



Holiday Parties—Employers Beware!

Dec 8, 2014

Reading Time : **3 min**

By: Richard J. Rabin

Here are some of the more obvious potential liabilities employers face—and various steps they can take to minimize risk:

Potential Liability

- *Slip and Fall and Other Accidents:* When someone is injured due to an unsafe condition, he or she can seek to hold the employer responsible. This can be true whether the party is held on the employer's premises or at an off-site location. In many, but not necessarily all, cases, an injured employee's exclusive remedy will be through the workers' compensation system. Any non-employee guests (such as employees' spouses or significant others, clients, employees of party caterers, etc.) generally can seek to sue an employer for their injuries.
- *Fights and Vandalism:* When the music starts, the lights go out and the alcohol begins to flow, an office environment can begin to more closely resemble that of a bar or night club, with all the attendant risks. Fights and scuffles can occur, longstanding tensions can boil over and employees with an axe to grind also may be prone to vandalism, theft and other misdeeds. The owner of an off-site party location can be expected to seek redress for any damage, and any partygoer whose items go missing can be expected to seek restitution.
- *Harassment:* A party atmosphere can also lead to flirtation among employees and other partygoers and, in some instances, to inappropriate touching or other inappropriate behavior. An employee alleging that she (or he) was a victim of harassment can file a claim against the employer and, in many states and municipalities, against the alleged harasser him or herself. Defending such claims not

only can be costly and risk substantial financial exposure, but can also be detrimental to a company's image and to employee morale. The problems only are exacerbated where other partygoers witness the harassment or where other employees have faced similar treatment by the alleged harasser.

- *Drunk-Driving Accidents:* When inebriated employees drive home from a party, the consequences obviously can be disastrous. Employees can injure or even kill themselves or others, and subsequent litigation is all but assured. Employees' claims may (or may not) be limited by the nature of the state's workers' compensation laws, but aggressive plaintiffs' lawyers often challenge the applicability of such laws. When non-employees are injured or killed, workers' compensation laws generally are inapplicable, and the issues will be resolved in court. The potential damages in such cases can be enormous, and even where employers prevail, the litigation costs themselves can be significant.

Steps to Limit Liability

- *Insurance Coverage:* Ensure the party is covered under the company's general insurance policy. If not, consider obtaining special event coverage.
- *Make Party Optional:* Make sure employees know that the party is a non-mandatory social event, and that attendance is purely optional. Do not conduct the party during work hours, and do not pay workers for the time they spend at the party.
- *Consider Off-Site Venue:* Consider holding the party off site, to further emphasize its non-business purpose. Consider hiring a catering service and obtaining appropriate contractual language indemnifying the employer in the event of a mishap.
- *If Alcohol Is Served, Take Precautions:* If alcohol is served, utilize professional bartenders, and direct the caterer—in writing—not to serve minors or inebriated guests. Ensure non-alcoholic drinks also are provided, and serve plenty of food (high in starch, low in salt) to help cut the impact of the alcohol. Do not ask employees to pay for their own alcohol, as it may further risk exposure under a state dram shop act.
- *Set Appropriate Limitations:* Schedule the party for particular times, including an end time which will be enforced. Instruct the band or deejay not to play "slow songs," and consider never fully darkening the lights. If alcohol is served, consider cutting off service in advance of the end of the party.
- *Monitor Party Events:* Entrust certain managers to monitor events at the party. Inform supervisors of their obligation to set a proper tone.

- *Provide Transportation:* Especially if alcohol is served, arrange (and pay for) alternative transportation. Clearly communicate the availability of this transportation to partygoers, both before the party and as employees leave the party, and clearly instruct them not to drive after drinking.
- *Avoid Flammables:* Don't use candles, and don't permit smoking. When it comes to party decorations, avoid flammable objects.
- *Disseminate Anti-Harassment Policy:* Review the company's anti-harassment policy, and ensure it is written to apply to social as well as business events. Consider disseminating reminders of the policy in advance of the party, and reminding employees of the application of the policy.
- *Consider Invitation List:* Carefully consider who will be invited to the party. The presence of spouses and significant others can be a calming influence, though their inclusion does add to the list of persons who theoretically could be injured at the event. Inviting clients or customers can backfire, especially if one of them is accused of harassment or other misconduct, necessitating a potentially embarrassing investigation.

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