Serving Alcohol at Holiday Parties Can Put Employer on Rocks

By Pamela St. John Lynde, Esq.
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Planners for Florida office parties know that a posh location, festive decorations and good food make the event more enjoyable; however, there are risks when companies serve liquor to employees. What seems like a nice gesture could backfire if an employee gets into an auto accident while intoxicated.

Courts have generally ruled that at purely social parties—not involving corporate sponsors or employees—a host has no liability for the acts of guests who get into accidents after leaving the party. This is because, in a purely social setting, the guest is responsible for monitoring his or her consumption. This general rule of non-liability on the part of the host may well change if the guest is an employee attending a party hosted or sponsored by an employer. If that employee drives away from the event in an intoxicated state and injures someone in an accident, the company might be held liable.

Let's say a company executive hosts a party and invites some employees, their families, other friends and a few clients. No one is required to attend and no business is being conducted; people are there just to enjoy each other's company. Food is provided and a bartender serves alcohol. Afterward, an intoxicated employee gets behind the wheel and hits a pedestrian. Is the executive's company liable for damages?

It depends.

The more the party can be viewed as a corporate function, the greater the possibility that corporate liability can be argued. Factors that will be considered include, but are not limited to, whether the party was held at a private home or other location; the degree to which the company paid for the party; whether employee attendance was required or requested; the composition of invited guests (e.g., were they employees, customers, clients, competitors, etc.); and the degree to which the party was held for social or business purposes.

The Fourth District Court of Appeal handed down a ruling in 1993 that Florida companies should closely read. In *Carroll Air Systems Inc. v. Greenbaum*, it was decided that a company (Carroll Air) whose intoxicated employee (Mr. Mills) killed a man in an auto accident after he left a social event was liable for damages. The employee had entertained clients at an industry conference (ASHRAE), paying their dinner bills at the direction of his employer. The company deducted that tab and drinks later that night at a hotel bar as business expenses. Based upon this evidence, the Fourth District Court of Appeal held that there was "competent substantial evidence to support the jury's conclusion" that Mr.

Mills was in the course and scope of his employment when he was returning home from the ASHRAE meeting; therefore, the appellate court confirmed the jury's award of compensatory damages to Mr. Miller's mother in the amount of $80,000. More chilling was the court's affirmance of the jury's award of punitive damages (in the amount of $800,000) against Carroll Air.

Given the legal uncertainty, what should companies do? The safest choice for employers in Florida is to refrain from serving alcohol at any employer-sponsored party, no matter what the occasion or the location. That way, no judge or jury can second-guess whether an intoxicated employee involved in an auto accident afterward was "on the job" at the time he or she was served, or was driving.

Employers choosing to serve alcohol should consider providing free transportation from the party to the partygoers' homes or having the party at a venue within a hotel and providing free hotel rooms to all employees.

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