

## 2nd Circuit to Decide Unpaid Interns' Class Status

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As I discussed in a [prior post](#), there have been numerous lawsuits filed on behalf of unpaid interns suing their former companies for unpaid minimum wages and overtime. These are even more significant based on the number of potential plaintiffs as these have been brought as collective or class actions under the Fair Labor Standards Act (FLSA) or state law. Recently, the 2nd Circuit Court of Appeals has accepted appeals in two different cases from the Southern District of New York which had diametrically opposed holdings. In the *Fox Entertainment Group, Inc.* [decision](#), Judge Pauley granted class and collective action certification, while in the *Hearst Corp.* [decision](#), Judge Baer refused to certify a class on state labor law claims.

There are more than a dozen pending cases in New York on this contentious issue. We will keep an eye on this decision as it will have far-reaching implications for other unpaid intern lawsuits across the country. If plaintiffs are permitted to bring these on a class basis as compared to many individual lawsuits, it will be much more attractive for plaintiffs' lawyers as attorneys' fees will multiply. In the meantime, Employers are advised to review the DOL's [Fact Sheet](#) to determine if their intern program qualifies for unpaid status or if they are in fact "employees" within the meaning of the FLSA.

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