



Southern District Rules: Unpaid Interns are Not Eligible to Assert NY Sexual Harassment Protections

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In October of 2013, the Southern District of New York^[1] dismissed an intern's claim for sexual harassment brought under New York State Human Rights Law and New York City Human Rights Law on the grounds that the state law protections did not extend to unpaid interns.

According to the Complaint, former intern Lihuan Wang alleged that in January of 2010 she began her unpaid internship in the New York office of a television broadcasting company. She alleged that after a luncheon with her supervisor and several co-workers, the supervisor requested that Wang stay after the lunch to discuss her job performance. Wang agreed to stay. Once everyone left the restaurant, Wang alleged that the supervisor requested that Wang accompany him to his hotel room in order to drop off a few things. While at the hotel, Wang alleged that the supervisor removed his jacket, undid his tie, and then threw his arms around the intern exclaiming, "Why are you so beautiful?" Wang then claimed that the supervisor held her for five seconds, attempted to kiss her, and squeezed her buttocks. Wang further claimed that when she refused any further advances, the supervisor lost interest in hiring her for a full time position.

New York Judge Kevin Castel dismissed Wang's state law sexual harassment claims on the grounds that the New York state law protections extends only to employees. In reaching his decision Castel wrote, "It is uncontested that Wang received no remuneration for her services. New York City's Human Rights Law's protection of employees does not extend to unpaid interns."

Wang's attorney, Lynne Bernabei, commented that Wang's circumstances are indicative of the hole that continues to exist in employment law. "As young interns, these are the most vulnerable people and clearly they should be protected," she said.

If you or your company would like more information on employment law, contact James G. Ryan at jryan@cullenanddykman.com or via his direct line at 516-357-3750.

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[1] Lihuan Wang v. Phoenix Satellite TV US, 2013 U.S. Dist. LEXIS 143627 (S.D.N.Y. Oct. 3, 2013)