

**ITEM # 81**

**ADDITIONAL MATERIAL  
10:00 REGULAR MEETING  
JUNE 24, 2014**

**SUBMITTED AT THE REQUEST OF  
COMMISSIONER MARTIN KIAR**

# Judge: Unpaid interns cannot sue for sexual harassment

Emily Atteberry, USATODAY [\(/staff/4585/emily-atteberry\)](http://staff/4585/emily-atteberry) 3:30 p.m. EST December 5, 2013

A New York district judge ruled that unpaid interns are not protected from sexual harassment by the New York Human Rights Law because they are not 'real' employees.



(Photo: Photodisc Getty Images)

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Who are "real" employees? Not unpaid interns, a federal district court in New York ruled last week (<http://money.cnn.com/2013/10/09/news/economy/unpaid-intern-sexual-harassment/>).

Lihuan Wang, a 26-year-old Syracuse University graduate, lost a sexual harassment lawsuit against her former employer on the grounds that she was not paid, therefore not considered a company employee.

Wang was a 22-year-old intern at Phoenix Satellite Television U.S., the American branch of the Hong Kong-based media conglomerate, in 2009 when she says she experienced sexual advances from Zhengzhu Liu, the station's Washington D.C. bureau chief.

According to the lawsuit (<https://www.documentcloud.org/documents/803168-wangcomplaint.html>), Liu allegedly lured Wang and other female interns to his hotel room under the guise of business discussions.

In the hotel room, Liu allegedly asked Wang "why are you so beautiful?" and threw his arms around her, forcing her into a kiss, while squeezing her buttocks. Wang left immediately.

New York Judge Kevin Castel wrote in his decision that Wang was not covered by the New York Human Rights Law (<http://home.nyc.gov/html/cchr/html/law/nyc-human-rights-ch1.shtml#2>) because she was not paid, therefore not technically an employee.

"It is uncontested that Wang received no remuneration for her services," New York Judge Kevin Castel wrote in his decision. "New York City's Human Rights Law's protection of employees does not extend to unpaid interns."

Liu was fired from Phoenix after the company investigated the allegations, the ruling states. Wang has since moved back to China.

In June, Oregon became the first and only state to extend sexual harassment protection

([http://www.oregonlive.com/politics/index.ssf/2013/06/legislature\\_approves\\_plan\\_to\\_e.html](http://www.oregonlive.com/politics/index.ssf/2013/06/legislature_approves_plan_to_e.html)) to unpaid interns.

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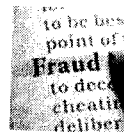
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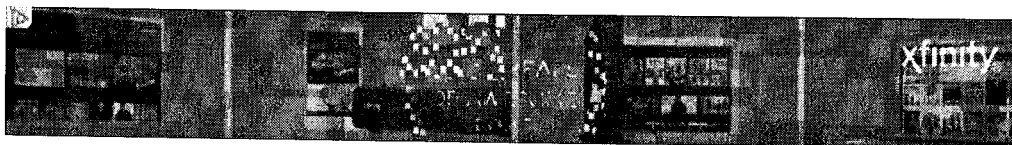
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## Sexually harassed interns often feel they have nowhere to turn

**It is not uncommon for the sexual harassment of interns to go unreported, experts say**

November 25, 2011 | By Vikki Ortiz Healy,, Chicago Tribune reporters

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The young woman ignored the school principal's voice mails asking her to meet for cocktails. Her eventual reply, after persistent text messages that included explicit sexual requests and a photo of his private parts, was emphatic: "LEAVE ME ALONE!!"

By the time she had gotten 40 texts and phone messages from the principal in five days, the woman, who had met the principal during a college internship, was not merely fed up, but afraid. She turned to her mother, her pastor and his wife for advice.

"Get the bastards," the woman recalled her mother saying. "Go to police."

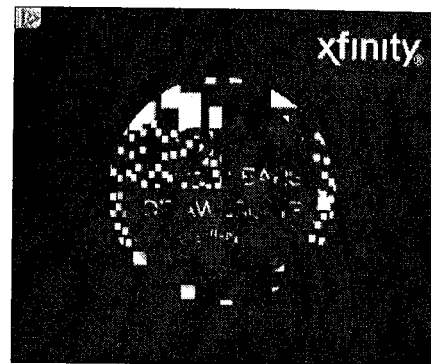
The principal, John Steinert, of Deer Path Middle School in Lake Forest, pleaded guilty in May 2009 to misdemeanor harassment, stemming from those messages. The once-popular educator in the affluent northern suburb resigned this week amid an angry outcry from parents after the Tribune revealed details of the case.

As astonishing as those details are, the real wonder is that the young woman — now a 25-year-old, married law student — came forward at all.

At a time when college students are eager to land jobs in a down economy, and when workplace sexual harassment laws are generally weaker for interns, experts say the sexual harassment of interns often goes unreported, and even unrecognized.

Many colleges and companies offering internships are working to educate employers and students about the problem, especially young people, who may have a naive understanding of what's appropriate in work settings.

"I don't think people know how scary it is to come forward," said the former intern, who asked not to be identified to protect her family's privacy. "I would like this to be an eye-opening experience for the community and also people in this situation."



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Data on the prevalence of sexual harassment against interns are scarce. But in one 1994 study of incidents among interns working in mass communications, 49 percent of those questioned said they had experienced at least one form of sexual harassment.

Sexual Harassment

Cases go undocumented for several reasons.

First, interns feel inferior in the workplace. They're often paid little — if at all — and report to multiple superiors. With future jobs at stake, interns experiencing harassment may brush off inappropriate behavior in the hope of getting hired.

"It's really a sticky situation for interns," said Robert Rubin, associate professor of management at DePaul University. "Why would they want to do anything to rock the boat?"

MaryBeth Lipp, a former Northwestern University student, co-wrote an article in the Harvard Women's Law Journal in which she detailed her experiences with harassment during a three-month internship at a broadcast news station during her senior year.

One person told her that the men in the office had determined she was "the dream score"; others suggested she "get together" with another woman and asked if they could watch, Lipp wrote in the 2000 article.

"As an intern, I felt vulnerable, fearful, disrespected, alone and powerless, especially when the harassment began during my first weeks at the station," wrote Lipp, who could not be reached for comment. "As time went on, I lost confidence in my work and even began to dread going to the station, but the intensity of the situation silenced my complaints. ...I knew I wielded no power in this situation."

Jamie Dolkas, a staff attorney at San Francisco-based Equal Rights Advocates, said the nonprofit gets calls from female interns across the country seeking free legal advice.

"There's a lot of apprehension," she said. "They're the lowest on the totem pole, and they're often the most vulnerable."

She encouraged interns to report harassment, at minimum on their internship evaluations.

"Get the word out in the open if they don't handle the situation well, and let other students know they shouldn't do their internship there because they don't take sexual harassment seriously," Dolkas said.

In the Lake Forest intern's case, she said she hesitated to report the harassment because "I worried about my reputation" and was trying to focus on her future and applying for law school.

"I wasn't sure what to do," she said. "I asked friends who previously did the internship. They said, 'No, don't get anyone in trouble.'"

When interns do find the courage to report sexual harassment, they can run into another setback: Laws are hazy on whether interns can bring their cases to court, experts say.

Under sexual harassment law, a person alleging workplace harassment must file a lawsuit against the employer, not the offender, said Aaron Maduff, senior partner at Maduff and Maduff in Chicago.

There's the question of whether interns are considered employees in the eyes of the law, especially when they're unpaid.

Despite such challenges, Ross Eisenbrey, vice president of the Economic Policy Institute, a nonpartisan think tank, advises interns not to put up with any harassment and to contact a lawyer when appropriate.

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# Assemblymember Skinner Bill to Protect Unpaid Interns from Workplace Sexual Harassment Passes Key Committee

April 22, 2014



SACRAMENTO, CA. – Legislation by Assemblymember Nancy Skinner (D-Berkeley) to protect unpaid interns from sexual harassment and other workplace discrimination was approved today by the Assembly Judiciary Committee on a unanimous vote. AB 1443 will next be heard in the Assembly Appropriations Committee.

"Interns should not have to give up their basic civil rights just because they are willing to forgo pay," Skinner said. "Interns deserve the same legal protection against discrimination and harassment in the workplace."

Assembly Bill 1443 would explicitly ban workplace sexual harassment and protect unpaid interns from discrimination, including discrimination based on gender.

Neither state nor federal law explicitly protects unpaid interns from sexual harassment. Last year, a federal district court in New York ruled that Title VII of the 1964 Civil Rights Act – which protects employees from workplace discrimination, including sexual harassment – does not apply to unpaid interns because an unpaid intern is not an "employee." The New York case involved a Syracuse University student who claimed she was sexually harassed, kissed and groped by a supervisor at her media company internship who later retaliated against her for rebuffing his sexual advances.

"The recession has forced young people to rely on these unpaid positions to build resumes and contacts in an incredibly competitive job market," Skinner said. "Employers owe them a safe and fair workplace."

According to a 2008 survey by the National Association of Colleges and Employers, 50 percent of graduating students held internships, up from the 17 percent shown in a 1992 study by Northwestern University. Women are significantly more likely than men (77 percent versus 23 percent) to be engaged in unpaid internships, according to a 2012 survey of college students by Intern Bridge, a consulting firm specializing in college recruitment.

CONTACT: Tracie Morales, 510-286-1400

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## What Every Teen (And Parent) Needs To Know About Sexual Harassment At Work

Workplace lessons high schools and colleges don't teach

By Donna Ballman

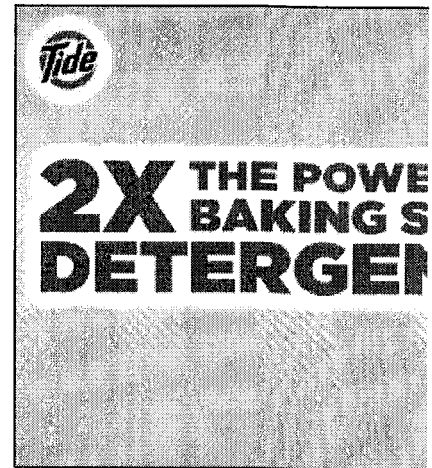
Posted May 13th 2014 @ 5:01AM



**Getty** Thinking about a summer job or internship? I bet you didn't know that, if you are an intern, there is no federal law against sexual harassment of interns. Some states have recently passed laws to fix this horrible omission. If you live in New York, Oregon or DC, you're protected. Other places, not so much.

Big problem, right? That makes stepping out into the work world doubly scary. Your high school and college probably didn't prepare or warn you about the possibility of sexual harassment at work and tell you what to do about it.

If you're a teen or young adult new to the workplace, this article tells you what you need to know about sexual harassment at work. If you're



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a parent, guardian, relative or friend of a teen, make sure they know this vital information before you send them out there into the great wide world.

Here's what you need to know about sexual harassment:

**What is sexual harassment?:** If you are an employee and your boss, co-worker, customer, vendor or potential boss is harassing you because of your gender or gender identity, that's sexual harassment, and it's illegal. Sexual harassment includes unwanted sexual advances, requests for sexual favors, offensive comments about men or women in general, off-color jokes, touching, and other harassment that is either so severe or so frequent that it alters the terms and conditions of your employment. A single offhand comment may not be sexual harassment, but a single incident that is severe could be.

**Who is covered:** The federal anti-discrimination laws apply only to employers with 15 or more employees. Some states and local governments have laws applying to smaller employers. If you're an intern or independent contractor, there may be no law against sexually harassing you at work. If you're a minor, you have added protection. Any adult sexually harassing you is probably committing a crime, and could be a sexual predator.

**Where to report it:** It is really important that you read the company's sexual harassment policy when you start working and write down where you are supposed to report it if it occurs. It's probably in your company handbook or in a poster in the break room. If they don't have a sexual harassment policy, that's a pretty big fail but you're still protected. You don't have to be afraid, and you should not let yourself become a victim. People you can and probably should report sexual harassment to are your Human Resources department at work and your parents. If you've been touched, then you may want to contact the police. If you see someone else being sexually harassed, you should report it. Harassers will keep doing it, and their behavior will get worse, unless an adult stops them.

**Number one rule about sexual harassment:** Don't be a silent victim. If an adult or even fellow teen is sexually harassing you, they're breaking the law. When in doubt, talk to a parent or an employment lawyer in your state about your rights.

For more information about sexual harassment, check out my article [Top 10 Things You Need To Know If You're Sexually Harassed At Work](#). If you work at a company too small to be covered under the employment laws, then you still have rights, albeit fewer. For more about sexual harassment at a small company, check out my article

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## What Can I Do About Sexual Harassment At A Small Company?

Stay tuned next week for my article on what every teen and young adult needs to know about workplace rights.

*If you need legal advice, it's best to talk to an employment lawyer in your state, but if you have general legal issues you want me to discuss publicly here, whether about discrimination, working conditions, employment contracts, medical leave, or other employment law issues, you can ask me at AOL Jobs.*

**Please note:** Anything you write to me may be featured in one of my columns. I won't be able to respond individually to questions.

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Donna Ballman's book, *Stand Up For Yourself Without Getting Fired: Resolve Workplace Crises Before You Quit, Get Axed or Sue the Bastards*, was the Winner of the Law Category of the 2012 USA Best Books Awards and is currently available for purchase. Donna is the award-winning author of *The Writer's Guide to the Courtroom: Let's Quill All the Lawyers*, a book geared toward informing novelists and screenwriters about the ins and outs of the civil justice system. She's been representing executives, physicians and employees in Florida, including negotiating severance agreements and litigating discrimination, sexual harassment, noncompete agreements, and other employment law issues since 1986. Her blog on employee-side employment law issues, *Screw You Guys, I'm Going Home*, was named one of the 2011, 2012 and 2013 ABA Blawg 100 best legal blogs, Paralegal 411's Top 25 Labor and Employment law Blogs of 2013 and the 2011 Lexis/Nexis Top 25 Labor and Employment Law Blogs.

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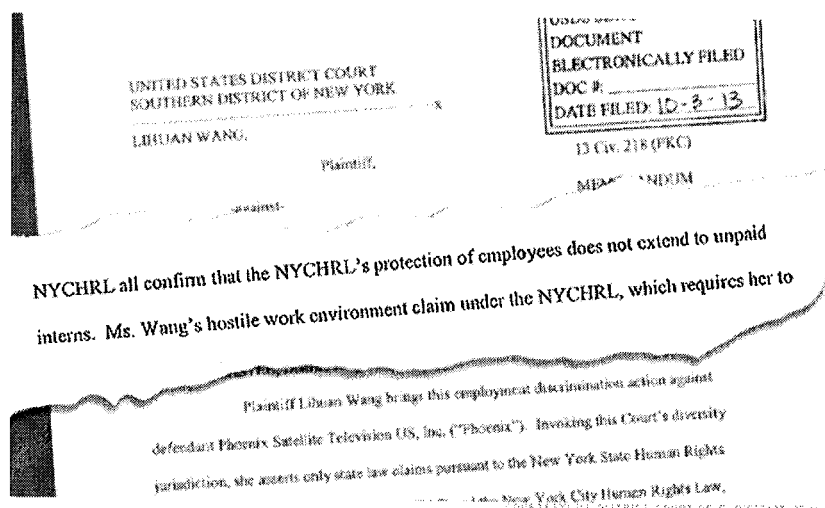
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## Unpaid interns not protected from sexual harassment

By Emily Jane Fox @emilyjanefox January 25, 2014 12:52 PM ET

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A New York court ruled last week that an unpaid intern couldn't file harassment claims because she was not technically an employee.

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NEW YORK (CNNMoney)

Here's more fuel for the fiery debate over unpaid interns: It turns out they're also not protected from sexual harassment.

A New York federal district court ruled last week that Lihuan Wang, an intern at a TV broadcaster named Phoenix Satellite Television U.S., could not bring a sexual harassment claim under New York human rights laws because she was not paid, and therefore not considered an employee.

Wang was a graduate student at Syracuse University in 2009 when she interned in the New York bureau of Phoenix Satellite Television, the American subsidiary of Hong Kong-based media conglomerate Phoenix Media Group.

In a lawsuit, she said the station's Washington D.C. bureau chief Zhengzhu Liu sexually harassed her after luring her to his hotel room on the pretext that he wanted to talk about her job performance and the possibility of hiring her full time.

When the two were alone, Wang alleged that Liu threw his arms around the then 22-year-old intern, tried to kiss her and "squeezed her buttocks with his left hand." After she refused to let him go any further and left the hotel, she said Liu no longer expressed interest in permanently hiring her.

New York Judge Kevin Castel ruled that Wang can't assert these claims, because as an unpaid intern, she didn't have the status of an employee.

**Related: White House under pressure to pay its interns**

Wang has since moved back to China. According to the ruling and a lawyer for Phoenix Satellite, Liu was terminated from his job once the company investigated the allegations.

Wang and Liu couldn't be separately reached for comment.

The ruling comes at a time when a growing number of interns are suing high profile employers like Condé Nast and Hearst seeking to be paid for their work. Some of the interns have won cases or settlements against Fox Searchlight Pictures and Charlie Rose.

But working without pay, clearly, isn't the only issue. Interns like Wang have been filing harassment claims to no avail for decades.

In 1994, nursing student Bridget O'Connor brought a **sexual harassment lawsuit** in New York against a psychiatric hospital at which she interned.

Shortly after she started her internship, one of the doctors began referring to her as "Miss Sexual Harassment" and suggested she get undressed before meeting with him. She said the harassment was in violation of Title VII of the Civil Rights Act.

The court ruled that since O'Connor did not get a salary, benefits or sick time, she was not considered an employee and not protected under the law. A federal appeals court affirmed the decision, and threw out the claim.



### I was an unpaid White House intern

In 2007, Washington D.C. district court judge Ellen Segal Huvelle **dismissed claims** brought by an unpaid intern against a chiropractor's office, on similar grounds.

So far, only one state, Oregon, has broadened out the standards for harassment to protect unpaid interns. The state passed a law in June that extends such protections to all interns, whether they're paid or not.

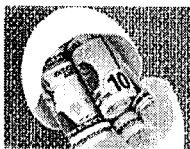
Attorney Lynne Bernabei, who represented Wang in the New York Phoenix television case, said there's a big hole in employment law that needs to be filled to protect interns.

"As young interns, these are the most vulnerable people and clearly they should be protected," she said. ■

First Published: October 9, 2013, 12:42 AM ET

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