

## The Gift No Employer Wants this Holiday: A Lawsuit

By Paul Gibbons and Bob Murray

It's time to celebrate! At this time of year companies across BC start planning their end-of-the-year holiday parties. It's one of the few opportunities most companies take to celebrate the successes of the year, share some laughs with co-workers, and reward a hard-working team. However, in some cases, the parties also bring the potential for lawsuits. There are a number of precautions that you can take to ensure that your occasion is safe, enjoyable, and not likely to end with this unwelcome "gift".

Here are the issues in a nutshell. Employment law imposes a duty on employers to provide a safe workplace and protect employees from harm, including harm resulting from an employee's own actions. "Harm" can mean physical harm, damage to property and violence, but also consists of sexual and other forms of harassment. You can also be held liable for injuries or damages an employee sustains or a third party sustains (in a car accident for example) after the employee gets drunk at your office party.

It sounds a little overwhelming. But it is still possible to have an enjoyable event. Here are some measures employers suggest for having fun and still being safe:

- R** If you don't already have one, establish a company policy that clearly sets out your company expectations regarding employee behaviour in the workplace and at company-sponsored events. The policy should state that employee drinking and driving and all forms of harassment will not be tolerated.
- R** Some companies go as far as to establish a dress code policy reminding employees that they still represent the company at company-sponsored events and must dress accordingly. Of course, the location of the occasion should dictate what people wear.
- R** Remind employees before your party that all company policies on employee behaviour remain in full force at all such events. Encourage moderation by reminding employees that the event is also a business function.
- R** Make employee attendance at company-sponsored events voluntary. They shouldn't feel obligated to attend an event where alcohol may be consumed.
- R** Designate one or several employer representatives to monitor the party, the guests and consumption. This is not likely to be a popular role, but it can be divided between a few key personnel throughout the event so no one feels like they miss out.
- R** Warn employees before each party that they will not be allowed to drive home if they have had too much to drink.
- R** Consider prearranging free transportation or overnight hotel accommodation for employees who may become too drunk to drive home. Alternatively, ask employees to appoint a designated driver before the event begins, or, arrange for another form of transportation (such as a taxi or a bus) that will be available if employees are too drunk to drive home. Designated drivers must, of course, agree not to drink alcohol immediately before and during the event.

- R People tend to drink more when serving themselves, so consider hiring a bartender for any event where alcohol will be served. Ensure that the bartender has been trained and has their safe serve certificate.
- R Consider limiting the number of drinks an employee can have by issuing two or three drink tickets to each employee at the beginning of the party.
- R Ensure that if the party is held at a hotel or restaurant that the contract clearly states that the hotel staff will identify intoxicated employees to an employer representative. If possible, have the contract stipulate that liability is shifted to the hotel or facility.
- R Ensure that a variety of non-alcoholic beverages are available for designated drivers and others who don't wish to drink.
- R Provide plenty of snacks and nutritious foods for the duration of the event so that employees don't have to drink on an empty stomach. Remember, salty snacks make people thirsty and thus likely to drink more.
- R Create forms of entertainment that will shift the focus away from drinking during the event, but avoid activities that require physical effort - these will only increase the likelihood of injury among the participants, especially those who have been drinking.
- R Stop serving alcohol at least two hours before the end of the party.
- R Consider purchasing a company Breathalyzer so that employees can test themselves to see whether they have had too much to drink before they leave. The cost of a Breathalyzer varies from \$35 to \$725. The cost of a lawsuit? Well, you do the math.
- R The likelihood of sexual-harassment incidents can be reduced by inviting employees to bring their spouses and significant others to the event.
- R If an employee is refusing to be reasonable, don't hesitate to call the employee's spouse/family member to pick them up, or the police if needed.

After reading all this, you might be tempted to skip the headaches and simply not have a party. This, however, would have a negative effect on morale, particularly if the party is a well-established tradition. It would also put you in the position of looking like Ebenezer Scrooge, or, even worse, the company Grinch, and no employer needs that kind of resentment in the workplace.

The benefits of having a party will almost definitely outweigh the effort involved in arranging it, and if you plan ahead and involve your team it's really not as complicated as it might look at first—it's definitely less complicated, and far less expensive, than a lawsuit. And with these measures in place before the party begins, everyone, including you, can have a worry-free good time.