

Legal Notes: August 2014

Employer's use of "interns" in the past ten years has exploded and as with many explosions, people get hurt.

A recent case illustrated the nether world occupied by interns. The case involved an intern who reported unethical actions in her workplace. After doing so, the employer "fired" the intern. The intern sued for retaliation. The Wisconsin Supreme Court ruled against the intern because she was not officially an "employee," and this whistleblower statute only protected "employees." The ruling came despite evidence showing that the intern was an employee except in name.

Many employers take people pursuing a degree and use them as interns. While interns can be paid, many are not. Also, unscrupulous employers will work interns for excessive amount of hours. Misused interns often have little recourse because these internships have become a common requirement to obtain many degrees.

Federal labor law does restrict the designation of "intern" to only certain situations. The intern must be with the employer to learn, not just to work. The intern cannot displace existing employees. The internship must be to the interns advantage not just that of that employer. Finally, the intern has no entitlement to a job at the end of the internship, so as to avoid paying training wages. If the internship meets these requirements, then the usual wage and hour laws do not apply, such as minimum wage and overtime.

Because many interns are young and just looking to get into a particular industry or profession, abusive employers can easily take advantage of them. As was shown by the recent case discussed above, they have little legal recourse and complaining may also blackball them in the area they want a job in. Finally, because internships are temporary and last anywhere from a few weeks to months, there is not much incentive for interns to organize.

In summary, an internship can provide an invaluable learning experience, there is also a great opportunity for exploitation as well.