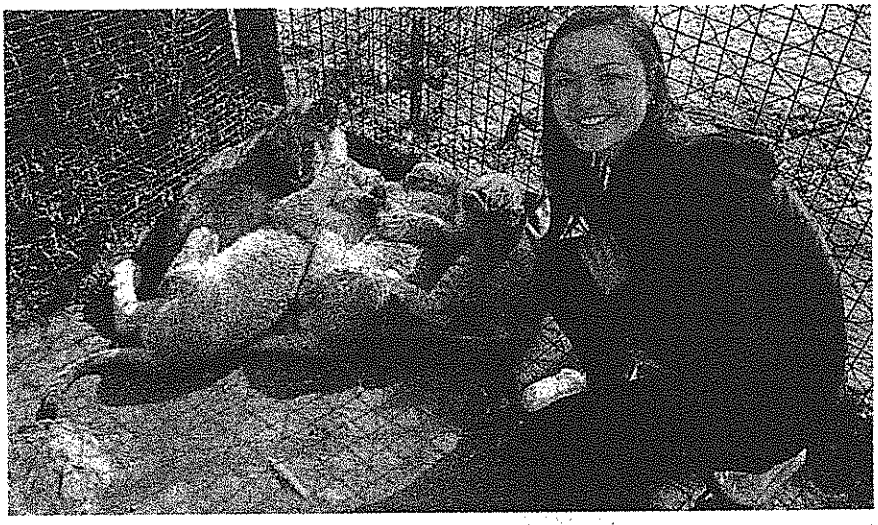
Before 2005, "the primary purpose of hiring the intern was to provide work experience to the individual. It wasn't really seen as a direct recruiting device for a full-time employee," explains Edwin W. Koc, NACE's director of strategic and foundation research. These days, "the internship is essentially seen as a probationary period in which the student is evaluated as a potential full-time hire and is treated that way."

Employers estimate that 38 percent of new college hires in 2013 consist of the employer's own interns, according to a NACE survey of 306 large companies.

What's the Goal?

In many industries, employers wouldn't be able to meet their staffing needs without hiring a constant stream of new college graduates.

More than 80 percent of large organizations identify talent development as their primary purpose for hiring interns and co-op students, according to a survey last fall by the Collegiate Employment Research Institute at Michigan State University of almost 2,550 full-time recruiters and internship program representatives. But less than 50 percent of small organizations do so. Smaller organizations sponsor internships to develop talent within their industry, even though they might not be able to hire their interns for full-time positions, the survey found.



Shannon Woods was an intern in the audit department of KPMG LLP this past summer. She spent four weeks in the Chicago office and four weeks in the company's South Africa office, where her weekend activities included visiting a lion park near Johannesburg, diving with sharks and bungee jumping.

KPMG LLP, a U.S. audit, tax and advisory services firm, hired more than 1,900 interns this year. The eight-week internships give students "a better understanding of how to apply what they are learning in a practical environment," says Blane Ruschak, KPMG's director of university relations and recruiting. "It's also a chance for students to test out our firm's culture and for us to test them out. It's a two-way street. Are they the right fit for us, and are we a good fit for them?"

Large companies like KPMG, which has more than 23,000 employees nationwide, can't afford not to have an internship program. About 80 percent of the company's interns are rehired either for second internships or as full-time employees, Ruschak says.

"We have to go after the best students for the internships, knowing those students aren't going to be available a year later, waiting to be hired as full-time," he explains. By then, "they've gone with another firm."

In contrast, Bill Parsons, director of learning and organizational development at Sparrow Health Systems in Lansing, Mich., has no plan to hire his interns. He accepts two to four unpaid interns each semester at the request of local universities, including Michigan State University, his alma mater. "I've just been trying to pay it forward to the next generation," Parsons says.

While working with interns takes time, Parsons says he benefits, too.

"They ask questions and share observations that force us to clarify why we do what we do and how we know how we do it is effective," he says.

The Intern Search

To find the best students, organizations commonly rely on campus career centers, student chapters of professional groups, social media and employee referrals.

Intel Corp. recruiters use campus events, job fairs and other activities to keep in touch with students. They also participate in advisory boards at the schools and meet key faculty.

For Intel, which hired 1,600 interns

PHOTOGRAPH COURTESY OF SHANNON WOODS

this year, that's not enough. "We have to have a combination of on-campus activities and virtual activities just to get the sheer volume we need," says Coby Schneider, Intel's campus relations manager.

The HR team's virtual strategy includes a LinkedIn group called the "Intel Student Lounge," which has more than 10,000 members.

Many companies tailor internships to attract students with specific interests. For example, Intel has five internship programs, including an early-college internship for software engineering students who know the basics.

The application process can be rigorous. Abbott, a Chicago-based health care company, received more than 10,000 applications worldwide for its 170 internships in the U.S. and 500 in other countries.

Planning and implementing Abbott's program has become a year-round process, partly because of the use of social media and also because students are contacting companies earlier to get a foot in the door before someone else does.

"The ones who are taking the initiative to compete for these jobs are the ones who are more successful" in the working world, says Vildan Stidham, GPHR, divisional vice president of global talent acquisition at Abbott.

A Learning Experience

Students today are looking for internships that will allow them to do real work, not busywork, HR professionals say. By tackling actual work assignments, interns receive a more accurate view of the profession, feel like a valuable member of the team and leave with a favorable impression of the company.

So, many HR professionals work with managers to ensure a quality experience for interns.

As part of their requests for interns, managers at Protective Life Insurance Co. in Birmingham, Ala., must explain the projects they will assign to students.

ONLINE RESOURCES

For a photo gallery of interns at work (and play!), see the online version of this article at www.shrm.org/1113-internships.

"It's important because we don't want our interns copying and faxing. It's a way for us to ensure they are doing meaningful work. It also allows us to prioritize," says Melanie McNary, SPHR, vice president and senior HR partner. "This generation [wants] to know where they are going. They want to know what the structure is, and, after they get their assignment, they want the autonomy to get it done."

This year's 31 interns signed a learning agreement that spells out the tasks they are expected to perform, the deadlines and the learning objectives, McNary says.

"Another way to generate interest [among managers] is for HR to control the budget," she explains. Her HR team controls the budget for 22 of the 31 interns; the other nine are funded by specific departments.

Part of HR's role also is to make sure managers provide interns with regular feedback.

In addition to day-to-day feedback, KPMG interns are given "review notes" after each assignment so they can fix errors and learn from them. Interns also receive a written review at the end of their eight weeks, Ruschak says.

"One of the things they learn is the ability to accept constructive feedback on their work," he says.

Most large companies have centralized internship programs with intern coordinators who develop consistent processes, materials and programming. Smaller companies may not have a dedicated position to handle this function. Only 40 percent of organizations overall have intern coordinators, according to a Society for Human Resource Management (SHRM) survey of 205 HR professionals from May 2013.

Interns usually go through an orientation process to become familiar with company policies and procedures, just as full-time professionals do.

In addition, KPMG flies its interns to Orlando, Fla., for several days of group training. They hear from the company's senior leaders and then attend smaller



Stephen Fussell, executive vice president of human resources at Abbott (far right), sat with interns during the company's Intern Week at Abbott's Chicago-area headquarters in July.

PHOTOGRAPH COURTESY OF ABBOTT

PHOTOGRAPH COURTESY OF SHANNON WOODS

sessions that focus on their specific work function, such as auditing. Such large group events are aimed at showing how interns' work relates to what others are doing in the company.

Many companies provide educational and social events (including ice cream socials, baseball games and work-related speakers) for interns at their worksites.

"We want to make them feel connected. If they don't, they ultimately won't have a good experience," says Intel's Schneider. The get-togethers also help the HR team maintain contact with the interns and learn of any problems.

"Ultimately, you want interns to have such a great experience that they leave and tell friends and family that your company is a great place to work," Schneider says.

> 'Ultimately, you want interns to have such a great experience that they leave and tell friends and family that your company is a great place to work.'

Intel's HR team recommends that managers designate a buddy for each intern, someone from the same department who can be a resource, she says. The HR team also set up an e-mail account for interns to ask questions.

At the end of the internships, many HR professionals survey interns and their managers to collect ideas for improving the program the next year.

How Much?

Among this year's graduating seniors who held internships, 52 percent had paid positions, according to NACE's student survey. Of those, 73 percent worked for the for-profit, private sector, while 16 percent worked for nonprofits, and 11 percent worked for government agencies.

In the SHRM survey, 86 percent of the HR respondents said their organizations paid interns at the undergraduate level. The average hourly wage was $12.74.

The Michigan State University survey found that average hourly wage ranges vary by major, from $12.43 for interns in the social sciences and humanities to $16.56 for engineering students.

Larger companies such as Intel, KPMG and Abbott pay competitive market rates based on an intern's skills, position and geographic location. Some 60 percent of Abbott's U.S. interns also receive housing assistance.

Quincy Newspapers pays its interns $8.25 an hour, which is Illinois' minimum wage—the highest state minimum wage in the seven states in which it operates. Protective Life Insurance used to pay interns $15 an hour, but budget constraints forced the company to pull back to $12 an hour.

Sometimes, companies are able to offer perks that can sweeten the offer.

Paying interns $12 an hour, sister companies Alaska Airlines and Horizon Air can't compete against the large salaries offered by other Seattle-area companies such as Microsoft and Google. But they offer flight benefits, which are a hit with college students.

"That's a big selling point for us. If they fall in love with the world of travel ... it makes them more interested in thinking about us for a career," says Keith Dussell, the airlines' diversity and inclusion specialist.

The HR team also has encouraged managers to allow flexible schedules so interns can work their hours in four days, giving them a long weekend to travel. A new recruiting video shows a pilot intern in Barrow, Alaska, jumping into the Arctic Ocean.

Measuring Results

HR professionals commonly measure the success of their internship programs by determining how many former interns they convert to full-time employees, but there are additional ways to measure return on investment.

Intel hired 48 percent of its 2012 interns either for second internships or full-time positions.

Compared with employees who didn't intern with Intel, the former interns over a five-year period received higher annual performance review ratings, received more promotions and stayed with the company longer. They received more patents, too. The internships also have a positive impact on the company's diversity efforts.

"Our data clearly points to interns being better-quality investments in the long term," Schneider says.

Some HR professionals can capture the attention of business leaders with more-immediate savings. An intern at Protective Life Insurance last year identified up to $120,000 in potential annual savings by proposing changes to the office printer layout, McNary says.

And companies gain other rewards from internship programs that are harder to measure.

Although Abbott expects to convert about 50 percent of this year's U.S. interns to full-time employees after they graduate, its program has far broader value to the company, Stidham says.

"The internship program is part of our reputation," she says. "We want to educate and help our young generation."

Dori Meinert is a senior writer for *HR Magazine*.

United States Department of Labor

Wage and Hour Division

Wage and Hour Division (WHD)

(April 2010) (PDF)

Fact Sheet #71: Internship Programs Under The Fair Labor Standards Act

This fact sheet provides general information to help determine whether interns must be paid the minimum wage and overtime under the Fair Labor Standards Act for the services that they provide to "for-profit" private sector employers.

Background

The Fair Labor Standards Act (FLSA) defines the term"employ" very broadly as including to "suffer or permit to work." Covered and non-exempt individuals who are "suffered or permitted" to work must be compensated under the law for the services they perform for an employer. Internships in the "for-profit" private sector will most often be viewed as employment, unless the test described below relating to trainees is met. Interns in the "for-profit" private sector who qualify as employees rather than trainees typically must be paid at least the minimum wage and overtime compensation for hours worked over forty in a workweek.

The Test For Unpaid Interns

There are some circumstances under which individuals who participate in "for-profit" private sector internships or training programs may do so without compensation. The Supreme Court has held that the term "suffer or permit to work" cannot be interpreted so as to make a person whose work serves only his or her own interest an employee of another who provides aid or instruction. This may apply to interns who receive training for their own educational benefit if the training meets certain criteria. The determination of whether an internship or training program meets this exclusion depends upon all of the facts and circumstances of each such program.

The following six criteria must be applied when making this determination:

1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
2. The internship experience is for the benefit of the intern;
3. The intern does not displace regular employees, but works under close supervision of existing staff;
4. The employer that provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be impeded;
5. The intern is not necessarily entitled to a job at the conclusion of the internship; and
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

If all of the factors listed above are met, an employment relationship does not exist under the FLSA, and the Act's minimum wage and overtime provisions do not apply to the intern. This exclusion from the definition of employment is necessarily quite narrow because the FLSA's definition of "employ" is very broad. Some of the most commonly discussed factors for "for-profit" private sector internship programs are considered below.

Similar To An Education Environment And The Primary Beneficiary Of The Activity

In general, the more an internship program is structured around a classroom or academic experience as opposed to the employer's actual operations, the more likely the internship will be viewed as an extension of the individual's educational experience (this often occurs where a college or university exercises oversight over the internship program and provides educational credit). The more the internship provides the individual with skills that can be used in multiple employment settings, as opposed to skills particular to one employer's operation, the more likely the intern would be viewed as receiving training. Under these circumstances the intern does not perform the routine work of the business on a regular and recurring basis, and the business is not dependent upon the work of the intern. On the other hand, if the interns are engaged in the operations of the employer or are performing productive work (for example, filing, performing other clerical work, or assisting customers), then the fact that they may be receiving some benefits in the form of a new skill or improved work habits will not exclude them from the FLSA's minimum wage and overtime requirements because the employer benefits from the interns'work.

Displacement And Supervision Issues

If an employer uses interns as substitutes for regular workers or to augment its existing workforce during specific time periods, these interns should be paid at least the minimum wage and overtime compensation for hours worked over forty in a workweek. If the employer would have hired additional employees or required existing staff to work additional hours had the interns not performed the work, then the interns will be viewed as employees and entitled compensation under the FLSA. Conversely, if the employer is providing job shadowing opportunities that allow an intern to learn certain functions under the close and constant supervision of regular employees, but the intern performs no or minimal work, the activity is more likely to be viewed as a bona fide education experience. On the other hand, if the intern receives the same level of supervision as the employer's regular workforce, this would suggest an employment relationship, rather than training.

Job Entitlement

The internship should be of a fixed duration, established prior to the outset of the internship. Further, unpaid internships generally should not be used by the employer as a trial period for individuals seeking employment at the conclusion of the internship period. If an intern is placed with the employer for a trial period with the expectation that he or she will then be hired on a permanent basis, that individual generally would be considered an employee under the FLSA.

Where to Obtain Additional Information

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

For additional information, visit our Wage and Hour Division Website: http://www.wagehour.dol.gov and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

[1] The FLSA makes a special exception under certain circumstances for individuals who volunteer to perform services for a state or local government agency and for individuals who volunteer for humanitarian purposes for private non-profit food banks. WHD also recognizes an exception for individuals who volunteer their time, freely and without anticipation of compensation for religious, charitable, civic, or humanitarian purposes to non-profit organizations. Unpaid internships in the public sector and for non-profit charitable organizations, where the intern volunteers without expectation of compensation, are generally permissible. WHD is reviewing the need for additional guidance on internships in the public and non-profit sectors.

Labor & Employment Alert

News Concerning Recent Labor and Employment Issues

June 14, 2013

(../../../TEMPLATES/USERCONTROLS/#)

High Profile Decision Deals Blow to Unpaid Internship Programs

Authors



Emily S. Miller (/people/bios/miller-emily)

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Many companies with unpaid internship programs have been closely watching a case filed by unpaid interns who worked on the film *Black Swan*, and this week, the outlook turned grim. The U.S. District Court for the Southern District of New York ruled that two of the named interns in the case were employees of Fox Searchlight Pictures (Fox) under the Fair Labor Standards Act (and the New York Labor Law) who should have been paid for the hours they worked. The opinion can be found here (/Templates/media/files/publications/alerts/fox_pdf.pdf).

In reaching this decision, the court relied upon six criteria enumerated by the U.S. Department of Labor to determine whether an internship may lawfully be unpaid. Those criteria are:

1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training that would be given in an educational environment;
2. The internship experience is for the benefit of the intern;
3. The intern does not displace regular employees, but works under close supervision of existing staff;
4. The employer that provides the training derives no immediate advantage from the activities of the intern, and on occasion its operations may actually be impeded;
5. The intern is not necessarily entitled to a job at the conclusion of the internship; and
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

Fox argued that this test should not govern, instead urging the court to apply a "primary beneficiary" test to determine whether "the internship's benefits to the intern outweigh the benefits to the company." The court rejected this argument, and then applied the six-factor test in a manner that should inspire all companies with unpaid interns to closely examine their program.

Training Similar to an Educational Environment. The court began its analysis by noting that "[w]hile classroom training is not a prerequisite, internships must provide something beyond on-the-job training that employees receive." The court then analyzed the training each intern in question received. While the record was "inconclusive" for one intern, the other was found not to have received any formal training or education through the internship, and did not "acquire any new skills aside from those specific to *Black Swan*'s back office." And while he learned about the "function of a production office," he did so simply by virtue of being present, just as would be the case for any paid employee. Thus, this factor weighed in favor of employee status.

Whether the Internship Experience is for the Benefit of the Intern. The court's analysis of this factor is perhaps the most troubling for employers, because the court concluded that benefits to the interns in the form of "resume listings, job references, and [gaining] an understanding of how a production office works" were not sufficient to tip the scale in favor of the employer. These benefits are not enough, the court concluded, because they are "incidental to working in the office like any other employee." For an employer to prevail on this factor, the court indicated that the benefits to the intern must be "the result of internships intentionally structured to benefit them." Because the court found no such intentionally structured benefit, this factor weighed in favor of employee status.

Whether the Interns Displaced Regular Employees. The interns in question were found to have "performed routine tasks that would otherwise have been performed by regular employees," such as obtaining documents for personnel files, tracking and reconciling purchase orders and invoices, drafting cover letters, making copies, organizing files, running errands, assembling office furniture, arranging travel plans, answering telephones and making deliveries. In finding against Fox on this factor, the court relied on a supervisor's deposition testimony that if one intern had not performed the work, another staff member would have done so, or the company would have needed to enlist a paid production assistant or an additional intern. The court also noted that when the other intern in question reduced his schedule from five to three days per week, the company hired another part-time intern. Thus, this factor weighed in favor of employee status.

Whether the Employer Derives an Immediate Advantage from the Intern's Work. Fox did not dispute the fact that it obtained an immediate advantage from the interns' work. And the court noted that although their work was "menial," it was also "essential." This factor therefore weighed in favor of employee status.

Whether the Intern is Entitled to a Job at the Conclusion of the Internship. The court made short work of this factor, simply noting that "there is no evidence that [the interns] were entitled to jobs at the end of their internships or thought they would be."

Whether the Parties Understand that the Intern is Not Entitled to Wages. This factor "adds little," the court noted, because "the FLSA does not allow employees to waive their entitlement to wages." Thus, the fact that the parties understood that the interns would not be paid was deemed to be meaningless.

The court's application of this six-factor test reveals that unpaid internship programs must be carefully structured and monitored to ensure that the experience is an educational one for the intern, that the program offers more benefit to the intern than it does to the company, and that the interns do not displace regular employees in any way.

This decision will no doubt inform similar suits that already have been filed by unpaid interns across the country, and may galvanize others to turn to the courts for compensation. Unless and until Congress steps in to clarify this issue, unpaid internship programs are likely to remain under fire for years to come.

If employers have any questions or concerns, they should contact a member of Cozen O'Connor's Labor & Employment Department (http://www.cozen.com/practices/labor-employment)for more information about this decision.
