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Fox unpaid intern case is drawing to a close with proposed settlement

By Daniel Miller

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A labor lawsuit that was instrumental in prodding Hollywood studios and production companies to reconsider how they treat interns is headed toward a resolution.

Unpaid interns who had worked at Fox Searchlight Pictures filed a lawsuit five years ago alleging the company violated the Fair Labor Standards Act by not paying them for their work. Now a proposed class-action settlement has been reached in the case, according to court documents filed Tuesday in U.S. District Court in New York.

Under terms of the settlement, which requires approval by U.S. District Judge William Pauley, media giant 21st Century Fox would compensate former unpaid interns who worked at some of its entertainment divisions. Most of the interns in the class would receive \$495 apiece, while three lead plaintiffs would be awarded \$3,500 to \$7,500.

Eric Glatt and Alex Footman, two interns who had worked on Fox Searchlight's "Black Swan" movie, sued in 2011, alleging

the studio [violated minimum wage laws](#) during the making of the Darren Aronofsky-directed drama. They sought back pay and damages for themselves and an unspecified number of other interns.

After Glatt and Footman filed their lawsuit, similar cases were brought against NBCUniversal, Viacom, Warner Music Group and Condé Nast. Each company negotiated multimillion-dollar settlements with their former workers. They now pay their interns, or have abandoned their programs altogether. (Fox now pays its interns, too.)

Glatt, in an interview Tuesday, said it made sense to settle the case and avoid “the uncertainty and expense of a trial.”

“It was the right thing to do, the responsible thing to do, rather than slug it out for the personal interest in having the court say I was right,” Glatt said.

The case had several twists and turns. In 2013, the plaintiffs scored a surprise victory when Pauley sided with them in a summary judgment. The judge wrote that “Searchlight received the benefits of [the interns’] unpaid work, which otherwise would have required paid employees.”

His ruling cited the U.S. Department of Labor’s six legal criteria for unpaid internships. The guidelines say that unpaid internships should be “similar to training which would be given in an educational environment,” among other standards.

The interns’ victory was short-lived. Fox appealed and the U.S. 2nd Circuit Court of Appeals in New York [vacated](#) Pauley’s ruling last year. Circuit Court Judge John Walker found the six

criteria to be “too rigid” to apply in the case. Instead, he said a different standard should apply. “The proper question is whether the intern or the employer is the primary beneficiary of the relationship,” he wrote.

The plaintiffs had sought a rehearing with the 2nd Circuit Court of Appeals, but the request was denied in February. That sent the case back to federal court in New York, eventually leading to discussions of a settlement.

“Having decisively prevailed in our appeal, Fox wishes to put this matter completely behind us. We will refocus on a return to our proud history of offering dynamic, educational internships,” said Chris Petrikin, chief communications officer for 20th Century Fox Film, the studio unit of the media giant.

Glatt, 46, said he was disappointed with the appellate court’s decision, and had considered petitioning the U.S. Supreme Court.

“I firmly believe that the 2nd Circuit panel got it wrong, even just as a matter of law,” said Glatt, who now is an attorney working for the American Civil Liberties Union in Anchorage.

But, he said, several factors dissuaded him from pursuing the case further, among them the issue of the Supreme Court operating with only eight justices as a result of the death of Antonin Scalia in February.

“It didn’t seem the right time to do it,” said Glatt.

According to court documents, the proposed settlement would provide \$495 to unpaid interns who worked for at least two weeks at one of several Fox entities from January 2010 to

September 2010. In addition, the settlement would cover some interns who worked in New York from September 2005 to September 2010. California interns would also be eligible for \$495 if they worked during an 18-month period from January 2009 to September 2010.

The lead plaintiffs, however, stand to receive more money if the settlement is approved. Glatt would receive \$7,500, Footman would get \$6,000 and another plaintiff, Eden Antalik, would pocket \$3,500.

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