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## Wage & Hour

### **Gawker Prevails Over Unpaid Interns Seeking Wages Because They're 'Primary Beneficiary'**

**G**awker Media LLC doesn't have to pay interns who say they're entitled to wages under the Fair Labor Standards Act and state law, a federal judge in New York ruled March 29 (*Mark v. Gawker Media LLC*, 2016 BL 97757, S.D.N.Y., No. 1:13-cv-04347, 3/29/16).

The interns traded their "labor for significant vocational and educational benefits" that resulted from their positions, Judge Alison J. Nathan of the U.S. District Court for the Southern District of New York said. The interns aren't entitled to wages because they were the "primary beneficiary" of the internship, she said, granting summary judgment to Gawker.

The ruling shows employers should structure unpaid internships with "mentoring and oversight in a constructive, educational way," a management-side attorney who wasn't involved in the case said. "Meaningful oversight" at Gawker helped distinguish "between what the interns were doing and what the regular, paid employees were doing," Lawrence Peikes, a partner at Wiggin and Dana LLP told Bloomberg BNA March 30.

**Interns Published Articles, Received Mentorship.** The interns wrote articles that were published on Gawker's website, and they received academic credit for the journalism degrees they were pursuing simultaneously, she said. Gawker Media publishes news websites.

Nathan applied a six-factor test that the U.S. Court of Appeals for the Second Circuit adopted in *Glatt v. Fox*

*Searchlight Pictures, Inc.*, 2015 BL 451909, 25 WH Cases2d 1716 (2d Cir. 2015) (127 DLR AA-1, 7/2/15). These factors are weighed to determine whether an intern or a putative employer is the primary beneficiary of the relationship, she said.

The interns received mentoring that wasn't provided to employees because employees "were expected to already possess an advanced journalism skillset," Nathan said. It was more like "hands-on instruction" received in journalism school, she said.

"The internship itself could be a hindrance to the efficient operations" of the newsroom, Peikes said. Pulling the editor away from other tasks benefited the intern, not the company, she said.

The interns performed work that benefitted Gawker, Nathan said. Balancing the factors showed the practical experience they acquired outweighed the benefit that accrued to the company, she added.

A Gawker spokesperson declined to comment. An attorney for the interns didn't immediately respond to a voicemail seeking comment.

Little & Robinson LLP represented the interns. Proskauer Rose LLP represented Gawker.

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*Text of the opinion is available at [http://www.bloomberglaw.com/public/document/Mark\\_v\\_Gawker\\_Med\\_LLC\\_No\\_13CV4347\\_AJN\\_2016\\_BL\\_97757\\_SDNY\\_Mar\\_29\\_2](http://www.bloomberglaw.com/public/document/Mark_v_Gawker_Med_LLC_No_13CV4347_AJN_2016_BL_97757_SDNY_Mar_29_2).*