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Holiday Party Gone Wild? Avoiding Employment Liability

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Holiday parties are a great way to foster team spirit, and the vast majority of employers will hold some sort of end of year event to bring their teams together for a healthy dose of seasonal cheer.



Kantor

Perhaps the abundance of holiday parties explains why there is no shortage of YouTube videos revealing office gatherings gone wrong. Hollywood is even getting in on this classic cliché with a movie this year — and let's be honest, it's a cliché for a reason.



Ehrlich

So how do you bring your team together for some much deserved merriment without making the silver screen hall of shame? Here are a few do's and don'ts that will help:

1. DO place responsible limits on the bar.

Alcohol overindulgence is the fastest way to transform a great holiday bash into a bust. From claims related to sexual harassment and discrimination to injuries suffered by attendees and others, there is no surer way to ruin your company's end of year cheer.

If alcohol will be served, there are a few easy ways to help prevent overindulgence. Limiting the number of drinks for each employee or even limiting the types of alcohol served to beer and wine can reign in problematic consumption. Set concrete hours for the event and consider closing the bar prior to the end of the event. Serve food and make sure non-alcoholic beverages are available.

2. DON'T condone "locker room talk."

Don't fall into the trap of pushing the envelope yourself with scandalous comments others might have survived — you will find it could give rise to serious legal claims. Inhibitions are often lowered at holiday parties, and the last thing you want is your employees or managers making unwanted sexual advances, inappropriate gestures or offensive remarks.

Consider inviting family members as a way to moderate these tendencies and take measures to create a family-friendly atmosphere. The end of the year is a great time to review your discrimination and harassment policies and complaint procedures. Make sure employees know that these policies apply at all company functions, including the holiday party. If your company does not have written policies in place, then take action immediately! These

policies are the first line of defense for employers facing claims of inappropriate work place behavior.

3. DO arrange for transportation.

Despite placing limits on alcohol consumption, the possibility of overindulgence remains where adults and alcohol are mixed. Leverage technology to help ensure that your employees don't drive under the influence. Use Uber, Lyft or other transportation services. Even taxis can be arranged via app. Pre-arranged transportation can place another layer of insulation for your company if the worst happens and someone does get hurt. This expense is well worth it to protect your company's greatest assets — its employees.

4. DON'T make the party mandatory.

There's no better way to turn a fun activity into work than by making it mandatory. Unless you want to pay all of your employees for being there, make sure they know participation is voluntary. Using the party as a place to announce bonuses or other awards can give the appearance that participation is required — which can quickly trigger an employer's obligation to pay wages. If attendance is mandatory, an employer is required to compensate nonexempt employees for their attendance under the Fair Labor Standards Act. Furthermore, if your holiday fete increases non-exempt

employees' total weekly hours over 40, these employees are entitled to overtime pay.

5. DO remember social media!

You can count on your employees to post about their daily activities on social media and this includes your holiday party. Social media buzz can bring positive attention to your company festivities or it can lead to very public embarrassment for employers and attendees. Consider hiring a photographer to attend the event, and offer immediate snaps for posting to your company's Facebook page or social media site. Employees can then share these pre-approved photographs. Make sure employees know that recording other people and posting on social media without their consent isn't only rude, it can also be illegal.

Provide a structured agenda or activities to encourage your employees to focus on interacting with each other instead of their smart phones. However, be careful to avoid drinking games and unsupervised gag gifts which can quickly lead somewhere unsuitable.

If these suggestions leave you feeling a little less festive, just be glad you aren't receiving a lump of coal in the form of an employee lawsuit.

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