

That is what the US Department of Labor is saying to everyone and anyone who wants to get their foot in the door. You are SOL. There is no such thing as an unpaid intern anymore. Our government at its finest.

This summer, in response to the changing sports media landscape, I wanted to create a “media pool” for the Mavs. I wanted to assemble a group of unpaid interns that would acquire video, write game reports, track unique stats, do interviews, interact with fans, and then compile all of this incremental media and provide it free to any and every outlet we could think of. If a middle school newspaper or website wanted up to the minute Mavs reports, check. We had em. Social networks ? All the content you need. Of course we would update our Mavs.com, mavswiki.com, friends.mavs.com websites and offer the content to any and every blogger out there.

The good news is that we would create fresh content and make it available in realtime. Call it “Event Driven” media. The bad news is that there was no way we were going to be able to charge for it. Nor was there any assurances that we could generate enough traffic for the content that we could reasonably believe that we could earn any advertising revenue. In fact, it probably would have cost us more to try to sell advertising via ad networks (contracts, monitoring, reports) than we could recoup in ad revenues.

Given we were lightyears from this being a self sustaining business, and that with the economy in the shitter we didnt have excess financial resources to subsidize this effort, I decided to use unpaid interns.

One silver lining of a “great recession” that we are now in is that there are a lot of incredibly talented people without jobs, or who have lost their jobs. I didn’t care if they were 18 years old or 73 years old. I thought we could assemble a talented group who would enjoy the internships and could also gain valuable experience to add to their resumes. When the economy opened up, one of two things would hopefully occur. We were generating revenue from this effort and we could hire them, or they had just built up their resumes and improved their chances of finding a paying job.

Makes sense right ?

Wrong. Enter the US Government.

This is what our HR person, who his supersmart and really knows his stuff came back with

“The law says that interns have to be **paid** unless they are performing work that is of no value to the organization; ie., helps them in some way but we get no benefit from their work. Thus we would have to create work that is useless to us if we choose not to pay them. How silly is that? ”

Silly indeed. My response:

“So u r sayin g there r no legally unpaid interns in the state or country ?”

This is what he sent me, proving that our government was truly ridiculous:

## Unpaid Internships – Common but Illegal

A common, but frequently unreported labor violation is the use of unpaid interns in violation of minimum wage and possibly overtime laws. The scenario is fairly typical: a company offers an opportunity to ‘break into the business’ in exchange for the **intern** working for free. You see many examples of this in the entertainment industry. In fact, despite jobs sites such as Craigslist prohibiting the posting of unpaid “internships,” you can almost always find one posted. Some companies try to get around the law by requiring that the internship be part of a college program. However, there is no exception to the law allowed just because the “**intern**” may receive college credit. While it might be possible for a college credit course to require some type of training for a company, the vast majority of these internships are in violation of Federal as well as California labor laws.

In order to qualify as an unpaid internship, the requirement is simple: no work can be performed that is of any benefit at all to the company. That is, you can not deliver mail, sort files, file papers, organize a person’s calendar, conduct market research, write reports, watch television shows and report on them, read scripts, schedule interviews, or any other job that assists the employer in any way in running their business.

Examples of internships that have been legal are where the job is a “dummy” job. For example, there was a case of an internship for working on a train. The company had the interns driving trains from one end of their yard to the other under close supervision. The moving of the trains was completely unnecessary and was just being done to train the potential employees. As such, no “work” was being performed, so the internship was legal. On the other hand, if the workers were moving the trains as part of the regular re-positioning of the trains, but were still performing it under close supervision, they would be required to be **paid** for the work.

Thus, if in the entertainment industry, you read scripts that have already been read and rejected by the company and the company will not use your input in any way but is simply instructing you on how to read scripts, then they would not need to pay you for your time. However, if you read the scripts and perform any work that is used by anyone in the company to make any type of decision about that script, then you must be **paid** for your time.

Another common type of unpaid internship is in martial arts schools that require students to teach classes in order to receive additional belts. This practice is illegal unless the student is **paid** for the time. Because the act of teaching a class is work that benefits the employer, it must be **paid** for.

The U.S. Department of Labor has outlined a list of criteria that ALL must be met in order for an internship to be unpaid.

1. The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;
2. The training is for the benefit of the trainee;
3. The trainees do not displace regular employees, but work under close observation;
4. **The employer that provides the training derives no immediate advantage from the activities of the trainees and on occasion the employer's operations may actually be impeded;**
5. The trainees are not necessarily entitled to a job at the completion of the training period; and
6. The employer and the trainee understand that the trainees are not entitled to wages for the time spent in training.

From the above list, #4 is really the key one – all the others will follow from whether the employer derives any immediate benefit from the activities.

The main reason that you do not see more lawsuits regarding unpaid internships is that the interns are very unlikely to sue. In most cases, they fear being blacklisted, as they will undoubtedly need to use the internship as a reference to get any future work.

This is where California's Private Attorney General Act comes in. Because this law allows anyone at the company to sue for labor violations, even if they themselves are not affected by the violation, it is now possible for these companies to be brought into compliance with the law. If you work for a company that uses unpaid interns and would like to put an end to this illegal practice, you should consider bringing a Private Attorney General cause of action.

Of course, if the internship is work, not only minimum wage must be **paid**, but also California overtime (8 in a day / 40 in a week) as well as meal and rest breaks.

**Welcome to the USA of the 2009. Where the government, both Republicans and Democrats, thinks that doing nothing is a far better alternative than being productive and gaining experience ! Where our politicians would rather see you pay out of your pocket to go back to school rather than get valuable on the job experience.**

If you are in a position where you think an unpaid internship would benefit you and your career, please contact your local state representative and senator and let them know how stupid you think this law is.

And in the meantime, for all of you who have been sending me emails asking for an unpaid internship and telling me how valuable the experience would be to you. Now you know why I dont respond.