

# Wait a Bloggone Minute!

**By Reg P. Wydeven  
November 7, 2009**

This Spring I wrote about unfortunate law school graduates who are entering an uber competitive job market during a dreary economy. Many students' start dates have been delayed a year (with no guarantee the job will be available then), some have been asked to take a pay cut, and others who thought they had jobs were told they did not.

Even during a great economy, I know that attorneys do not garner much sympathy, so it's no surprise that few tears were shed for these young, struggling lawyers. But the State of New York now just seems to be piling on.

The New York State Department of Labor recently revoked the unemployment benefits of Karin, a 2008 University of Virginia School of Law graduate who was laid off by a New York City law firm six months into her job.

The reason? Karin was earning \$1.30 a day from blog ads.

After she was laid off, Karin applied for state unemployment benefits and she received \$405 a week. While the benefits helped, she was still unable to afford her rent in NYC, so she moved to St. Louis. Once there she applied for various paralegal positions while she prepared to take the Missouri bar exam so she could practice there. Although she moved to Missouri, New York continued to pay her unemployment benefits.

Then in April Karin began writing an Internet blog about local restaurant promotions. Karin was not paid by the restaurants she wrote about in her blog, called STL Meal Deals, so to try and earn some money, she signed up for AdSense, a service run by Google that pays bloggers to host advertisements on their websites. Once a blogger earns \$100, Google sends them their payment. Karin got her \$100 check after three months.

As a lawyer who knows the rules, Karin notified the State of New York about her earnings, even though it would most likely reduce her benefit. Under state law, New York people who work one day and earn less than \$405 dollars while receiving unemployment benefits will have their benefit reduced by 25% for that week. If they earn more than \$405 during a week, they forfeit their benefits for that week.

New York subsequently cut her weekly benefits to \$300 and asked her to have her employer complete a form. After Karin called the DOL to see if Google was her employer, she was informed that her AdSense payments were "residual," meaning she was paid for services previously rendered, and are not considered when determining benefits.

Based on this, Karin then filed a claim with the State and explained her blog and its AdSense revenue. This prompted the DOL to launch an investigation of her "business" to determine whether she remained eligible for benefits. Karin was then informed that New York considered her self-employed, so she must claim earnings each time she received an AdSense check, and she also needed to declare that she was working every time that she updated her blog.

To add insult to injury, New York finally informed Karin that she was ineligible to receive unemployment benefits while its investigation was ongoing.

After receiving a grand total of \$238.75 from AdSense, Karin removed it from her website, and she's waiting to see what New York will decide about her benefits. If they do cut her benefits and she can't find work as an attorney in St. Louis, Karin could still probably get a job playing for the Rams.

*This article originally appeared in the Appleton Post-Crescent newspaper and is reprinted with the permission of Gannett Co., Inc. © 2009 McCarty Law LLP. All rights reserved.*