



EMPLOYMENT LAW

Client Alert

December 2010

Are you hosting a seasonal party/event for your employees?

Do you believe that your employees are responsible to monitor and control their own alcohol consumption?

A recent B.C. Supreme Court case warns employers of the potential legal consequences of mixing social events and alcohol. As discussed below, the employee in that case was awarded damages of \$5.9 million resulting from injuries sustained during a dance floor injury that occurred following an office function.

With the onset of the holiday season, we would like to remind our clients of how to reduce actual and real risks for your employees and your business at holiday parties. Some tips include:

- **Make it clear that attendance at social events is completely optional and not a requirement of employment;**
- **Ensure that no minors are served alcohol;**
- **Host events at licensed establishments, where professional servers can monitor alcohol intake;**
- **Host a cash bar, or provide a set amount of drink tickets; and**
- **Offer free taxis home, or discounted hotel accommodation for the night.**

These are some examples of steps that can be taken to minimize risk, but the list is certainly not exhaustive. In addition, specific holiday events may require specific advice that we would be pleased to assist further with.

The risks cannot, however, be eliminated. For instance, in the summer of this year, the B.C. Supreme Court released a decision which involved an employer sponsored dinner event after which several attendees went to a nearby night club. Alcohol was consumed at both locations. While on the dance floor, one employee stumbled and fell backwards onto another, who hit her head on the floor and was rendered unconscious. She suffered a mild brain injury. The injured worker sued both the “dancer” who fell on her and her employer, amongst others. The action between the employer law firm and plaintiff employee settled prior to trial, so the case did not consider the liability of the employer *per se*. However, the case does serve to highlight the risks that employers are exposed to in hosting social events. The injured employee was awarded damages of \$5.9 million.

There are several other earlier decisions that employers should be aware of. In a previous B.C. Supreme Court decision, the Court found an employer 75% liable for the injuries suffered by an employee as a result of a car accident. Prior to leaving an off-premises work site, the employee had consumed at least eight beers given to him by one of his supervisors. The Court held that the employer was liable because the employee was provided with free alcohol, and because the employer failed to monitor consumption and prevent the employee from driving.

In an Alberta decision, the Alberta Court of Appeal held that an employer was liable after its employee, while impaired and driving a company vehicle for personal use, injured a third party in a car accident. Despite a company policy prohibiting the employee from using the vehicle for personal use, the Court held that the employer’s express consent to the employee’s possession and use of the vehicle was sufficient to hold the employer liable for the negligence of its employee.

(Continued on page 2)

It is important to keep in mind that a commercially hosted event is treated differently from a private gathering. In 2006, the Supreme Court of Canada decided that the social hosts of a “Bring Your Own Bottle” party were not liable after their guest, who had been drinking heavily, left the party and injured a stranger in a car accident. While there was no liability found in that case, the Court did go on to say that a host who continues to serve alcohol to a visibly inebriated person knowing that he or she will be driving home might have a duty to prevent harm in certain situations.

Given the above cases, there are several steps that employers (and even hosts) can and should take to reduce their risk of liability at company sponsored events where alcohol will be served.

If you wish additional information about what you can do to help protect you and your business at holiday parties and/or other company events, please contact one of the lawyers below in the Employment Law practice group at Owen Bird Law Corporation.

Harvey S. Delaney

Direct Telephone: (604) 691-7512

Email: hdelaney@owenbird.com

Harley J. Harris

Direct Telephone: (604) 691-7520

Email: hharris@owenbird.com

Ramneek S. Padda

Direct Telephone: (604) 691-7526

Email: rpadda@owenbird.com