

State of Minnesota

District Court

County

Carver County

Judicial District:

Court File Number:

10-PR-16-46

Case Type:

In the Matter of the Estate of:

Prince Rogers Nelson

(Full Name)

Decedent

WRITTEN STATEMENT OF CLAIM

FILED

NOV 08 2016

STATE OF MINNESOTA

CARVER COUNTY COURTS

COUNTY OF

Carver

SS

1. My name is: Xavier A. Powell and I have a valid claim against this estate.

2. My address and telephone number are: P.O. Box 83561  
Los Angeles, CA 90083

3. The Estate is or will become indebted to me in the amount of \$ 1,197,729.750 <sup>00</sup>

4. The nature of the claim is: Unpaid Internship Primary  
Beneficiary Seven Causes of Action to  
include Fraud and Intentional Deceit,  
Wrongful Interference, Misappropriation of Trade Secrets and  
Unjust Enrichment

5. The claim arose  prior to the death of the Decedent on or about \_\_\_\_\_  
or  after the death of the Decedent, on or about June 16, 2016

6. The claim is  unsecured, or  
 secured by: \_\_\_\_\_

7. The claim  is  is not based on a contract which makes a provision for interest.

8. The claim was or will be due and payable on ASAP

9. If the claim is contingent or unliquidated, the nature of the uncertainty is as follows: \_\_\_\_\_

Court's decision in addressing the claim.  
Unpaid Internship amount of \$200,000  
by itself. I am willing to settle the amount.

10. Under penalties for perjury, I declare that I have read this document and I know or believe its representations are true and complete.

Dated: 10/17/2016

Xavier A. Powell  
Signature

Name: Xavier A. Powell

Street Address: P.O. Box 83561

City/State/Zip: Los Angeles, CA 90083

E-mail address: xap17@hotmail.com

1 Xavier A. Powell  
2 P O Box 83561  
3 Los Angeles, CA 90083  
4 (310) 259-4129 phone

5 Pro Per  
6 State of Minnesota, County of Carver  
7 Carver County District Court  
8

9  
10 Xavier A. Powell

11 In re: vs. Case No. 10-PR-1646

12 Bremer Trust (Special Administrator)  
13 The Estate of Prince Rogers  
14 Nelson, Paisley Park Estate  
15 et al.  
16 DOES 1-99 Respondents

Formal Written  
Statement of Claim

17 August 3, 2016 written statement of claim enclosed.  
18 I received a letter stating I did not file a  
19 formal written statement of claim. The notarized  
20 letter from a witness regarding "The Most Beautiful Girl  
21 in the World" and the written statement of claim were  
22 removed from my package my paralegal served with  
23 proof of service. I am having my paralegal fax and  
24 mail proof of service this Formal Written Statement  
25 of Claim with attachments of Evidence again.  
26 A constitutional challenge involves law being  
27 consistent with the Constitution of Canada including  
28 the Canadian Charter of Rights and Freedoms.

The Alberta Employment Standards Code, RSA 2000c E-9  
states that an employee is an individual employed (intern or  
unpaid intern) to do work and is entitled to wages although  
my internship was with Kerry Gordy Entertainment. See Summary

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## **Working' 9 to 5, But Not Making a Living: The Legality of Unpaid Internships, Work Experience Programs & Trainee Programs**

**Blog** Canadian Labour & Employment Law Blog

**Miller Thomson LLP**

**Canada** | August 31 2016

Many young individuals across the country participate in internships, which are utilized by employers in many industries, and which are seen by many individuals as an opportunity to gain valuable experience. An area of particular interest, and possible pitfalls, relates to internship programs that involve unpaid interns. Although every jurisdiction in Canada has legislation that permits interns in some circumstances to perform work without compensation, in many parts of the country these situations are limited and these limitations should be noted carefully by employers. Simply calling a position an “internship” will not – in and of itself – be enough to permit an employer to utilize unpaid interns, and the rights of workers in this regard cannot be simply waived or avoided by agreement between employer and employee.

All “employees”, whether working in a provincially or federally regulated sector, are protected by employment standards legislation. As employers will be aware, this legislation places duties on employers and establishes minimum standards in respect of a host of matters. However, the legislation also provides for circumstances where work will be exempted from all or some of these usual standards. These exemptions include, for example, work that is done by a

student as part of an approved education or work experience program, and individuals receiving necessary hands-on training for certain professions, such as in the medical, engineering, and legal fields. It should never be forgotten that, regardless of whether an intern is exempt from certain employment standards minimums, they will always be protected by health and safety legislation and human rights legislation in all jurisdictions.

The majority of Canadian jurisdictions have employment standards legislation that includes a broad definition of “employee”, which could arguably include interns, both paid and unpaid. One interesting exception is Alberta. The Alberta *Employment Standards Code*, RSA 2000 c E-9, states that an employee is “an individual employed to do work **who receives or is entitled to wages** and includes a former employee”. Issues arise as to potentially circular arguments, wherein the fact of not paying wages appears – on its face – to give rise to an exemption from the *Code*, and therefore the right not to pay wages, and not to comply with the *Code*. It should be noted that the courts have held that benefit-conferring legislation, such as the *Employment Standards Code*, must be interpreted broadly. Thus, Alberta employers must be careful, and should seek legal advice, in respect of any unpaid internship.

In all jurisdictions, unpaid interns have the right to file employment standards complaints if they believe that they should have been paid for their work, or that some minimum legislated employment standard has been breached. If an employment standards officer’s investigation reveals that the worker was entitled to pay, back-pay can be recovered from the company on behalf of the worker. In April of this year, the Ontario Ministry of Labour conducted a well-publicized blitz of Ontario workplaces, recovering almost \$140,000 in wages owed to interns across approximately 20 workplaces.

Even if a company’s internship program is in compliance with all employment standards legislation, such programs can give rise to other important concerns for employers, including public relations considerations. In some circumstances, internship programs have been perceived or portrayed as exploitative or contrary to corporate best practices. However, developed and implemented in a careful, legal and conscientious fashion, they can be valuable programs from both the employer’s and the worker’s perspective.

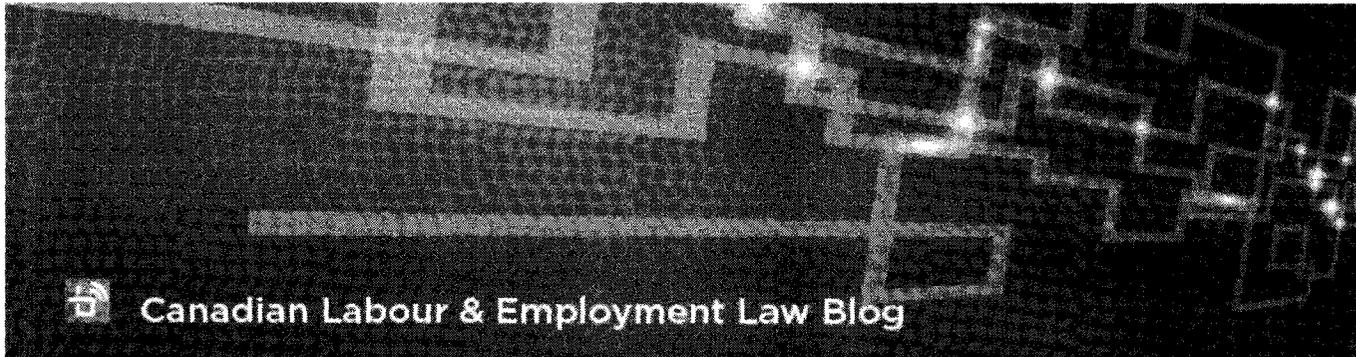
Earlier this year, the federal government set forward a proposal to allow federally-regulated sectors to establish unpaid internships. The proposed internships could span up to four months, and would require that the position be “primarily for the benefit of the student”. The proposal has not been without controversy, and employers and their legal counsel will no doubt be watching for further updates with interest.

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**Miller Thomson LLP - Monique Petrin Nicholson**

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## Working' 9 to 5, But Not Making a Living: The Legality of Unpaid Internships, Work Experience Programs & Trainee Programs

August 31, 2016

[Monique Petrin Nicholson](#)

Beth Warcholak, Summer Law Student, Edmonton

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To Whom It May Concern:

**This is Xavier Powell's Written Statement of Claim Form.**

**Re: Estate of Nelson Court File No. 10-PR-16-46**

**Summary of Events is listed below.**

From 12/ 1991 to the end of 1993, I served in an Internship with Kerry Gordy Entertainment Company, and at the time I was the only Intern.

In Spring 1993, Kerry Gordy and myself were driving to various artist management companies looking for record production opportunities to manage an artist. After several attempts to James Brown's management and other colleagues . A week passed and Kerry Gordy asked me what I thought we should do about this artist management venture. A thought is an Idea. The Idea (Trade Secret) that I pitched (suggested ) to Kerry was to work for Paisley Park (Prince Rogers Nelson's company) in Management. I requested of Kerry Gordy to work alongside him and make money , however Kerry Gordy made it clear that this was an internship (an unpaid internship). I asked why it was such a problem for me to be paid, and there was no response or action made to pay me for my work (internship). I was not properly compensated nor was I given industry attribution credit. Two weeks passed and next think I knew Kerry Gordy was contracted to work for Paisley Park , Warner Brothers, NPG, and Bellmark Records.

A week later (several days later) in Spring 1993, I suggested that the company owner Kerry Gordy work for Prince in Management of his Paisley Park. The company owner took me up on my Idea (my Intellectual Property and my Concept). The company owner Kerry Gordy ended up contracting with Warner Bros, Bellmark, and NPG as well as taking on an Executive Management position with Paisley Park owned by Prince Rogers Nelson. This company owner Kerry Gordy never paid me for my Ideas (Trade Secret ) as he made millions from the release of The Most Beautiful Girl in The World and other Price releases. Kerry Gordy continues in 2016 after Prince's death making money from songs released when he had the position of Manager in 1993-1997 approx.

I have attached a signed notarized witness statement from Mr. Emerson Featherson AKA Emerson Featherstone. This notarized statement is witness to the fact that February 1994 release of " The Most Beautiful Girl

*Xavier A. Powell*

In The World “ happened as a result of Kerry Gordy’s referral of Prince Rogers Nelson aka the Symbol O-+> to Bellmark Records who then released the single “ The Most Beautiful Girl In The World” that sold one million copies in Europe and 150,000 in the United States.

The release of “ The Most Beautiful Girl In the World” would not have happened had not my Trade Secret Idea been acted upon by Kerry Gordy. According to the most recently cited Unpaid Intern case “ Black Swan’ I am the Primary Beneficiary due to my Intellectual Property Trade Secret Idea that was used by Kerry Gordy. The details of this Unpaid Internship case are included in Glatt v. Fox Searchlight Pictures, Inc. , No. 11 Civ. 6784 as well as the related case Mackown v. twenty-First Century Fox, Inc. No. 13 Civ. 4406. Glatt v Searchlight Pictures, inc., No. 11 Civ. 6784 confirms that Unpaid Interns are “Primary Beneficiaries of the Relationship.”

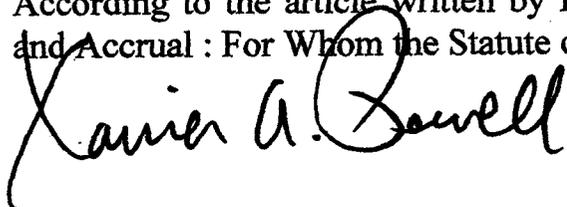
The next project Kerry Gordy assisted Prince Paisley Park with was the change of Prince’s name into a symbol.

The release of “ The Most Beautiful Girl In the World “ and the change of Prince’s name to a Symbol. See article titled , “ Prince wouldn’t take no for an answer”-Star’s ex-manager pays tribute to ‘multi-talented’ singer’s incredible business acumen.’ In this article Kerry Gordy admits “he was there when Prince decided to change his name to a “Symbol”, or to “The Artist Formerly Known as Prince.”

Since this change of the name took place after Kerry Gordy was hired by Paisley Park due to my Idea as Intellectual Property ( Trade Secret), I can and will ask for part ownership of that name change “ the Artist Formerly Known as Prince.”

In regard to Stateute of Limitations. Statute of Limitations is not a factor in this matter. The reason is that all my discoveries were and are not known beforehand. I was not aware that I was damaged until after Prince passed. My claim falls under the Delayed Discovery Rule.

According to the article written by Paul Eisner titled “ Delayed Discovery and Accrual : For Whom the Statute of Limitations Does Not Toll,”



657, 5The second category, delayed accrual, occurs when the plaintiff lacks sufficient knowledge of the facts to file the case and depends on the circumstances. A cause of action accrues when the act is completed and there is a result for which there is liability. *Norgart v. Upjohn Co.*, 21 Cal.4th 383, 397, 87 Cal.Rptr.2d 453, 981, P.2d 79 (1999). A classic example of delayed accrual is delayed discovery. In delayed discovery cases, discovery occurs when the plaintiff suspects or has reason to suspect a factual basis, *Rivas v. Safety-Kleen Corp.*, 98 Cal.App.4th 218, 225, 119 Cal. Rptr. 503 (2002), or actually discovered or by reasonable diligence should have discovered the existence of a cause of action, *Sanchez v. South Hoover Hospital*, 18 Cal.3d. 93, 97, 132 Cal.Rptr. 657,

“California is an inquiry notice state when it comes to the Statute of limitations” in delayed accrual cases. *Uniram Technology, Inc. v. Taiwan Semiconductor*, 617 F.Supp.2d 938, 946 (N.D. CA 2007). A plaintiff is required to investigate and is charged with what a reasonable investigation would have discovered. *Slovensky v. Friedman*, 142 Cal.App.4th 1518, 1529, 49 Cal.Rptr.3d 60 (2006). A suspicion combined of any element of a cause of action combined with knowledge of any remaining element is sufficient. *Grisham v. Philip Morris, U.S.A., Inc.*, 40 Cal.4th 623, 634, 54; CalRptr.3d 735, 151 P.2d 1151 (2007). The computation for determining when the statute of limitations expires in a delayed accrual case differs from the computation where the delay in filing a complaint is due to the inability of a party to sue or be sued.

There are two required elements to show delayed accrual of the statute of limitations. The first element is delayed discovery. In a delayed discovery case, the plaintiff must

plead that the relevant facts were not and could not be discovered with reasonable diligence within the statutory period. *Fox v. Ethicon Endo-Surgery, Inc.*, 35 Cal.4th 797, 809, 35 Cal.Rptr.

797, 110 P.3d 914 (2005). To assert a claim of delayed discovery, the injured party plaintiff needs to be ignorant of the facts and lack the ability to have earlier discovered the facts, and the com-

plaint needs to plead this ignorance, the lack of discovery, and how and when the facts were eventually discovered. *Casualty Insurance Company v.*

*Karina A. Powell*

*Rees Investment Company*, 14 Cal.App.3d 716, 720, 92 Cal.Rptr. 857 (1971); also see *Kirby v. Albert D. Seeno Const. Co.*, 11 Cal.App.4th 1059, 1068, 14 Cal.Rptr. 604 (1992).

### **Delayed Discovery Rule.**

"Under the [delayed] discovery rule, the statute of limitations begins to run when the plaintiff suspects or should suspect that [his or] her injury was caused by wrongdoing, that someone has done something wrong to [him or] her" (*Jolly v. Eli Lilly & Co.* (1988) 44 Cal.3d 1103, 1110).

The delayed discovery suspends (delays, extends, lengthens) the statute of limitations deadline by not starting the SOL time period until the Plaintiff / victim discovers (or by the exercise of reasonable diligence should have discovered), both:

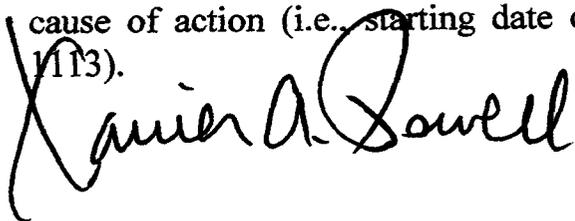
- (1) the injuries or harm; and
- (2) that was caused by the wrongdoing of the defendant / perpetrator.

See (*Jolly*, supra, at p. 1109).

Generally, in "ordinary tort and contract actions," the limitations period begins when the "last essential element to the cause of action" occurs. (*Neel v. Magana, Olney, Levy, Cathcart and Gelfand* (1971) 6 Cal.3d 176, 187), that is, when the cause of action "accrues," even if the Plaintiff was ignorant thereof, and even if he or she did not know the identity of the wrongdoer (tortfeasor) (Id. at p. 187).

But where it would be manifestly unjust to deprive a plaintiff of a cause of action before he is aware he or she has been injured, the delay discovery rule can, in many types of cases, be applied.

The terms "wrong," "wrongdoing" and "wrongful" are to be construed in their "lay understanding." (See *Jolly*, supra, at p. 1110, footnote 7). The "discovery of facts, not their legal significance" determines the accrual of a cause of action (i.e., starting date of the statute of limitations). (Id. at p. 1113).



Attached is an article titled , “ What are the Rules Around having Unpaid Interns?

Stated by Steve Hoffman , “ If an intern contributes Ideas to your product but isn't paid, the intern can claim they own part of it.”

Product defined in Intellectual Property terms means :

Below are three points that I am claiming and asking for compensation related for “Direct Production of Concept (Idea) that I pitched to Kerry Gordy to work as manager of Paisley Park. The release of “ The Most Beautiful Girl In the World” and the name change from Prince to The Artist Formerly Known As Prince are both Direct Productions of the Concept (Idea) that myself the plaintiff pitched to Kerry Gordy when I gave him the Idea to work for Prince's Paisley Park as Management.

- I am claiming to own monetary proceeds from the release of “ The Most Beautiful Girl in the World” and the sales that took place on this single in 1994 of 1 million units in Europe and 150,000units in the United States. Whatever price that single was sold at that time (1994) times the number of sales. Avg cost was \$10.00 times 700,000 per Alex Hahn's recollection of events. This adds up to \$700,000. The notarized witness Emerson Featherson states copies sold were 1 million in the U.K. plus an additional 150,000 in the United States. This will amount to \$ 11,500,000.
- I am claiming to own part of the name change from Prince to The Artist Formerly Known as Prince (The Symbol O->) simply because these are two projects (two Products) that Kerry Gordy worked on during his time of Executive Management of Paisley park in 1993-1997 Approx.
- I am claiming a pay scale of Unpaid Internship rate at \$ 495 every two days the same rate that was determined at settlement for Unpaid Intern Plaintiffs in the the case has settled for Black Swan, “Glatt v. Fox Searchlight Pictures, Inc. , No. 11 Civ. 6784.” This amount I'm requesting adds up to \$495 every two days times (15 days a month) is \$7425 a month for 2 ½ years . This 2 ½ years is from 12/1991 to 1992 to 1993 to 6/ 1994. The amount adds up to \$ 222,750.00 (\$7425 X 30 months).

*Carrie A. Jewell*

**Causes of Action :**

There are Seven Causes of Action in this matter.

1. Fraud and Intentional Deceit –Unpaid internship working for zero pay when this was not the agreement. Kerry Gordy used my concept idea to work with Paisley Park as a manager my to make lucrative monetary gain without any comprehensive or industry attribution or credit to myself Xavier Powell.. I am Primary Beneficiary of the Unpaid Internship Relationship and all Product that was created and released under Kerry Gordy’s employment with Paisley Park (*see for Black Swan, “Glatt v. Fox Searchlight Pictures, Inc. , No. 11 Civ. 6784.*) Any records released and name changes made on behalf of The Artist Formerly Known as Prince (Prince Rogers Nelson ) while Kerry Gordy held Executive Management position for Paisley Park is due to the use of my trade secret Idea pitched to Kerry Gordy to work for Prince in a Management capacity.

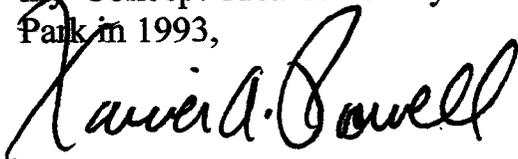
2. Tortious Interference with Prospective Economic Advantages

Kerry Gordy tortuously interfered with the prospective economic advantages that myself Xavier Powell would have gained through the production of product from my Concept but did not due to the acts of misappropriation committed.

3. Misappropriation of Trade Secrets

My trade secret was misappropriated in that as an unpaid intern for Kerry Gordy Entertainment, my idea for Kerry Gordy to work as Manager for paisley park held great value within the entertainment industry and was used to make great financial gain with the release of “ The Most Beautiful Girl In The World” in 1994 February release, and the Change of Prince’s name to a Symbol.

Acts of Misappropriation in violation of California Civil code Sections 3426-3426.11 causing damage of economic harm, loss of income, loss of all monetary value, and recognition stemming from my Concept Idea for Kerry Gordy to work as manager for Paisley Park in 1993,



4. Breach of Confidence

Myself Xavier Powell made disclosures of my proprietary Concept to Kerry Gordy Entertainment expressly in pursuit of a future business relationship as I did ask to be paid. I communicated my creative Concept to Kerry Gordy Entertainment pursuant to the standard customs and practices in the US Entertainment Industry with respect to the exchange of creative ideas.

5. Negligent Misrepresentation

Kerry Gordy Entertainment (Kerry Gordy) negligently misrepresented the fact that he was referred to his position by using my Intellectual Property Trade Secret Idea to work as Management for Paisley Park.

6. Breach of implied contract

Kerry Gordy ultimately engaged in the use and production of my Concept in conscious disregard to my rights under said implied contract. I myself Xavier Powell have not received any legal or equitable consideration of any kind in any amount at any time from the Defendants under said implied contract. I, myself Xavier Powell have communicated to Kerry Gordy that I expect compensation and formal industry recognition and credit for the use of my Ideas. Under applicable and governing California law, this expression of expectation established *an implied contractual right to compensation*.

Kerry Gordy (Kerry Gordy Entertainment) has been unjustly enriched as a result of his wrongfully acquired gains (through an unpaid internship resulting from the wrongful production use of my Concept.

7. Unjust Enrichment

My trade secret Idea was used by Kerry Gordy (Kerry Gordy Entertainment) and has enriched Paisley Park, NPG, Warner Brothers, and Bellmark Records due to the release of "The Most Beautiful Girl In the World" and the name change of Prince to a Symbol The Artist Formerly Known as Prince.

Xavier A. Powell

Relief Request :

1. Request for rightful gains , profits, advantages derived by Paisley Park according to the above Causes of Action to include all accounting for the prospective gains, profits, and advantages derived and to be derived.
2. I request that there be established a constructive trust to myself Xavier Powell's benefit for payment information , designated percentages of the proceeds resulting from the past, current, and future releases of "The Most Beautiful Girl in the World" and usage of all trademark that involves the Name Change.
3. I request the past, present , and future unjust enrichment to myself Xavier Powell caused by the misappropriation.
4. I request all special and general damages including exemplary damages to be paid to myself Xavier Powell.
5. All attorney fees that will incur due to the retaining of legal representation, I ask to be paid to the attorney that *may be* retained in case this entire matter is not reasonably settled.
6. Such other relief as this court may deem just and equitable.

This case is based on Law and Fact.

\*\*\*When an employer does not pay an intern while using their Intellectual Ideas, this creates a Beneficiary Relationship. I, Xavier Powell own this Beneficiary Relationship . I contributed to Kerry Gordy's employment as Executive Manager of Paisley Park as a product, and as a result my Idea contributed product for Prince's Paisley Park with business information that provided his company Kerry Gordy Entertainment and Prince's Paisley Park with a business edge that he Kerry Gordy used to further Paisley Park's Interests. I was not paid , therefore I may claim ownership of all that my Idea produced. California Trade Secret Law protects Ideas, Information I provided was specific and secret. Altavion Inc. v. Konica Minolta sys. Laboratory, Inc., 226 Cal. App. 4<sup>th</sup> 26 (2014),)

Xavier A. Powell

Please review the attached documents. I have emails from the company owner Kerry Gordy admitting that I worked with him and did an internship. I was never paid. I have emails attached that he admits that I gave him this Idea to work for Paisley Park in Management. My Intellectual Idea was stolen by the company owner Kerry Gordy of Kerry Gordy Entertainment whom I Interned for, and in fact has generated millions of dollars actually adding Monetary Interest to the now current Paisley Park today valued at \$300-\$500 million or more.

I may be reached at 310-465-4042. Ms. Xavier Powell

*Xavier a. Powell*

**Notarized Letter from  
Emerson Featherson Regarding the  
Release and Sales of “ The Most  
Beautiful Girl In The World “ by The  
Artist Formerly Known as Prince O--+>**

**Excerpt and Sales from Book  
by Alex Hahn re: Sales  
“ The Most Beautiful Girl In The World “  
by The Artist Formerly Known as  
Prince O--+>**

June 25, 2016

To Xavier A. Powell and Whom It May Concern:

I serve as a witness to the release of Prince "The Most Beautiful Girl In The World" release orchestrated by Kerry Gordy and Bellmark Records CEO Al Bell. Kerry Gordy referred Prince to Al Bell of Bellmark Records to release "The Most Beautiful Girl In The World." Warner Brothers Records didn't want to release Prince's music at the time. "The Most Beautiful Girl In The World" "sold 1 million units in Europe and 150,000 units in the United States. The song "The Most Beautiful Girl In The World" became at the time after release February 1994 a Billboard Pop Charts #2 Hit.

Sincerely Yours,

~~EF  
Mr. Emerson Featherstone/~~

Mr. Emerson Featherson (Driver's License)

X Emerson Featherson

**CALIFORNIA JURAT WITH AFFIANT STATEMENT**

**GOVERNMENT CODE § 8202**

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-6 to be completed only by document signer[s], not Notary)

*X Emerson Featherston Jr.*  
 Signature of Document Signer No. 1

\_\_\_\_\_  
 Signature of Document Signer No. 2 (if any)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
 County of Los Angeles

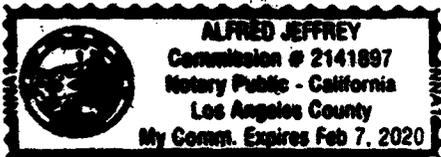
Subscribed and sworn to (or affirmed) before me  
 on this 25 day of June, 2016.  
 by \_\_\_\_\_  
Date Month Year

(1) EMERSON FEATHERSTON JR.

(and (2) \_\_\_\_\_)  
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

*Alfred Jeffrey*  
 Signature \_\_\_\_\_  
Signature of Notary Public



Seal  
 Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**  
 Title or Type of Document: Letter Document Date: June 25 2016  
 Number of Pages: 2 Signer(s) Other Than Named Above: Including this page

like "Bambi" and "Peach" the strong mid-tempo rock-  
h feature film, he changed  
rty-five-minute short that  
n home video was released

l equivalent of busy work,  
recalls that the music for  
little practical use, these  
on Prince's finances. After  
ad replenished his coffers  
s, some advisors had been  
venues, but he ignored the  
throughout the Twin Cities  
Paisley Park to pay its debts.  
investigated the reports  
ing—or maybe unable—  
ed as "Purple Drain" in  
e who had been stiffed by  
o shoot a video for "Gett  
nt more than \$1 million  
aisley, Borm finally got a

of a Minneapolis video  
ark before he was able  
ry and Suzy Zahradka,  
aim look stylish, sued  
isinesses; the Record  
O payment, which it  
Prince had forgotten

problems was an  
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ained ultimate control over the purse strings, and as a result his operations were  
ending into chaos.

In February 1994, Warner Bros. took steps to protect itself from Prince's poor  
financial decisions: It terminated Paisley Park Records, its joint venture with him.  
arners had lost millions on the label, and Prince had never even set foot in the lav-  
Century City office suite given to him as part of his 1992 deal. Almost overnight,  
vanity label was shut down. Albums in the works by new acts Belize and Tyler  
allins were shelved, and Rosie Gaines' long-postponed *Concrete Jungle*, slated for a  
arch release, was again put on hold.

Oddly, Prince seemed unperturbed; in fact, he seemed emotionally disconnected  
om much of what was occurring in his life. "I did not get the feeling that it even mat-  
ed to him," Badeaux recalled. To replace the label as a new outlet for side projects,  
Prince formed NPG Records under his Paisley Park Enterprises umbrella. That he  
ould lack the promotion and distribution machinery of a major label seemed not to  
ther him.

He rushed out his first independent release almost immediately—a single called  
he Most Beautiful Girl In The World." (Warners, still wanting to hold off on new  
leases, passed on the song but let him issue it through NPG Records.) It became the  
record under his new name. Issued in February and distributed in the United States  
the small Bellmark Records label, "Beautiful Girl" provided another twist in the feud  
etween Prince and Warners. To the surprise of many in the record industry who  
ought Prince's career might be in permanent decline, it became a major hit. Echoing  
e production approach of Philadelphia soul groups like the Delfonics, the song was a  
ummering slice of pop with an instantly recognizable falsetto vocal. A seeming return  
Prince's halcyon days, "Beautiful Girl" sold a remarkable 700,000 copies, attaining  
id status and reaching No. 3 on the Billboard Pop Singles Chart.

For Prince, this was irrefutable evidence that the naysayers—especially Warner  
os.—were wrong. His name change represented not vain silliness, but instead her-  
ded a creative renaissance. Most importantly, the record's worldwide success proved  
at he had been arguing all along—Warner Bros. had botched the promotion of his  
cent albums. "Beautiful Girl" demonstrated that Warners was utterly superfluous to  
is success.

His hand thus strengthened, Prince prepared his next salvo against his nemesis.

On March 11, Prince presented Warner Bros. with his next album, entitled *Come*.  
was everything the label had feared. Most of the songs were mediocrities that had  
een recycled from *Glam Slam Ulysses*—the frenetic, tuneless "Loose!," the languid,  
arely there "Space," and others—underscoring Prince's refusal to give Warners new  
music. The rest sounded like hastily written curiosities, and even one of the more  
interesting numbers, the haunting, stripped-down "Papa" (a seemingly autobiograph-  
al piece which addressed the theme of child abuse) seemed intentionally obscure.  
here was nothing in the collection that could be released to radio as a single. "The  
company was so upset with that album—people said it was a piece of shit," remem-  
ered Badeaux. "There was a feeling that he was dumping garbage on us."

• Book Excerpt Alex Hahn

# **Kerry Gordy Email Statements**

## **Radio & Records Publication Kerry Gordy**

# Kerry Gordy

From Wikipedia, the free encyclopedia

**Kerry Ashby Gordy** (born June 25, 1959) is a music industry executive and a member of the Gordy family of Motown fame. He is the son of Motown records founder Berry Gordy and the brother of singer and rapper Redfoo.

## Contents

- 
- 1 Early years
- 2 Professional career
  - 
  - 2.1 Other ventures
- 3 Family
- 4 References
- 5 External links

Kerry Ashby Gordy	
<b>Born</b>	June 25, 1959 Detroit, Michigan
<b>Origin</b>	Detroit, Michigan, U.S.
<b>Genres</b>	R&B, soul, pop
<b>Occupation(s)</b>	Record executive, Intellectual property Manager, Personal Manager, songwriter, record producer
<b>Instruments</b>	Piano/keyboard
<b>Years active</b>	1973–present
<b>Labels</b>	Nu Vintage, LLC, Kerry Gordy Enterprises, LLC

## Early years

Gordy was born in Detroit, Michigan the same year that his father, Berry Gordy, Jr., founded Motown Records. Gordy was brought home from the hospital to live in the historic home that housed the Hitsville Motown Recording Studios on West Grand Blvd. which was renamed Berry Gordy Jr. Blvd. Gordy's mother, Raynoma, was a child prodigy in music and played eleven instruments and introduced him to music. Gordy followed in his mother's footsteps and plays several instruments as well.

Gordy lived with his mother until the age of 13 and then moved to Los Angeles with his father Berry. He attended Beverly Hills High School with Benny Medina. Years later Medina created the TV show *Fresh Prince of Bel-Air*; a semi-autobiographical TV sit com loosely based on Gordy inviting Medina to move into the Gordy Estate in Bel Air when they were teenagers. Later the two wrote and produced records together for Motown and founded a teen idol band called Apollo for the Motown Records label. Teena Marie was originally in the group as the female lead, but dropped out before the band released their first single for Motown entitled *Astro Disco*.

## Professional career

Gordy's career began in 1973 working in the Motown Records mailroom. The early years of his career were spent in various administrative and creative capacities. Then in 1979, he released an album on Motown as a member of the group, Apollo. By the 1980s, he was known professionally as **Kerry Ashby** to separate himself at Motown from his father. He also worked as a writer and producer for various up and coming artists.

Later Gordy was promoted to the position of Director of A&R, where he worked on projects with artists such as The Temptations, The Four Tops, Rick James and Billy Preston among others. He also worked on compilation albums for Diana Ross and Michael Jackson. He became a Senior Executive for the Gordy Company (his father's company after selling Motown) in 1988 where he was responsible for supervising Business Affairs, A&R, Product Development, Administration and Personnel. Between 1991 and 1993 Gordy also consulted for Al Bell's independently distributed label, Bellmark Records.

In 1993, Gordy became the <sup>Executive</sup> Vice President of two divisions for Paisley Park Records, A&R and Artist Development, (a joint venture between Time-Warner and the superstar "Prince"). He produced and co-wrote George Clinton's comeback hit "Paint the White House Black" utilizing icons of the rap and rock community such as Platinum artists Ice Cube, Dr. Dre and the Red Hot Chili Peppers. The following year, he orchestrated a joint venture between Prince's N.P.G. label and Bellmark Records. This union again yielded a world wide # 1 smash single, "The Most Beautiful Girl In The World."

Gordy served as Vice President of A&R for Warner Bros. Records Black Music Division, where in 1995 the R.I.A.A. (Recording Industry Association of America) awarded him with Gold records on Zapp and Roger's "All the Greatest Hits" and Prince's "Come" Album. His production of "I'm Looking Out For You," was the theme song for "Real Stories of the Highway Patrol." It was broadcast six nights a week in over 190 markets, including CBS in Los Angeles and also aired on the REAL TV Network.

He managed Rick James from 1996 until Rick died in 2004. Prior to that, in 1994, Gordy Kerry negotiated and obtained a three-act production deal with Interscope Records joint venture partner B-Rite Records. The first release from that venture (Gospel Gangstaz) enjoyed success.

## Other ventures

In 2003 Gordy signed a deal with Clear Channel Entertainment to produce his company's first theatrical. He also signed a worldwide deal with the William Morris Agency to be represented in that arena.

In 2004 Gordy co-founded Siebers Style with exercise guru Debbie Siebers who earlier that year struck a deal with Beachbody to sell the *Debbie Siebers Slim in 6* rapid weight loss program. Debbie also became the fitness expert on the prime time reality show *The Swan* on Fox. Gordy negotiated two book deals for Debbie with Silverback Publishing entitled "Energy Boost" and "Nutritional Makeover". Gordy also started a fifty item clothing line for Debbie in conjunction with the Romar Group.

Gordy consults the "Writers Collective" and has also consulted for Stevie Wonder.

In 2007, Gordy founded Kerry Gordy Enterprises, LLC, an intellectual property and branding company focused in entertainment. He has signed Debbie Siebers, Clark Anderson, and Reggie Benjamin to his company. He also closed a publishing deal for his long-time client, partner, and friend, Bruce Fisher, songwriter of several number one hits including the *You Are So Beautiful* with Evergreen Publishing.

In 2008, Gordy teamed up with John Davis, to produce two urban genre movies.

In 2012, Gordy contributed to writing and executive producing on the entire season's episodes of the television series *The Jadagrace Show*.

## Family

The fourth eldest child of Berry Gordy, Kerry's paternal half-siblings are:

- Hazel Joy Gordy
- Berry Gordy IV
- Terry James Gordy
- Sherry Gordy
- Kennedy William Gordy
- Rhonda Suzanne Gordy
- Stefan Kendal Gordy (Redfoo of LMFAO)

Kerry has three maternal half-siblings from his mother Raynoma Mayberry:

- Cliff Liles, son of Charles Liles and Raynoma Mayberry
- William Edward Singleton, Jr., son of Edward Singleton and Raynoma
- Rya Singleton, daughter of Eddie and Raynoma

Kerry has one daughter named Juliet Gordy.

## References

Kerry Gordy Joins Top Music Industry Executives who Launch a Clothing Line, for Client Debbie Siebers [1] (<http://www.netweed.com/hiphopp/2005/07/branching-out-in-business-guide-to.html>)

Kerry Gordy's Client, Debbie Siebers, One of America's Top 12 Fitness Experts of All Time [2] (<http://www.fitness-stars.com/>)

Debbie Siebers and Kerry Gordy Sign Deal with Romar Group [3] (<http://www.xeal.com/articles/At-it-Again-Music-and.htm>)

Kerry Gordy Produces George Clinton's Comeback Hit, "Paint the White House Black" on the "Smell My Finger" Album [4] ([http://mother.pfunkarchive.com/motherpage/albums\\_gcpcfas/alb-smellmyfinger.html](http://mother.pfunkarchive.com/motherpage/albums_gcpcfas/alb-smellmyfinger.html))

Paisley Park Recruits Kerry Gordy to Oversee its Roster [5] (<http://www.beastiemuseum.de/gr/1996/Magazine/Issue1/Features/Clinton/default.htm>)

George Clinton Music Video "Paint the White House Black", Produced by Kerry Gordy Starring Ice Cube, Dr. Dre, Red Hot Chili Peppers, Yo Yo, MC Breed and Kam Among Others Video (<https://www.youtube.com/watch?v=Dxl4lQ8tmdM>) on YouTube



# Prince's former manager Kerry Gordy pays tribute to the late star

APRIL 22, 2016 BY HELLOMAGAZINE.COM

Iconic landmarks around the world were lit up in purple to honour Prince, who sadly died on Thursday, while stars have been expressing their sadness on Twitter and Instagram. Among those who have paid tribute is Prince's former manager Kerry Gordy.

Speaking about the 57-year-old, Kerry said: "He was a great songwriter, he was a great producer, he was a great arranger and he was a great musician.

"Not only was he a guitar player, he was a keyboard player, he was a drummer, he was a bass player, he did all of the instruments and he did all of the arrangements."

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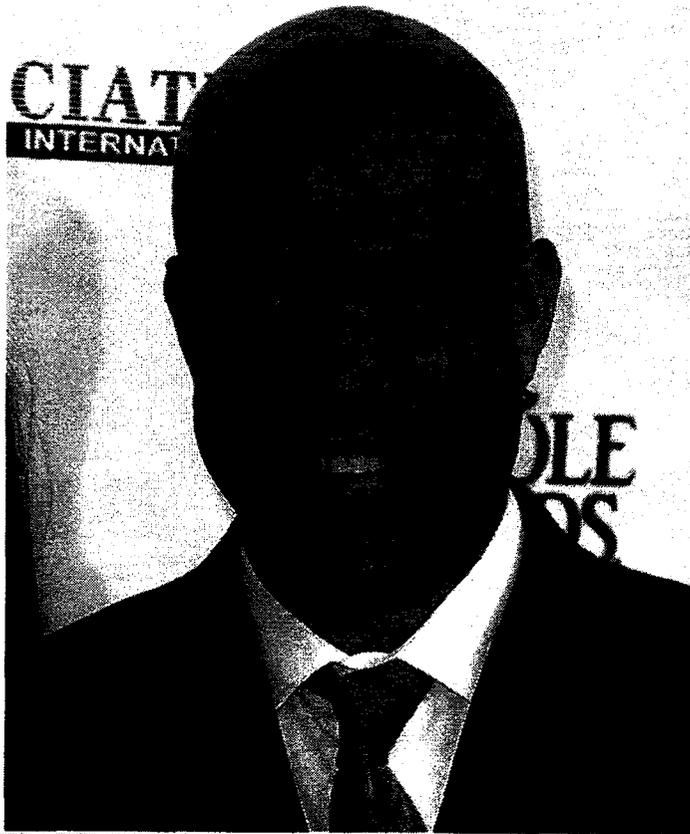


**Prince's former manager said: "He will be remembered for a person who was truly multi-talented"**

Kerry added to *Good Morning Britain*: "He was a total talent as opposed to people who just do one thing... he did everything. He will be remembered for a person who was truly multi-talented."

### **STARS PAY TRIBUTE TO PRINCE**

In 1993 Prince famously changed his stage name to an unpronounceable symbol, also known as the 'Love Symbol'.



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"The reason why he did it was he felt that Warner Brothers owned him and he didn't want to be owned," explained Kerry. "He felt that they owned the name Prince and that they dictated when he could release a record, when he could not release a record and he didn't want anybody to own his name.

"Therefore he decided, 'I'm dropping my name and I'm going to release records when I want to release records and I'm going to do what I want.'"

Apart from Prince's legacy, his former manager also praised the *When Doves Cry* singer for his business acumen.



**The *When Doves Cry* singer died at the age of 57**

"First of all I got to meet him before he became a star," said Kerry. "When he was out trying to become a star when he first got his deal with Warner Brothers Records.

"I didn't start running his company until long after that but once he became a star, it was amazing and he had incredible business acumen. He definitely wanted to own his music, his copyrights and his masters."

Prince, full name Prince Rogers Nelson, **sadly died on Thursday** at his Paisley Park studio in Minnesota. His publicist confirmed the news and an investigation is currently underway.

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# 'Prince wouldn't take no for an answer': Star's ex-manager pays tribute to 'multi-talented' singer's 'incredible business acumen'

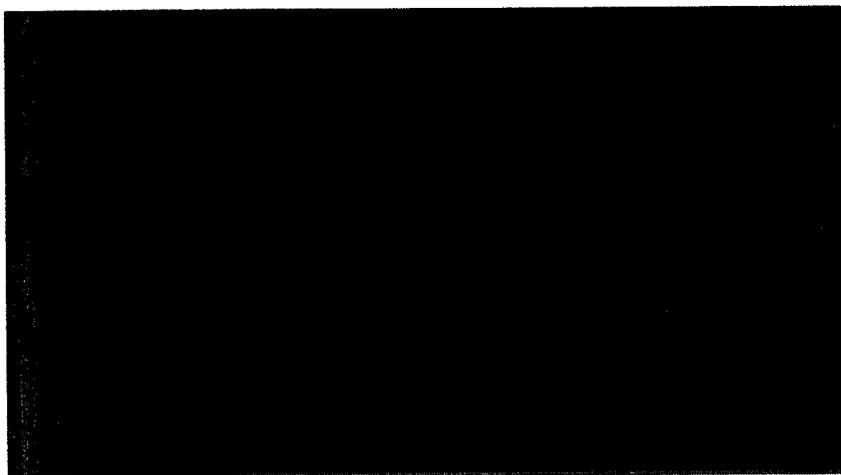
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Kerry Gordy also told Good Morning Britain the real reason why Prince changed his name

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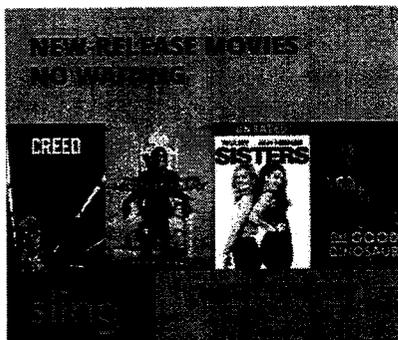
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The Biggest Mistake Women Make That Kills A Man's Attraction

Prince's ex-manager Kerry Gordy has paid tribute to the late Purple Rain singer, saying he 'wouldn't take no for an answer'.

The 57-year-old singer **was found dead at his Paisley Park estate on Thursday morning** and tributes have been pouring in ever since.

Gordy, who managed Prince's record label, joined Kate Garraway and Ben Shephard via a video link from Los Angeles and said the singer "had a fantastic run".

Kerry said: "He was amazing. It was truly a fantastic run that we had."



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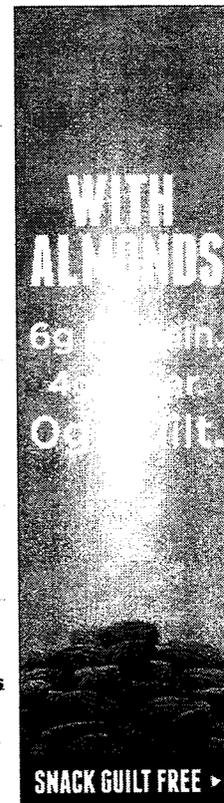
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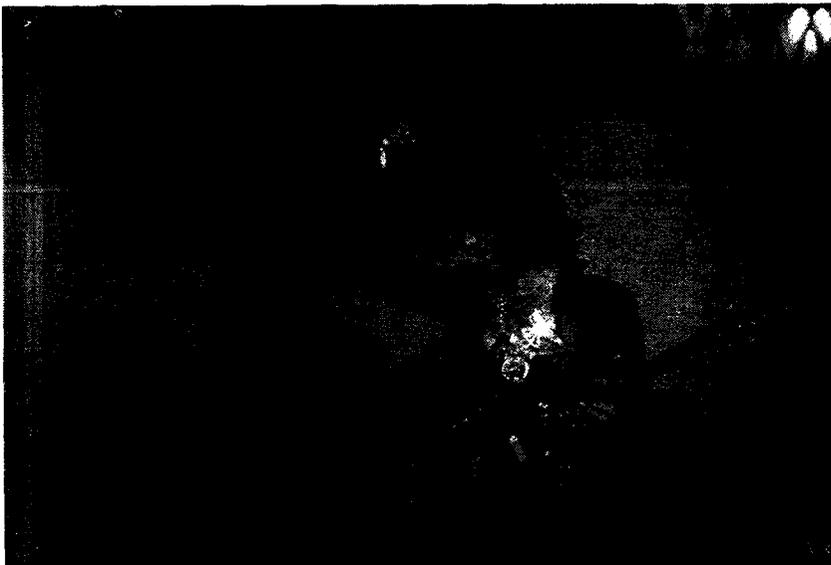
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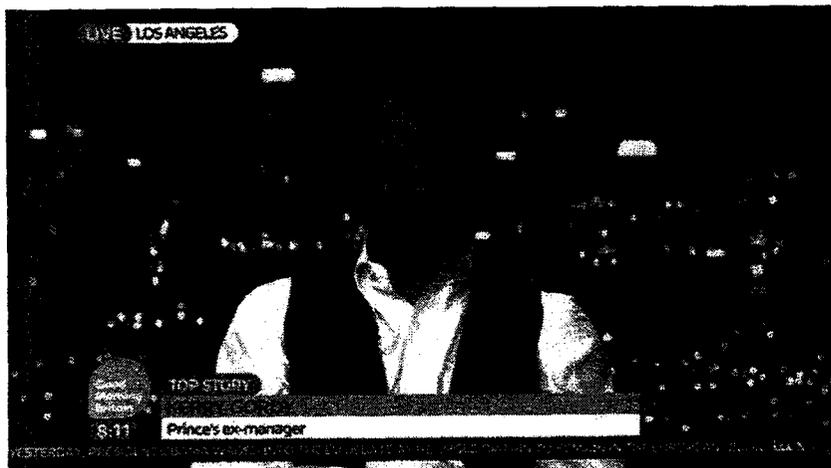
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RIP Prince



Kerry Gordy reveals all

Speaking of Prince's reign at the top, Kerry added: "He was a great songwriter, he was a great producer, he was a great arranger and he was a great musician. Not only was he a guitar player, he was a keyboard player, he was a drummer, he was a bass player, he did all of the instruments and he did all of the arrangements.

"He was a total talent as opposed to people who just do one thing... he did everything. He will be remembered for a person who was truly multi-talented."



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Speaking about Prince's reason for wanting to change his name during his career, Kerry revealed: "I was there when he decided to change his name to a symbol or to 'the artist formerly known as Prince' and the reason why he did it was he felt that Warner Brothers owned him and he didn't want to be owned.

"He felt that they owned the name Prince and that they dictated when he could release a record, when he could not release a record and he didn't want anybody to own his name. Therefore he decided, 'I'm dropping my name and I'm going to release records when I want to release records and I'm going to do what I want.'"

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Prince wouldn't take no for an answer, reveals Kerry Gordy

Speaking about the legacy Prince has left behind, Kerry said: "First of all I got to meet him before he became a star, when he was out trying to become a star when he first got his deal with Warner Brothers Records.

"I didn't start running his company until long after that but once he became a star, it was amazing and he had incredible business acumen he definitely wanted to own his music, his copyrights and his masters.

"He wouldn't take no for an answer and the R&B acts before him never really owned their own music... and then Prince showed them how that they could now start owning their own copyrights and music and sound recordings."

\* Good Morning Britain airs on weekdays from 6am - 8.30am, [itv.com/goodmorningbritain](http://itv.com/goodmorningbritain)



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# How Prince Met Beautiful Women and Made Them Into Stars

by Inside Edition 4:18 PM EDT, April 22, 2016

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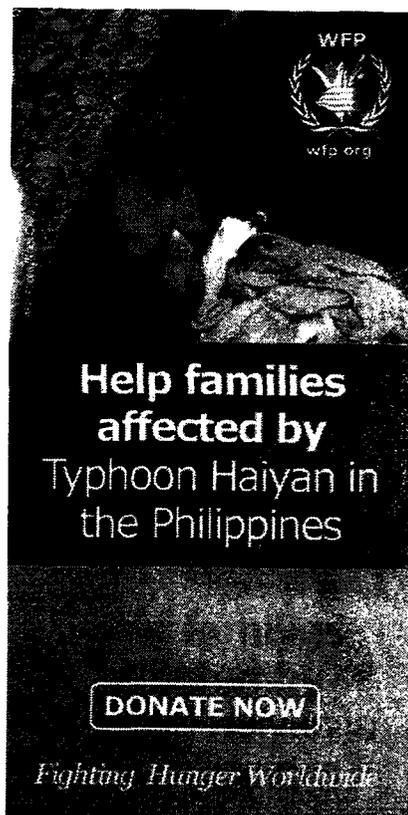


While Prince's music (<http://www.insideedition.com/headlines/15982-singer-prince-found-dead-at-his-minnesota-home-age-57>) was filled with sexual tension and provocative lyrics, he was an unlikely sex symbol.

**Read: Transcript Reveals Frantic 911 Call From Inside Prince's Home: 'Everyone is Distraught'** (<http://www.insideedition.com/headlines/15995-transcript-reveals-frantic-911-call-from-inside-princes-home-everyone-is-distraught>)

The five-foot two-inch singer purposefully left people guessing about his sexuality.

But throughout his illustrious career (<http://www.insideedition.com/headlines/15982-singer-prince-found-dead-at-his-minnesota-home-age-57>), he always had a beautiful woman by his side.



Kerry Gordy, Prince's manager in the 1980s, told IE: "Prince really had his pick of the litter. He would go to the club and tell his people, 'Bring that girl over here!' And if that girl had talent - it was on!"

Denise Katrina Matthews was an unknown back-up dancer when Prince fell for her. He invented her name, Vanity, and she appeared on the cover of Rolling Stone with him in 1983.

"She was so beautiful," Gordy said. "He knew he could make something around her."

They wrote the script for the film, *Purple Rain*, together but broke up just before filming began. Apollonia replaced her in the movie and she and Prince quickly became an item.

Following the success of the film, he made her the front woman of the girl band Apollonia 6. The band recorded the song "Manic Monday," which was written by Prince. It would later become a global smash thanks to The Bangles in 1986.

By 1985, she left Prince's camp and launched a solo career.

One of the great loves of his life was drummer Sheila E. He proposed to her onstage, she wrote in her autobiography, *The Beat of My Own Drum*.

She told IE: "I was playing "Purple Rain," one of my favorite songs, I looked at him, he looked at me and he asked me to marry him at that exact moment."

But their relationship didn't last and they were broken up by the end of the 1980s.

Prince was married twice. His first wife was dancer Mayte Garcia. They tied the knot on Valentine's Day 1996 when she was 22 and he was 37.

They had a baby boy, Boy Gregory, but the baby died from a genetic brain disease just one week after he was born. The marriage fell apart in 2000.

In 2001, Prince married Manuela Testolini, who worked for his charity. They were divorced five years later.

His appetite for beautiful women seemed insatiable. In 1989, he had a brief relationship with actress Kim Basinger before her marriage to Alec Baldwin.

Prince provided the soundtrack

(<http://www.insideedition.com/headlines/15989-some-of-the-most-memorable-moments-of-princes-legendary-career>) to her breakthrough

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**3 Prince Was Treated For a Drug Overdose Just Days...**  
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film, *Batman*, which starred Michael Keaton as the comic book hero.

Prince is also rumored to have had an affair with Madonna when they worked together in 1995.

She shared a picture of them on Instagram:



He Changed The World!! A True Visionary. What a loss. I'm Devastated. This is Not A Love Song.

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Carmen Electra, who dated Prince in the 1990s, is also paying tribute to her former lover.

**Read: Justin Timberlake, Katy Perry Lead Tributes to Prince: 'The World Lost A Lot of Magic'** (http://www.insideedition.com/headlines/15983-justin-timberlake-katy-perry-lead-tributes-to-prince-the-world-lost-a-lot-of-magic)

"He gave me my name, he believed in me, I will always love him," she said in a statement.

But one relationship didn't work out so well, even on a professional level. Prince wrote "Nothing Compares 2 U" for Sinead O'Connor, which became a monster hit in the early 90s.

(http://www.insideedition.com/headlines/11682-mom-killed-her-17-month-old-daughter-by-giving-her-methadone-to-help-her-sleep)

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The two apparently hated each other and according to the Irish singer, they met just once and it ended in a fistfight.

Watch: Prince Was Reportedly Treated for a Drug Overdose Days Before His Death (http://www.insideedition.com/headlines/15998-prince-was-treated-for-a-drug-overdose-just-days-before-his-death-report)

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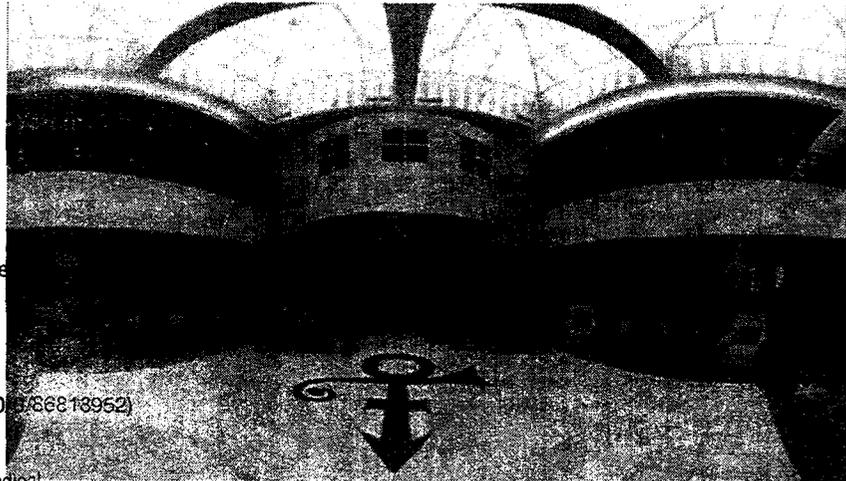
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(http://www.zergnet.com/i/997224/29713/0/86818952)



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(http://www.zergnet.com/i/1002937/29713/0/86818952)



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10 Superheroes You Didn't Know Were Hammer Therichest.com

(http://www.zergnet.com/i/1001978/29713/0/86818952)

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Robin Williams' Will Puts Disney Quandary Newsr.com

(http://www.zergnet.com/i/771206/29713/0/86818952)

utm\_medium=outbrain&utm\_source=outbrain&utm\_campaign=11\_of\_the\_worlds\_most\_dangerous\_c (https://bs.serving-sys.com/BurstingPipe/adServer.bs?)



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What's causing your Lower Back Pain? Yahoo Search

...&c=20&mc=ofok&pli=17250753&PluID=0&ord=&rtu=%24%24https://search.yahoo.com/search...&type=lowerback&tmpl=none&fp=1%24%24) (http://okceleb.com/incredible-celebrity-transformations/?utm\_campaign=ok-desk-us-celebtransform&utm\_medium=1932837&utm\_source=outbrain&utm\_content=1939f7)

plant's second-quarter  
 profit 382% to \$5.7  
 net revenues rose  
 0.3 million, culminating  
 for-two stock split.

Page 4

**REVENUES UP  
 YEAR**

NAB reports overall  
 revenues rose 9% during  
 half of '93, national  
 expenditures for  
 ad 12.9% over last  
 res.

Pages 3, 12



**ERG NEVER  
 BE A SITE!**

on the biggest movie  
 mer, KSHE/SL.  
 w fall line of  
 se stars the Emmis  
 "sweetmeat" mascot in  
 real role of  
 rocker."

Page 14

**RY CROSSOVER  
 CONTINUES**

ry radio veterans add  
 ons, but consultant  
 lins — whose column  
 icked off the current  
 osrossover controversy —  
 st word . . . for now.

Page 28



Motown Records has been ac-  
 quired from Boston Ventures by  
 the Dutch entertainment con-  
 glomerate PolyGram for \$301  
 million cash plus an assumption  
 of \$24 million of Motown debt.  
 Recording industry vet Clar-  
 ence Avant has been installed  
 as Motown Chairman and Jher-  
 yl Busby will continue as Mo-  
 town President/CEO.

"Motown has always been syn-  
 onymous with the best in black

creative talent  
 Gram Presid  
 Levy. "It is one  
 ous and prest  
 the entertain  
 I'm thrilled th  
 PolyGram fan  
 film labels. A  
 fore, we are fu  
 expanding th  
 success of bla  
 lieve we can h  
 label expand  
 success."

Busby called  
 "a positive an  
 in terms of ou  
 pansion as a  
 join the PolyC  
 n.ove into cha  
 company that  
 help secure M  
 success into t  
 Alain Levy an  
 derstand my v  
 and its future  
 tainment comj

Said Avant:  
 in-a-lifetime c  
 Jheryl's crea  
 Alain's fortitu  
 we will form a  
 team and forg

**Lawmakers Slip Broadcaster Tax  
 Into Proposed Federal Budget**

Hollings, Dingell propose \$95 million fundraiser for FCC operations

A new broadcasters' tax —  
 \$95 million worth — may be im-  
 posed under a new federal  
 budget proposal. At R&R's  
 Tuesday night (8/3) deadline,  
 Sen. Ernest Hollings (D-SC)  
 and Rep. John Dingell (D-MI)  
 were finalizing plans to include  
 FCC user fees in a compromise  
 budget plan making its way  
 through Congress.

While details were scarce,  
 sources said the proposal calls  
 for radio stations to pay be-  
 tween \$200 and \$900 per year —  
 depending on their market size  
 and technical class. Fees would  
 also be imposed on every other  
 industry regulated by the FCC,  
 with proceeds going to fund  
 FCC operations.

**Passage Expected**

While similar legislation has  
 failed in recent years, NAB Ex-  
 ec. VP/Government Relations  
 Jim May warned that this pro-  
 posal will likely become law un-

**Tax Table**

- Radio stations to pay \$200-\$900 annually
- Observers question Hollings's motives
- Senate vote set for today

less the entire budget package  
 is rejected — something he

doesn't expect. There is also a  
 small chance the fee plan could  
 be stripped from the budget  
 package on procedural  
 grounds.

Final votes on the budget  
 were scheduled in the House on  
 Thursday (8/5) and in the Sen-  
 ate today (8/6).

One Capitol Hill observer de-  
 scribed Dingell's move to at-

TAX/See Page 11

MOT

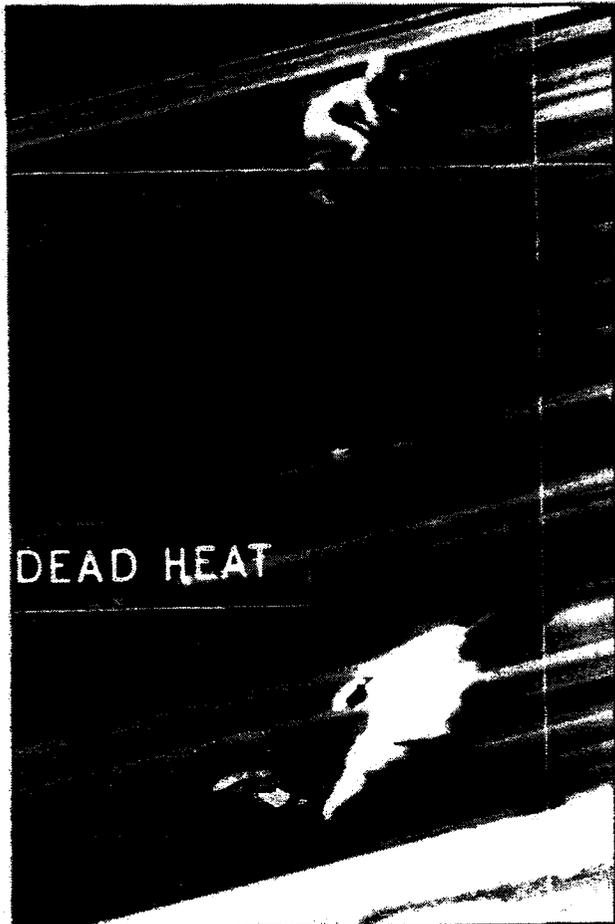
**Salkowitz Exits  
 Hot 97/New York**



Salkowitz

After seven  
 years with  
 Emmis CHR  
 WQHT (Hot  
 97)/New York,  
 Regional VP/  
 Operations &  
 Programming  
 Joel Salkowitz  
 resigned last  
 week (7/30).  
 A search for  
 his successor  
 is under way.

Salkowitz would not specify  
 why he left, but remarked, "It's  
 been an amazing seven years.



**B100's |  
 Sideline  
 Ethnic E**

New KFMB-  
 FM (B100)/  
 San Diego  
 morning man  
 John Lander  
 has been off  
 the air since  
 last Wednes-  
 day (7/28) af-  
 ter playing a  
 prerecorded  
 bit about a  
 Chinese/Mex-  
 ican restaura  
 ethnic jokes/  
 was instituted

The ethnic  
 lowed a mee  
 tion officials,  
 munity leade  
 Ysidro, CA o  
 which Lander  
 pering caller  
 you doing s  
 Are you dow  
 with a spray

**"Tastele**

The civic  
 that remark

Terzo

## Terzo lywood &R

Records has named Bob Pfeifer and Co-Director/A&R Nick W VPs/A&R. Both at Hollywood's Bureaus and report Peter Paterno. "I'm thrilled best A&R people in chosen to join us records. I can't wait artists they're going Bob and Nick and we're making, me at Hollywood." Epic, Pfeifer was asing albums as a s a part of the band board. Terzo was ctor/Membership has also worked as Avalon Attractions ilva Presents.

## Steers nsas City

s City Asst. PD has been promoted ng Larry Moffitt, vn three weeks ago on his morning

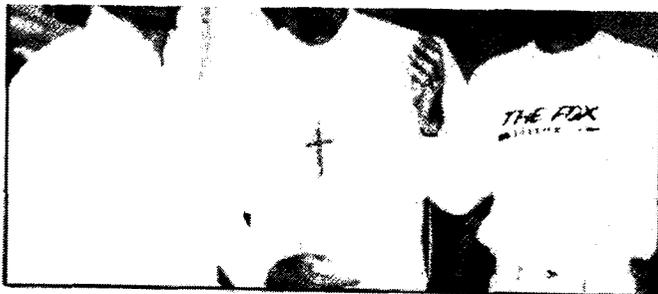
pbell commented, ive coast-to-coast d the best person ling. Scott will pro- ity and leadership ur continued suc-

l. "What an oppor- as the best airstaff ff in the country. e able to program a magnitude." o has been the sta- r three years, pre- med KATS/Yaki-

## .D Flips To Country KGTR now half of New Orleans duopoly

ecame the latest a major market y when it flipped

Stecker will oversee the Gator, which will maintain a separate sales staff



Although Pope John Paul II is slated to visit Denver on August 12, KRFX (The Fox) decided to bless the city with the Pontiff's presence a bit early — in the form of celebrity double Gene Greytak. The station rented security guards and limousines, which drove the "Holy Father" around town — even to a fast-food restaurant's drive-thru window! Ready to make their confessions are OM/PD Jack Evans (l) and Promotion Director Mike DePriest.

## Simone Promoted At Capitol Records

David Simone has been elevated to Sr. VP/Business Affairs at Capitol Records. He'll oversee all aspects of Capitol's A&R administration, as well as the company's business and legal affairs.



Simone

"David's years in senior record company positions have allowed him to develop a keen understanding of the music industry, as well as an uncommon in-

sight into dealing with artists, managers, and lawyers," remarked Capitol President/CEO Gary Gersh. "His expanded role will also allow our A&R team to benefit from his experience and abilities. I'm extremely pleased to have David as a key player at Capitol."

Simone has been Capitol's VP/Business Affairs. Before that, he was a consultant to Atlanta-based Katz, Smith & Cohen law firm and was President of Uni Records.

## Dukakis, Gordy Earn Paisley Park Exec. Positions



Dukakis

Gordy

John Dukakis has been appointed GM and Kerry Gordy was named VP/A&R and Artist Development at Paisley Park Records.

"John has clearly demonstrated his leadership abilities and I'm confident he'll be instrumental in helping Paisley Park realize its potential," said Paisley Park Enterprises President Gilbert Davison.

"Kerry has spent a lifetime developing his ear for music," Dukakis said. "His work on the upcoming George Clinton and Rosie Gaines projects is a strong indication of great things to come."

Radio hardware manufacturer Broadcast Electronics Seattle-based program supplier Broadcast Programming and Sentry Systems from Kaye Smith Enterprises. Terms of the announced.

"The combined strengths of these companies enables our radio customers a better-engineered solution for their problems," remarked Howard Crow, Chairman of Broadcast Electronics and Cirrus Technologies. "Blending BP's programming expertise with the digital technology of BE and Sentry Systems enables us to create a better solution for our customers in terms of hardware, software, and service in a way no other company can."

Broadcast Programming claims 800 client stations. Its President, Bill Hilliard, and executive staff will remain in place.

## Murdock Named PLG Sr. Dir./CHR Pr

Linda Murdock has been promoted to Sr. Director/National CHR Promotion at PolyGram Label Group. She'll continue to be based in Los Angeles.

PLG Exec. VP John Barbis noted, "Linda's accomplishments in promoting PLG artists are many and we're pleased she'll be making an increasingly important contribution to this growing company."

Murdock is a veteran of the Atlantic, Mirage, UA, Atco, WTG, and Island labels before joining PLG in 1991.

## Brooks Now Priority Exec. Director/Pr

Priority Records Director/Promotion Eric Brooks has been elevated to the newly created Exec. Director/Promotion post at the Hollywood-based label. He will be responsible for all radio and video promotion and head a staff of regional promotion directors.

President Bryan Turner told R&R, "Coming in and creating an entire department on his own and the success he's had lately with the Ice Cube singles has given us all the confidence in the world in Eric. He's great — we're all really pleased with him."

## Connelly New PD At KUMT & K

Former WVBF/Boston OM Tom Connelly has been appointed PD of KUMT & KMXB/Salt Lake City. He succeeds Dan Jessop, who recently left the US Radio AOR hybrid/AC combo to become Production Director at crosstown AC KSFL.

Connelly told R&R, "If you want to stay in radio by the year 2000,

you have to find a serious about it. To me one bad trend, the These people are p ready to play."

In addition to his WVBF, Connelly programmed KQFX/A KLCY/Salt Lake City Richmond.

## Lander

Continued from Page 1

show receive diversity training, and Lander perform 50 hours of community service.

Station officials backed Lander at the meeting but subsequently ordered that "absolutely no ethnic

B100 VP/GM Paul he and Lander are meeting of the min ing to come up wit agreement where things back on the r tent to get this [resc water looking for in

# Re: Important Xavier Powell Requested Letter

Kerry Gordy

Tue 7/19/2016 4:51 PM

To: xap17@hotmail.com <xap17@hotmail.com>;

nice

-----Original Message-----

From: Xavier Powell <xap17@hotmail.com>  
To: Kerry Gordy <kgeent@aol.com>  
Sent: Tue, Jul 19, 2016 11:54 am  
Subject: Re: Important Xavier Powell Requested Letter

Greetings Kerry ,

I'm glad back in Spring/Summer of 1993 that I suggested that you go work for Paisley Park (Prince). My suggestion turned out to be an awesome opprtunity for you.

Xavier Powell

---

From: Kerry Gordy <kgeent@aol.com>  
Sent: Friday, May 13, 2016 8:00 PM  
To: [xap17@hotmail.com](mailto:xap17@hotmail.com)  
Subject: Re: Important Xavier Powell Requested Letter

What you have below is not a recommendation letter

-----Original Message-----

From: Xavier Powell <xap17@hotmail.com>  
To: Kg <kgeent@aol.com>  
Cc: [Kerry@KerryGordy.com](mailto:kerry@KerryGordy.com) <kerry@kerrygordy.com>  
Sent: Mon, May 9, 2016 11:03 am  
Subject: RE: Important Xavier Powell Requested Letter

Hi Kerry,

Wow I love that photo of you and Michael.

The email is great; however, I really need my version on letterhead. You can pdf me a letterhead copy of what I pasted and

attached below. Thanks so much in appreciation.

Xavier

*For Xavier A. Powell  
Recommendation Letter for Music Business Career Position*

*To Whom It may Concern*

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Count Ms. Xavier Powell among that special number—she's got the gift. She will make an outstanding Creative Assistant in the Music Business profession and Radio, and I enthusiastically present her to you as a great addition to your team.

---

Date: Mon, 9 May 2016 06:46:14 -0400  
From: [kgeent@aol.com](mailto:kgeent@aol.com)  
To: [xap17@hotmail.com](mailto:xap17@hotmail.com)  
CC: [Kerry@KerryGordy.com](mailto:Kerry@KerryGordy.com)  
Subject: Re: Important Xavier Powell Requested Letter

Whom it may concern,  
Xavier Powell is brilliant. She worked directly for me as my personal assistant back in the 90s. She's fastidious, punctual, cordial, personable, honest and loyal. She always completed her tasks and projects with flying colors Her motto while working for me was, "No job too, big no job too small" and she meant it. I could not give someone a higher recommendation. Call me at 310-274-4059 if you need any further assistance.

Sincerely,

Kerry Gordy

Click the link attached to my name above or paste the URL below:

<https://vimeo.com/165670031>

Password: **catie**

-----Original Message-----

From: Xavier Powell <[xap17@hotmail.com](mailto:xap17@hotmail.com)>  
To: Kg <[kgeent@aol.com](mailto:kgeent@aol.com)>  
Sent: Mon, May 9, 2016 12:08 am  
Subject: FW: Important Xavier Powell Requested Letter

---

From: [xap17@hotmail.com](mailto:xap17@hotmail.com)  
To: [kgeent@aol.com](mailto:kgeent@aol.com)  
Subject: RE: Important Xavier Powell Requested Letter  
Date: Mon, 9 May 2016 00:08:11 -0700

Greetings Kerry: 

I finally finished the letter I need on your letterhead. I have attached it and pasted a copy below.

Thank You  
Xavier Powell

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Date: Sat, 30 Apr 2016 06:01:35 -0400  
From: kgeent@aol.com  
To: xap17@hotmail.com  
Subject: Re: Important Xavier Powell Requested Letter

**what will you be doing**

-----Original Message-----

From: Xavier Powell <xap17@hotmail.com>  
To: Kg <kgeent@aol.com>  
Sent: Fri, Apr 29, 2016 3:30 pm  
Subject: Important Xavier Powell Requested Letter

Greetings Kerry Gordy,

This is Xavier . I received an offer to work for a company in Radio , and they want a recommendation letter about my internship from 1991-1993....

Please inform. You may send the letter by email .

I may be reached at 310-465-4042..

Rè: Xavier

Kerry Gordy

Sat 3/12/2016 10:30 PM

To: xap17@hotmail.com <xap17@hotmail.com>;

I'm cool.

Hope everything is going good for you. You're still special to me.

kg

-----Original Message-----

From: Xavier Powell <xap17@hotmail.com>

To: kgeent <kgeent@aol.com>

Sent: Sat, Mar 12, 2016 4:28 pm

Subject: Xavier

Hi Kerry ,

How are you? Hello to you and family. Call me sometimes . I miss coming to the parties to see everyone.

Xavier

310-465-4042

[Print](#)[Close](#)

---

## Re: Important Xavier Powell Requested Letter

---

From: **Kerry Gordy** (kgeent@aol.com)  
Sent: Mon 5/09/16 3:46 AM  
To: xap17@hotmail.com  
Cc: Kerry@KerryGordy.com

Whom it may concern,  
Xavier Powell is brilliant. She worked directly for me as my personal assistant back in the 90s. She's fastidious, punctual, cordial, personable, honest and loyal. She always completed her tasks and projects with flying colors. Her motto while working for me was, "No job too big no job too small" and she meant it. I could not give someone a higher recommendation. Call me at 310-274-4059 if you need any further assistance.

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<https://vimeo.com/165670031>

Password: **catie**

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To: Kg <kgeent@aol.com>  
Sent: Mon, May 9, 2016 12:08 am  
Subject: FW: Important Xavier Powell Requested Letter

---

From: [xap17@hotmail.com](mailto:xap17@hotmail.com)  
To: [kgeent@aol.com](mailto:kgeent@aol.com)  
Subject: RE: Important Xavier Powell Requested Letter  
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From: [kgeent@aol.com](mailto:kgeent@aol.com)  
To: [xap17@hotmail.com](mailto:xap17@hotmail.com)  
Subject: Re: Important Xavier Powell Requested Letter

what will you be doing

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[Print](#)[Close](#)

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Sent: Mon 5/09/16 11:02 AM  
To: Kg (kgeent@aol.com)  
Cc: Kerry@KerryGordy.com (kerry@kerrygordy.com)  
1 attachment  
KGRecommendationLtr2016.doc (26.2 KB)

Hi Kerry,

Wow I love that photo of you and Michael.

The email is great; however, I really need my version on letterhead. You can pdf me a letterhead copy of what I pasted and attached below. Thanks so much in appreciation.

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Date: Mon, 9 May 2016 06:46:14 -0400  
From: kgeent@aol.com  
To: xap17@hotmail.com  
CC: Kerry@KerryGordy.com  
Subject: Re: Important Xavier Powell Requested Letter

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CC: [Kerry@KerryGordy.com](mailto:Kerry@KerryGordy.com)  
Subject: Re: Important Xavier Powell Requested Letter

Whom it may concern,  
Xavier Powell is brilliant. She worked directly for me as my personal assistant back in the 90s. She's fastidious, punctual, cordial, personable, honest and loyal. She always completed her tasks and projects with flying colors. Her motto while working for me was, "No job too, big no job too small" and she meant it. I could not give someone a higher recommendation. Call me at 310-274-4059 if you need any further assistance.

Sincerely,

Kerry Gordy

Click the link attached to my name above or paste the URL below:

<https://vimeo.com/165670031>

Password: **catie**

-----Original Message-----

From: Xavier Powell <[xap17@hotmail.com](mailto:xap17@hotmail.com)>  
To: Kg <[kgeent@aol.com](mailto:kgeent@aol.com)>  
Sent: Mon, May 9, 2016 12:08 am  
Subject: FW: Important Xavier Powell Requested Letter

---

From: [xap17@hotmail.com](mailto:xap17@hotmail.com)  
To: [kgeent@aol.com](mailto:kgeent@aol.com)  
Subject: RE: Important Xavier Powell Requested Letter  
Date: Mon, 9 May 2016 00:08:11 -0700

Greetings Kerry: 🌟

I finally finished the letter I need on your letterhead. I have attached it and pasted a copy below.

Thank You  
Xavier Powell

*For Xavier A. Powell*  
*Recommendation Letter for Music Business Career Position*

*To Whom It may Concern*

Ms. Powell is exceedingly bright, erudite, very well trained as an Intern for my company Kerry Gordy Entertainment /Records from 12-1991 to 12-1993. Skills that Xavier Powell acquired while interning at Kerry Gordy Entertainment/Record's include Creative Assistant duties as myself Kerry often called her " my Suzanne Depasse." I compliment Xavier Powell's extra talent and creativity. Quote," I, Xavier am appreciative of the opportunity to see Kerry Gordy acquire a position with Paisley Park Records as A& R and Artist Development. I learned first hand from the Professional in Kerry Gordy. This experience has allowed me to start my own Radio Station this year 2016 as I have acquired the drive and motivation from Kerry Gordy -an extraordinary person."

Count Ms. Xavier Powell among that special number—she's got the gift. She will make an outstanding Creative Assistant in the Music Business profession and Radio, and I enthusiastically present her to you as a great addition to your team.

---

Date: Sat, 30 Apr 2016 06:01:35 -0400  
From: [kgeent@aol.com](mailto:kgeent@aol.com)  
To: [xap17@hotmail.com](mailto:xap17@hotmail.com)  
Subject: Re: Important Xavier Powell Requested Letter

what will you be doing

-----Original Message-----  
From: Xavier Powell <[xap17@hotmail.com](mailto:xap17@hotmail.com)>  
To: Kg <[kgeent@aol.com](mailto:kgeent@aol.com)>  
Sent: Fri, Apr 29, 2016 3:30 pm  
Subject: Important Xavier Powell Requested Letter

Greetings Kerry Gordy,

This is Xavier . I received an offer to work for a company in Radio , and they want a recommendation letter about my internship from 1991-1993....

Please inform. You may send the letter by email .

I may be reached at 310-465-4042..

# Re: Important Xavier Powell Requested Letter

Kerry Gordy

Fri 5/13/2016 8:00 PM

To: xap17@hotmail.com <xap17@hotmail.com>;

What you have below is not a recommendation letter

-----Original Message-----

From: Xavier Powell <xap17@hotmail.com>

To: Kg <kgeent@aol.com>

Cc: Kerry@KerryGordy.com <kerry@kerrygordy.com>

Sent: Mon, May 9, 2016 11:03 am

Subject: RE: Important Xavier Powell Requested Letter

Hi Kerry,

Wow I love that photo of you and Michael.

The email is great; however, I really need my version on letterhead. You can pdf me a letterhead copy of what I pasted and attached below. Thanks so much in appreciation.

Xavier

*For Xavier A. Powell  
Recommendation Letter for Music Business Career Position*

*To Whom It may Concern*

Ms. Powell is exceedingly bright, erudite, very well trained as an Intern for my company Kerry Gordy Entertainment /Records from 12-1991 to 12-1993. Skills that Xavier Powell acquired while interning at Kerry Gordy Entertainment/Record's include Creative Assistant duties as myself Kerry often called her " my Suzanne Depasse." I compliment Xavier Powell's extra talent and creativity. Quote," I, Xavier am appreciative of the opportunity to see Kerry Gordy acquire a position with Paisley Park Records as A& R and Artist Development. I learned first hand from the Professional in Kerry Gordy. This experience has allowed me to start my own Radio Station this year 2016 as I have acquired the drive and motivation from Kerry Gordy -an extraordinary person."

# Re: Important Xavier Powell Requested Letter

Kerry Gordy

Tue 7/19/2016 4:51 PM

To: xap17@hotmail.com <xap17@hotmail.com>;

nice

-----Original Message-----

From: Xavier Powell <xap17@hotmail.com>

To: Kerry Gordy <kgeent@aol.com>

Sent: Tue, Jul 19, 2016 11:54 am

Subject: Re: Important Xavier Powell Requested Letter

Greetings Kerry ,

I'm glad back in Spring/Summer of 1993 that I suggested that you go work for Paisley Park (Prince). My suggestion turned out to be an awesome opportunity for you.

Xavier Powell

---

From: Kerry Gordy <kgeent@aol.com>

Sent: Friday, May 13, 2016 8:00 PM

To: xap17@hotmail.com

Subject: Re: Important Xavier Powell Requested Letter

What you have below is not a recommendation letter

-----Original Message-----

From: Xavier Powell <xap17@hotmail.com>

To: Kg <kgeent@aol.com>

Cc: Kerry@KerryGordy.com <kerry@kerrygordy.com>

Sent: Mon, May 9, 2016 11:03 am

Subject: RE: Important Xavier Powell Requested Letter

Hi Kerry,

Wow I love that photo of you and Michael.

The email is great; however, I really need my version on letterhead. You can pdf me a letterhead copy of what I pasted and

attached below. Thanks so much in appreciation.

Xavier

*For Xavier A. Powell*  
*Recommendation Letter for Music Business Career Position*

*To Whom It may Concern*

Ms. Powell is exceedingly bright, erudite, very well trained as an Intern for my company Kerry Gordy Entertainment /Records from 12-1991 to 12-1993. Skills that Xavier Powell acquired while interning at Kerry Gordy Entertainment/Record's include Creative Assistant duties as myself Kerry often called her " my Suzanne Depasse." I compliment Xavier Powell's extra talent and creativity. Quote," I, Xavier am appreciative of the opportunity to see Kerry Gordy acquire a position with Paisley Park Records as A& R and Artist Development. I learned first hand from the Professional in Kerry Gordy. This experience has allowed me to start my own Radio Station this year 2016 as I have acquired the drive and motivation from Kerry Gordy -an extraordinary person."

Count Ms. Xavier Powell among that special number—she's got the gift. She will make an outstanding Creative Assistant in the Music Business profession and Radio, and I enthusiastically present her to you as a great addition to your team.

---

Date: Mon, 9 May 2016 06:46:14 -0400  
From: [kgeent@aol.com](mailto:kgeent@aol.com)  
To: [xap17@hotmail.com](mailto:xap17@hotmail.com)  
CC: [Kerry@KerryGordy.com](mailto:Kerry@KerryGordy.com)  
Subject: Re: Important Xavier Powell Requested Letter

Whom it may concern,  
Xavier Powell is brilliant. She worked directly for me as my personal assistant back in the 90s. She's fastidious, punctual, cordial, personable, honest and loyal. She always completed her tasks and projects with flying colors Her motto while working for me was, "No job too, big no job too small" and she meant it. I could not give someone a higher recommendation. Call me at 310-274-4059 if you need any further assistance.

Sincerely,

Kerry Gordy

Click the link attached to my name above or paste the URL below:

**Black Swan, “Glatt v. Fox Searchlight Pictures,  
Inc. , No. 11 Civ. 6784**

**Case Settled and the Outcome**

ENTERTAINMENT / ENVELOPE / COMPANY TOWN

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



Eric Glatt, 46, worked as an unpaid intern on Fox Searchlight Pictures' "Black Swan." He sued the studio, alleging it violated the Fair Labor Standards Act. (Joshua Roberts / For The Times)

By Daniel Miller

JULY 12, 2016, 7:10 PM

**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.

“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.

*daniel.miller@latimes.com*

**Twitter:** @DanielNMiller

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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.

**DEADLINE | HOLLYWOOD** "Article Only" "Article with Comments" "Comments Only"  Print

## Fox Settles 'Black Swan' Interns Lawsuit After Five Years

By Dominic Patten on Jul 12, 2016 3:37 pm



### Fox Searchlight

After a half-decade of fighting the *Black Swan* interns lawsuit, Fox said today that it has reached a settlement in the case that changed Hollywood. The deal puts the studio in the company of NBCUniversal, Lionsgate, Viacom and ICM Partners among those that have opted to settle such complaints rather than go to trial.

“On July 8, 2016, the Plaintiffs Eric Glatt, Alexander Footman, Eden Antalik, and Kanene Gratts and Defendants Fox Searchlight Pictures, Inc. and Fox Entertainment Group, Inc., by their respective counsel of record, filed with this Court a Settlement Stipulation,” said the proposed settlement order today ([read it here](#))

If approved, the settlement would see all those who interned at Fox Entertainment Group, Fox Filmed Entertainment, Fox Networks Group and Fox Interactive Media in the first nine months of 2010 and those who had the unpaid gig at the NYC offices of said Fox entities from 2005-10 get about \$495 each. Original plaintiffs Eric Glatt and Alex Footman would get \$7,500 and \$6,000 and Eden Antalik — who joined the case when an

This article was printed from <http://deadline.com/2016/07/black-swan-intern-lawsuit-fox-settles-1201785666/>

## **Statement in Article Regarding Rules of Unpaid Interns**

**Attached is an article titled , “ What  
are the Rules Around having Unpaid  
Interns?**

**Stated by Steve Hoffman , “ If an  
intern contributes Ideas to your  
product but isn’t paid, the intern can  
claim they own part of it.”**

## What are the rules around having unpaid interns?

### QUESTION:

What are the rules around having unpaid interns? We're a San Francisco startup. Are we allowed to legally bring on interns without paying them?

### ANSWER:

by [Steve Hoffman](#) ([././featured/hoffman/](#)), Cofounder of Founders Space



Captain Hoff

In California, you must pay your interns at least minimum wage, unless the internship you are offering qualifies as part of an educational course. In most cases, the jobs interns are given do not qualify and I wouldn't risk it.

It may vary state-to-state, but to be on the safe side, you should pay your interns at least minimum wage. Then you don't have to worry about getting in trouble with the Labor Department. Also, by paying interns in a work-for-hire arrangement, you help avoid any disputes over intellectual property. For example, if an intern contributes ideas to your product but isn't paid, the intern can claim they own part of it. This can be a real headache down the road.

Lastly, check out this article in the NY Times:

<http://www.nytimes.com/2010/04/03/business/03intern.html>

<http://www.nytimes.com/2010/04/03/business/03intern.html>

I hope this helps!



[Team Building & HR \(http://www.foundersspace.com/category/team/\)](http://www.foundersspace.com/category/team/)

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[→ \(http://www.foundersspace.com/team/what-is-the-best-way-to-find-a-partner-with-some-funds/\)](http://www.foundersspace.com/team/what-is-the-best-way-to-find-a-partner-with-some-funds/)

### Comments & Advice:

December 23, 2012 at 2:52 am (<http://www.foundersspace.com/team/what-are-the-rules-around-having-unpaid-interns/comment-page-1/#comment-1076>)

Do you happen to know the exact law/code that details that you must pay your interns at least minimum wage? I was just hired for an "unpaid" internship by a start up in SF and I'd like to have the exact proof with me when I approach the subject. Thanks!

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# **Prince Name Change 1993**



# Rolling Stone

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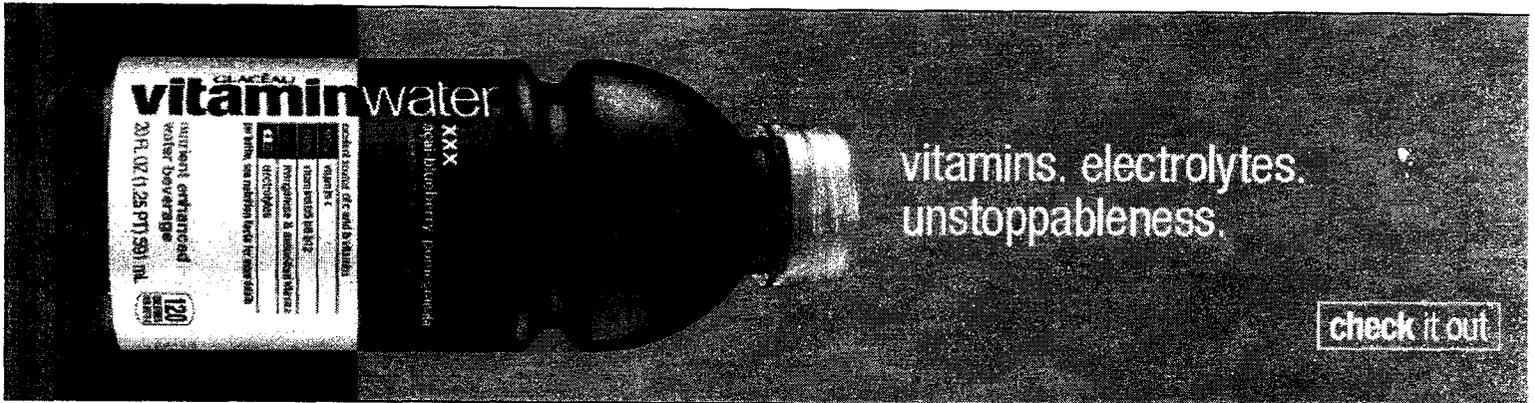
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Watch 'The Simpsons' Scathe Donald Trump in Campaign Ad

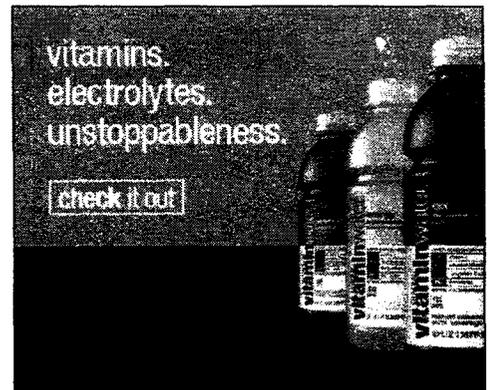


# The 25 Boldest Career Moves In Rock History

From Bob Dylan becoming born again to Panic! at the Disco dropping the exclamation mark, the decisions that have changed the music world



Ian Dickson/Redfern



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6 Hit Songs That Destroyed the Bands They Made Famous

August 18, 2017



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## 4. Prince Changes his Name to an Unpronounceable Symbol

In 1993, Prince was fed up with his label, Warner Bros. They wanted him to release fewer CDs so he wouldn't flood the market and they could better promote him. He couldn't get out of his contract, but he *could* change his name to an unpronounceable symbol, largely to mess with them. Journalists started to call him "the artist formerly known as Prince," but in 2000 he went back to Prince when his Warner contract expired. During that time, sales of his new music slowed down significantly, but he still managed to get his point across.

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## 15. Elton John Comes Out Of The Closet

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MTV NEWS

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- Opeth on How Romantic 'Mindf--ks,' Obscure Prog Inspired New LP

9.4
- Watch 'The Simpsons' Scathe Donald Trump in Campaign Ad

7.7
- Watch John Oliver Talk DNC, 'Sociopathic Narcissist' Donald Trump

6.9
- Lollapalooza 2016: 25 Best Things We Saw

6.5

**“Unpaid Interns Who Are Primary  
Beneficiaries”“ Of the Relationship Are Not  
Employees Under the FLSA  
and  
Trade Secret Law**

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## Fwd: Unpaid interns are beneficiaries

From: **Powell, Xavier** (xavier.powell.39@my.csun.edu)  
Sent: Mon 5/09/16 12:45 AM  
To: xap17@hotmail.com

----- Forwarded message -----

From: **Powell, Xavier** <xavier.powell.39@my.csun.edu>  
Date: Sun, May 8, 2016 at 4:42 PM  
Subject: Unpaid interns are beneficiaries  
To: xap17@hotmail.com

# Unpaid Interns Who Are “Primary Beneficiaries” Of The Relationship Are Not Employees Under The FLSA

By **Tony Oncidi** on **July 28th, 2015**  
Posted in **Employment Law Notes**

*Glatt et al. v. Fox Searchlight Pictures, Inc. et al.*, 2015 WL 4033018 (2d Cir. 2015)

Plaintiffs Eric Glatt and Alexander Footman were retained as unpaid interns on the Fox Searchlight-distributed film *Black Swan*; Plaintiff Eden Antalik interned at Fox Searchlight’s corporate offices in New York City. Glatt and Footman sued for unpaid wages (minimum wage and overtime) under the federal Fair Labor Standards Act (“FLSA”) and the New York Labor Law, while Antalik moved to certify a class of unpaid interns who were retained at certain Fox corporate divisions in New York and a nationwide FLSA collective of unpaid interns retained by those same divisions nationwide. The district court granted summary judgment in favor of Glatt and Footman, concluding they had been improperly classified as unpaid interns rather than employees, and granted Antalik’s motions to certify the class of New York interns and to conditionally certify the nationwide FLSA collective. The United States Court of Appeals for the Second Circuit reversed the district court, holding that the proper question is whether the intern/employee in question is the “primary beneficiary” of the relationship. The Court of Appeals concluded that in the context of unpaid internships, a “non-exhaustive set of considerations” should be used, including the reasonable

expectations of the parties, the training opportunities available to the intern, the connection to a formal education program, the limited duration of the relationship, etc., and that “no one factor is dispositive and every factor need not point in the same direction...” The Court also reversed the certification of the class and the FLSA collective because the district court had “misconstrued our standards for determining when common questions predominate over individual ones.” *See also Wang v. The Hearst Corp.*, 2015 WL 4033091 (2d Cir. 2015) (same).

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## Fwd: Additional info unpaid intern

From: **Powell, Xavier** (xavier.powell.39@my.csun.edu)  
Sent: Mon 5/09/16 12:41 AM  
To: xap17@hotmail.com

----- Forwarded message -----

From: **Powell, Xavier** <xavier.powell.39@my.csun.edu>  
Date: Sun, May 8, 2016 at 4:59 PM  
Subject: Additional info unpaid intern  
To: xap17@hotmail.com

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Publications

# 'Primary Beneficiary' Test Determines Employee Status of Unpaid Interns, Federal Appeals Court Rules

By Paul DeCamp, Richard I. Greenberg and Noel P. Tripp



August 10, 2015

## How should an employer determine whether unpaid interns at a for-profit employer are entitled to compensation for services provided?

According to the U.S. Court of Appeals for the Second Circuit, in New York, “the proper question is whether the intern is the primary beneficiary of the relationship.” *Glatt v. Fox Searchlight Pictures, Inc., et al.*, Nos. 13-4478-cv, 14-40017, 2015 WL 3515020 (2d Cir. June 23, 2015). The Second Circuit has jurisdiction over Connecticut, New York, and Vermont.

The interns urged the Court to adopt a test granting them employee status whenever the employer receives economic benefit. The Department of Labor, in a friend-of-the-court brief in support of the interns, argued that each of the six factors in the Sheet must be present for the intern to avoid qualification as an employee. The defendants-employers, on the other hand, urged a nuanced primary beneficiary test.

Siding with the employers, the Second Circuit held that “the proper question is whether the intern or the employer is the primary beneficiary of the relationship,” identifying two significant features of the test. First, it “focuses on what the intern receives from the employer.” Second, it “accords courts the flexibility to examine the economic reality as it exists between the intern and the employer.”

The Court provided the following non-exhaustive set of considerations, none of which alone is dispositive:

1. The extent to which the intern and the provider of the internship clearly understand that there is no economic benefit to the intern, compensation, express or implied, suggests that the intern is an employee.
2. The extent to which the internship provides training similar to that which would be given in an educational program, and other hands-on training provided by education institutions.
3. The extent to which the internship is tied to the intern’s formal education program by integrated coursework or credits.
4. The extent to which the internship accommodates the intern’s academic commitments by corresponding to the academic calendar.
5. The extent to which the internship’s duration is limited to the period in which the intern will receive substantial benefit from the educational program.
6. The extent to which the intern’s work complements, rather than displaces, the work of paid employees.

benefits to the intern.

7. The extent to which the intern and the provider of the internship understand that the internship is for the conclusion of the internship.

Such a flexible standard, the Court said, “reflects a central feature of the modern internship—the relationship with formal education.”

In addition, the Court vacated the district court’s certification of a class action under New York law and deemed the issues relating to classification of the interns too individualized to permit certification either under the FLSA (which governs the procedure and conduct of class actions suits brought in federal court) or even the lenient standard of a collective action under the FLSA.

The Court explained that even where a provider of internships has a policy of replacing paid employees with every intern would prevail on a claim that he or she was an employee under the primary beneficiary test. The Court said. Even “assuming some questions may be answered with generalized proof,” the Court held, “the remaining questions requiring individualized proof.”

Similarly, as to collective action certification under the FLSA, the Second Circuit observed that “courts must consider the intern’s experience” and that such analysis may be sufficient to find that unpaid interns are not similarly situated for certification.

Providers of internships, of course, should continue to be vigilant in reviewing their classifications of individuals.

Jackson Lewis attorneys are available to answer inquiries regarding this and other workplace development issues.

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Jackson Lewis P.C. represents management exclusively in workplace law and related litigation. Our attorneys are compliance efforts and to represent employers in matters before state and federal courts and administrative agencies. Contact any of the attorney(s) listed or the Jackson Lewis attorney with whom you regularly work.



## Meet the Authors



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# **NOLO OFFICIAL TEMPLATE Unpaid Interns: Do You Have an Unpaid Wage Claim? Find out if you should be getting paid for your internship. Need Professional Help? Talk to a Lawyer. Zip Code: Get Started By Lisa Guerin, J.D. Share on Google Plus Share on Facebo**

From: **Xavier Powell** (xap17@hotmail.com)  
Sent: Mon 5/09/16 12:28 AM  
To: Xavier Powell (xap17@hotmail.com)

## **Unpaid Interns: Do You Have an Unpaid Wage Claim?**

Find out if you should be getting paid for your internship.

**Need Professional Help? Talk to a Lawyer.**

By Lisa Guerin, J.D.

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If you're working as an intern, you're not alone. Many college students and recent graduates take unpaid internships to learn new skills, enter a new profession, or

simply get a foot in the door at the company or in the industry where they hope to work.

But simply calling work an “internship” doesn’t relieve your employer of the legal obligation to pay you for your time. While public employers, nonprofits, and other charitable organizations are permitted to have unpaid internships, strict rules apply to private, for-profit companies. The general rule is that workers must be paid at least the minimum wage, as well as overtime for extra hours. If an private employer wants you to work for free, it must provide you with a genuine educational and training experience. Otherwise, you have the right to be paid.

This article explains how the Department of Labor decides whether a job qualifies as an internship and what to do if you think you should be getting paid.

## Rules for Internships

Internships can be an amazing learning experience; unfortunately, they can also be a form of exploitation, in which employers take advantage of young people desperate for work. To crack down on illegal internship programs, the federal Department of Labor has come up with a six-part test to determine whether a job really qualifies as an internship, for which the intern need not be paid. If your job doesn’t meet these requirements, it isn’t a legal internship.

- **The work is similar to training that would be given in an educational environment.** The more classroom or academic work involved, the more likely a job will be classified as an internship. For instance, if the work is part of a college class for which the student is getting credit, it is more likely to be an internship. Similarly, work that trains the intern for a variety of jobs in the field, rather than simply to work for that employer, is more likely to be considered an internship.
- **The work benefits the intern, not the employer.** If the intern is simply carrying out the usual work of the employer (by, for example, filing papers, dealing with customers and clients, running errands, or acting as an administrative assistant), the employer is the primary beneficiary of the internship. An intern who is doing the same type of work that paid employees do, or who performs work that contributes to the employer's service or product, is probably entitled to compensation.
- **The intern isn’t displacing regular employees and is closely supervised by the**

**company.** A company that replaces paid employees with unpaid interns, or brings on unpaid interns during busy periods to supplement its paid staff, likely should be paying its interns. Similarly, if an intern is subject to the same supervision as regular employees, the intern probably should be paid. On the other hand, if the internship is mainly job shadowing under the close supervision of company employees in order to learn about their job functions (and not actually producing work), the internship can likely be unpaid.

- **The employer doesn't get any immediate benefit from the intern's work.** In fact, the employer may even find its work occasionally hampered by the internship. An employer that is truly providing training, shadowing, and instruction to an intern might be a bit slowed down by these activities, for example. On the other hand, an intern that is simply performing regular work for the employer starts to look more like an employee that should be paid.
- **The intern is not necessarily promised a job at the end of the internship.** A true internship is for a fixed period of time, with no guarantee of a job at the end of the internship. Someone who is expected to work an unpaid "trial period" before getting hired on as a regular employee is likely not an intern.
- **The company and the intern understand that the internship is unpaid.** An employer can't hire you as a regular employee and then later tell you that the work will be unpaid, for example.

## If Your Job Doesn't Qualify as an Internship

Does your internship meet all of the requirements above? If not, you may be entitled to all of the protections of regular employment, including at least the minimum hourly wage, overtime, paid breaks (if provided by your state), and more.

Depending on the laws of your state, you may be entitled to the following damages:

- **Unpaid minimum wage.** You may be entitled to at least the federal minimum wage of \$7.25 for each hour worked, including certain travel time and training time. If your state or local government has set a higher minimum wage, as many do, you are entitled to the higher hourly wage. (Find out your state's rules at [State Wage and Hour Laws](#)).
- **Meal and rest breaks.** Some states require employers to provide meal and rest

- breaks, some of which must be paid. You are entitled to your regular wages for any paid breaks, as well as any unpaid breaks that you had to work through. And, in some states, you can receive penalties for not receiving your meal and rest breaks.
- **Unpaid overtime.** If you worked more than 40 hours in a week, you are entitled to one-and-a-half times the applicable minimum wage. Some states also have a daily overtime standard (for example, you may be entitled to overtime if you worked more than eight hours in one day) or other overtime requirements.
  - **Payday and final paycheck violations.** The laws of many states require you to be paid at certain intervals (for example, twice per month). Many states also have rules on when employees must receive their final paychecks (for example, at the time of separation or at the next regular payday). An employer that violates these rules may owe penalties.

To find out more, see [Do You Have an Unpaid Wage Claim?](#)

If you believe you should have been paid for your internship, talk to an employment lawyer right away. A lawyer can go through the facts of your case to determine whether you are legally entitled to be paid. A lawyer can also explain the various strategies available to try to get your unpaid wages, including writing a demand letter to your employer, filing a wage claim with your state's labor department, or filing a lawsuit. To learn more about how a lawyer can help you with your claims, see [Unpaid Wages: Do You Need a Lawyer?](#)

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## Unpaid journalism internships: Employers react to wave of legal challenges

From: **Xavier Powell** (xap17@hotmail.com)  
Sent: Fri 5/06/16 10:15 PM  
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# Unpaid journalism internships: Employers re legal challenges

By Frank LoMonte | Published 08/04/15 10:19am | [Email](#) | [Print](#) | [Reprint this story](#)



When two college graduates sued Fox Searchlight Pictures in September 2011 demanding unpaid wages for internships that included such “educational” tasks as making coffee and taking out garbage, they fired a shot heard around the media industry. That lawsuit drew nationwide attention to the questionable legality of making unpaid interns do menial work that a paid employee would otherwise do.

Across the country, media companies are facing legal action from former interns disgruntled over working without pay, particularly those who worked with the hope of turning the unpaid position into salaried employment. Hearst Corp. and Gawker are among the media giants who’ve been targeted by former interns seeking back pay.

In October 2014, NBCUniversal paid \$6.4 million to settle a class-action lawsuit brought on behalf of several thousand former unpaid interns. <sup>1</sup> Then in March 2015, media conglomerate Viacom (which owns MTV and BET, among other high-profile properties) agreed to a \$7.2 million settlement with attorneys representing more than 1,000 former interns.<sup>2</sup>

Unpaid internships are in no way unique to journalism. A survey published by the research firm Intern Bridge found that more than 51 percent of students did unpaid internships, and more than

half did not receive academic credit for the experience. <sup>3</sup> But employers in the news and entertainment fields have been targeted in a recent wave of lawsuits questioning the widespread practice of asking interns to work without compensation.

The nonprofit investigative news service, ProPublica, shone a national spotlight on the widespread use of unpaid intern labor in a series of stories spanning 2013-14 about what the authors called “the intern economy.” <sup>4</sup>The series pointed out that not only are internships commonly unpaid, but students who want to receive academic credit are required to register as if registering for any other academic course, meaning that students are actually paying money to do work.

When is it permissible for a news organization to maintain unpaid intern positions? And what are the legal risks to interns who agree to work without pay? This article summarizes recent legal developments that are causing some observers to predict that the end of the unpaid internship is not far away.

### **Employment law basics**

A federal statute, the Fair Labor Standards Act (referred to as the “FLSA”), requires employers to pay their employees at least the federal minimum hourly wage (which is currently \$7.25). <sup>5</sup> It also requires overtime pay at a rate of 150 percent (“time-and-a-half”) of the regular wage for hours that an employer requires an employee to work beyond 40 per week.<sup>6</sup>

But not everyone who shows up at a workplace is covered by the FLSA. To be entitled to receive overtime pay and minimum wage, the worker must qualify as an “employee” at a workplace with \$500,000 or more in annual gross sales. <sup>7</sup>

The FLSA does not contain an “intern exemption.” But if an employer can prove that an intern is not legally an “employee” at all – that the intern is part of an educational program and not just doing the work of a regular paid employee – then the intern can be paid less than minimum wage. Or nothing at all. Ironically given recent events, one of the earliest U.S. Supreme Court cases interpreting what it means to be an “employee” under the FLSA also involved Hearst – at that time, in a dispute with Los Angeles “newsboys” who peddled the company’s papers on the street.

The National Labor Relations Board, which is the federal agency with power to enforce compliance with the FLSA, ruled that the newspaper sellers were “employees” even though the employer carefully avoided using that term. The NLRB looked beyond how the job was labeled and focused on how it was actually performed. The Supreme Court analyzed the substance of the working relationship and agreed that the NLRB’s decision was justified:

[T]he designated newsboys work continuously and regularly, rely upon their earnings for the support of themselves and their families, and have their total wages influenced in large measure by the publishers, who dictate their buying and selling prices, fix their markets and control their supply of papers. Their hours of work and their efforts on the job are supervised and to some extent prescribed by the publishers or their agents. Much of their sales equipment and advertising materials is furnished by the publishers with the intention that it be used for the publisher's benefit. 8

The Department of Labor issued a “fact sheet” in April 2010 that sets forth criteria similar to those the Supreme Court applied in the *Hearst Publications* case that will determine whether a position is “employment” for which minimum wage must be paid:

1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
2. The internship experience is for the benefit of the intern;
3. The intern does not displace regular employees, but works under close supervision of existing staff;
4. The employer that provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be impeded;
5. The intern is not necessarily entitled to a job at the conclusion of the internship; and
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship. 9

In simple English, the Department has told employers that the more a job looks like a job and not like a training experience, the more likely the worker will be entitled to receive overtime and minimum wage.

In deciding whether the FLSA does or does not apply to a particular working relationship, judges will look at the “economic reality” of the complaining employee’s situation. 10 The most important consideration is who is the “primary beneficiary” of the work being done. 11 If the work appears primarily to be for the educational benefit of the intern, then the position is unlikely to be covered by the FLSA. But if the primary beneficiary is the employer – particularly if the interns are doing work that is also being done by paid employees (or was, before they were laid off) – then the job should qualify for minimum wage and overtime.

### **When “free labor” is legal**

Once a person qualifies as an “employee,” then the person is presumed to be entitled to the protection of the FLSA, including the right to be paid the minimum wage and time-and-a-half for mandatory overtime hours. But Congress has carved out certain industry-specific exemptions even for people who’d otherwise be covered by the FLSA as “employees.” If a dispute arises, the burden of proof is on the employer to demonstrate that a position is exempt from the FLSA. <sup>12</sup>

A government agency, such as a state college or university, has more leeway to use unpaid intern labor because of an exemption for “public agency volunteers.” The Labor Department says it’s legal for a government agency not to pay a volunteer as long as the work meets certain standards: (1) it must have a charitable or civic purpose, (2) there must be no promise or expectation of pay, (3) the work must be performed freely and without pressure and (4) the work must not be the same type of work that the “volunteer” is already doing for pay. <sup>13</sup> (In other words, an employee cannot “donate” unpaid hours of work at her regular job; the volunteer work must be of a different type, such as a librarian who volunteers on weekends to plant trees.)

The FLSA also has a targeted exemption that applies specifically to newspapers with circulation of less than 4,000, <sup>14</sup> so an intern for a small-town weekly paper would have no legal right to demand minimum wage or overtime pay. However, if a chain of small newspapers is under the same management with shared editorial content, then their circulation will be combined and may put the newspaper over the 4,000 threshold, meaning that workers are entitled to overtime and minimum wage.<sup>15</sup>

### **Unpaid interns fight back**

In September 2011, former Fox Searchlight interns Eric Glatt and Alexander Footman filed suit in federal court in New York alleging that they should have been compensated as employees for their work on the crew of the Academy Award-winning motion picture, “Black Swan.” The suit claimed that the interns did work with no educational or training purpose, indistinguishable from the work of regular employees — except for the paycheck.

The interns won a favorable ruling in June 2013 from a judge in the Southern District of New York. Judge William H. Pauley ruled that the movie studio was, legally, the interns’ “employer.” Even though the interns worked in name for a different corporate entity, Fox Searchlight exercised “effective control” over their work and therefore could be held liable under the FLSA as their employer. The judge also allowed the lawsuit to proceed as a class action on behalf of five years’ worth of interns not just with Fox Searchlight but with all of its Fox-owned sister corporations, potentially hundreds of plaintiffs.

That ruling is being appealed to the Second Circuit U.S. Court of Appeals, where lawyers presented arguments in January 2015. No decision has yet been issued.

The Fox Searchlight lawsuit triggered a wave of similar cases around the country, many targeting media companies that for years have relied on unpaid interns to research news stories, produce TV broadcasts, manage social-media accounts and do other substantive work. Interns have readily taken on these positions for years in hopes of turning the “apprenticeship” into full-time employment, or at least making the connections that will lead to a post-graduation job.

At the same time the Second Circuit heard arguments in the *Glatt* case, the judges also heard a comparable case against Hearst Corp. brought by a former intern with *Harper's Bazaar* magazine. In that case, unlike in *Glatt's*, the district court refused to allow the former intern, Xuedan Wang, to bring her claims as a class action. (Class actions are significantly more intimidating to employers, and more rewarding to plaintiff's lawyers, because unlike in a traditional lawsuit, the rights of potentially thousands of people with similar claims are all decided at once.)

### **No salary = no legal rights?**

If it were not frustrating enough to work without compensation, a New York court made life even more discouraging for unpaid interns in a 2013 ruling, *Wang v. Phoenix Satellite TV US, Inc.*, involving sexual harassment claims against a television production company.

The plaintiff, Lihuan Wang, worked as a television copywriter and on-air reporter during an unpaid internship while a graduate student at Syracuse University. Wang complained that her supervisor grabbed and propositioned her, and that she was rejected for full-time employment because she refused to accompany the harasser on a weekend trip to Atlantic City. <sup>16</sup>

A U.S. district judge threw out Wang's harassment complaint – brought under New York state law, which is nearly identical to the better-known federal Title VII gender discrimination law – on the grounds that Wang did not meet the definition of an “employee” because she received no pay. In other words, regardless of how strong her proof that she was harassed on the basis of sex, Wang was disqualified as an unpaid intern from bringing a claim. <sup>17</sup> (Wang was allowed, however, to proceed with a claim that the broadcaster refused to hire her for not submitting to sexual advances, since a failure-to-hire claim logically does not require proof of being an “employee.”)

While startling and seemingly unjust to many, the court's ruling was consistent with the view of most federal appeals courts nationwide – that protection against on-the-job harassment or discrimination first requires proof that the worker received “substantial compensation” for the

work.<sup>18</sup> Being vulnerable to harassment without an obvious legal remedy is yet another hazard of the unpaid internship.

### **The marketplace responds**

Alarmed by the wave of litigation, many employers have begun voluntarily paying their interns to avoid being next in the legal crosshairs. One Virginia employment-law expert told Bloomberg BNA that the unpaid internship “has been regulated virtually out of existence” at for-profit companies, although charitable and governmental employers continue offering unpaid positions.<sup>19</sup>

Indeed, ProPublica reported that, after the Labor Department threatened to bring an enforcement action against the outdoor sports magazine, *Outside*, on behalf of 28 former interns, the magazine responded by simply dropping its intern program and hiring more entry-level editors instead.<sup>20</sup>

One final complicating factor that may weigh in employers’ design of intern programs is the obligation under the federal Affordable Care Act to offer health coverage to employees who work 30 hours per week or more. Although short-term temporary employees do not qualify for coverage, an intern who is paid and works six months or more is probably enough of an “employee” to be covered by the ACA. An employer who fails to offer coverage to the federally mandated percentage of workers can face hefty fines. Consequently, the incentive under the health-care law will be to keep internships unpaid and of short duration.

Regulators, too, are beginning to take notice. After a wave of public outrage over Lihuan’s Wang’s sexual harassment case, the New York City Council enacted legislation that, at least in the nation’s largest city, gives unpaid interns the same right to bring discrimination complaints based on race, religion or gender as salaried employees have.<sup>21</sup>

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### **Endnotes:**

1. Daniel Miller, “NBCUniversal to settle suit by former interns for \$6.4 million,” *Los Angeles Times*, Oct. 24, 2014.

2. Meg James, “Viacom agrees to pay up to \$7.2 million to settle intern lawsuit,” *Los Angeles Times*, March 12, 2015.

3. The findings of Intern Bridge’s 2012 National Internship Salary Survey are summarized at <http://www.prweb.com/releases/internbridge/02/prweb10400332.htm>.

## Part 4: Trade Secret Law

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# Trade Secret Law: Overview

**A** trade secret is any information that has commercial value, that has been maintained in confidence by a business, and that is not known by competitors. A business that owns trade secrets is entitled to court relief against those who have stolen the secrets or divulged them in violation of a legal duty—for example, after signing an agreement not to disclose (a nondisclosure agreement or NDA).

## What kind of information qualifies as a trade secret?

Trade secrets often comprise customer lists, sensitive marketing information, unpatented inventions, software, formulas and recipes, techniques, processes, and other business information that provides a company with a business edge. ✓

Information is more likely to be considered a trade secret if it is:

- not known outside of the particular business entity
- known only by employees and others involved in the business
- subject to reasonable measures to guard the secrecy of the information
- valuable, and
- difficult for others to properly acquire or independently duplicate.

## How are trade secrets lost or stolen?

Information that qualifies as a trade secret is subject to legal protection (against theft and misappropriation) as a form of valuable property—but only if the owner has taken the necessary steps to preserve its secrecy. If the owner has not diligently tried to keep the information secret, courts will usually refuse to extend any help to the trade secret owner if others learn of the information.

Some activities that the courts will commonly treat as trade secret theft—which means the owner will be afforded some judicial relief, such as damages or an order preventing use of the stolen information—are:

- disclosures by key employees (current and former managers, scientists, and others occupying positions of trust) in violation of their duty of trust toward their employer

- disclosures by employees (current and former) in violation of a nondisclosure agreement entered into with their employer
- disclosures by suppliers, consultants, financial advisers, or others who signed nondisclosure agreements with the trade secret owner promising not to disclose the information
- industrial espionage, and
- disclosures by any person owing an implied duty to the employer not to make such disclosure, such as directors, corporate officers, and other high-level salaried employees.

When a disclosure is considered wrongful, the courts may also consider use of the information wrongful and issue an order (injunction) preventing its use for a particular period of time.

### Can you sell your trade secrets?

As with other types of property—such as goods, accounts receivable, patents, and trademarks—trade secrets may be sold by one business to another. Most trade secret sales occur as part of the sale of the business owning the trade secret, but that is not mandatory.

### How is trade secret protection enforced?

If the court finds that trade secret theft has occurred, it may issue an order (injunction) requiring all those wrongfully in possession of the information to refrain from using it or disclosing it to others. The court may also award the trade secret owner money damages to compensate for any monetary loss suffered as a result of the theft. In cases involving willful or deliberate theft, the court may also award punitive damages to punish the wrongdoer. Finally, in clear-cut cases, federal and state criminal antitheft laws may be invoked and the trade secret thief subjected to criminal prosecution.

### What's new in trade secret law since the last edition?

There has been little change in trade secret law since the last edition. Below are some recent developments:

- **Texas adopts Uniform Trade Secrets Act.** Texas became the 48th state to adopt the Uniform Trade Secrets Act (UTSA). The law took effect September 1, 2013 (Title 6, Civil Practice and Remedies Code, Chapter 134A.001 et. seq.). New York and Massachusetts are the only states that have not adopted the UTSA.

- **California trade secret law protects ideas.** In a case involving digital stamping technology, a California appellate court held that ideas are protectable under California trade secret laws, provided that information is sufficiently specific and secret. (*Altavion, Inc. v. Konica Minolta Sys. Laboratory, Inc.*, 226 Cal. App. 4th 26 (2014).)
- **Congress considers federal trade secret law.** Trade secret owners do not currently have a federal civil cause of action for trade secret misappropriation. (The Economic Espionage Act is a criminal law enacted to discourage corporate espionage.) The proposed Defend Trade Secrets Act of 2015 would provide trade secret owners with access to federal courts for civil claims as well as an ex parte seizure provision.
- **First jury conviction under the Economic Espionage Act of 1996 (EEA).** Two individuals and their company were found guilty under the EEA of stealing trade secrets regarding the development of chloride-route titanium dioxide (TiO<sub>2</sub>) technology from E.I. DuPont and selling those secrets to the People's Republic of China. It was the first jury conviction under the EEA and resulted in a 15-year sentence. (*U.S. v. Liew*, 3:11-cr-00573-JSW (Cal. N.D., March 5, 2014).)

### Trade secret resources

For more information on trade secret law and nondisclosure agreements:

- Trade Secrets Watch (<http://blogs.orrick.com/trade-secrets-watch>). Up-to-date news on trade secret law.
- NDAs for Free ([www.ndasforfree.com](http://www.ndasforfree.com)). Explanations of trade secret principles and a collection of free nondisclosure agreements.