



## Could this be you? Employers liable when office holiday parties get out of control

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While office holiday parties are a great way to unwind and celebrate the season with co-workers and colleagues, if you plan on serving alcohol at the party, you should be aware of the potential for liability. Here are issues to consider before you start decking the halls:

### Employer Liability (respondeat superior):

Employers may be liable for injuries caused to third parties by an intoxicated employee under the legal doctrine called respondeat superior. Liability arises for the negligent acts of employees committed within the scope of their employment.

One way to decrease the odds of corporate liability is to ensure that employees are aware that attendance at the company holiday party is voluntary. This can be done in a number of ways. For example, ensure that managers and supervisors treat the party as a social event and not an extension of the work day, and avoid asking employees to perform functions that may be construed as benefiting the company during the party. If attendance is mandated, plan to pay non-exempt employees for time spent at the party. In some instances, this may also create an unintended overtime pay obligation.

Consider providing taxicab or ride share information in advance of the event, and encouraging attendees to have a designated driver. Also consider a cut-off time for serving alcoholic beverages.

### Workers' Compensation:

Injuries that occur in the course and scope of employment can result in costly workers' compensation claims. To underscore that social activities are not "in the course of employment," consider having employees sign an Ohio Bureau of Workers' Compensation recreational waiver that has been modified to include parties, or if your employees work in a state that does not use or recognize such a waiver, advise



**Marie-Joëlle C.  
Khouzam**

Partner

Columbus  
614.227.2311  
[jkhouzam@bricker.com](mailto:jkhouzam@bricker.com)

employees in advance that attendance at the event is voluntary and is not considered within the scope of their employment duties.

#### Sexual Harassment:

Alcohol and relaxed social settings often blur personal boundaries. To lessen claims of sexual harassment from a social event, ensure that your company's policies address appropriate conduct at employer-sponsored social events. Avoid sexually charged holiday-themed activities (for example, avoid having employees sit on Santa's lap and nix the mistletoe).

If an employee alleges that he or she was the subject of sexual harassment at an office social function, address the issue immediately. Employers have an affirmative duty to promptly investigate and remediate such complaints.