

Holiday ‘fun’ at the off-site office party, Property Casualty360, authored by Partner Louie Castoria, 12-12-2022

Review the potential claims that can arise when the office holiday party goes off-site and off the rails.

By Louie Castoria

A 2018 poll conducted by Evite found that 1 in 3 office workers has done something they regret at a holiday party. According to the study, 2 in 5 holiday partygoers have seen the office merriment become an office drama, with altercations or scandalous revelations spoiling the celebratory spirit. We have all heard stories about office holiday parties that ended poorly. There’s the apocryphal tale of the CEO dancing on a table, wearing a lampshade for a hat and the unintentionally hilarious toast in which the mid-level manager unwittingly reveals a supervisor’s lurid secret.

Booze, music and excessive candor: What could possibly go wrong? There’s nothing like a lawsuit to take the fun out of partying. The outcomes from such occasions can range from a mild hangover to a career-ending liability claim; from a bruised ego to a severe bodily injury. And when a party is a company-sponsored event, harmed individuals may sue not only the self-appointed life of the party, but the company as well.

A 2018 poll conducted by Evite found that 1 in 3 office workers has done something they regret at a holiday party. According to the study, 2 in 5 holiday partygoers have seen the office merriment become an office drama, with altercations or scandalous revelations spoiling the celebratory spirit. On average, a team member will learn seven new pieces of salacious gossip about colleagues during an office event. Further, these “team building” socials sometimes over-deliver: The Evite survey also states 37% of the survey participants claim to have witnessed an office hookup at a holiday party. And, while one might think that any damage to a firm’s intrarelationshiops would be fleeting, anything captured by an observer’s smartphone is likely to live on indefinitely.

Certainly, rebuilding office teams recovering from two-plus years of pandemic isolation has its value. Holiday parties and events can help reunite team members who are likely to have only seen each other virtually, on a boxy Brady Bunch screen, and only from the torso up (and yes, some were probably wearing pajama bottoms below the field of view, a dress code discouraged from finding its way into the office). But viable risks associated with office parties, in addition to reputational ones, including sexual harassment, bodily injury and illness from contaminated food, are worth sober consideration.

Holiday parties and harassment

The California Dental Association (CDA) issued a reminder to its members of the risks of holiday partying on Nov. 18, 2021. The CDA noted, “Alcohol and holiday parties often go hand in hand. But providing alcohol to employees — even after hours and away from the office — can be a cause for a liability claim. If an employer invites most or all employees to a hosted social event and attendance is mandatory or highly encouraged, the event can be considered an employment function . . . Allowing an event to become too casual and unprofessional can set the stage for a harassment claim.” Two examples:

A dentist held a holiday party at his house. He allegedly approached an employee and made a “pass” at her. The employee ran from the house in tears. She did not return to work. Instead, she hired an attorney.

Another dentist took his staff out for holiday drinks. After the party, his office manager and a hygienist went out to a bar. The office manager alleged that the hygienist made a pass at her. The office manager quit a month later and hired an attorney.

Whether or not these claims were legitimate, the negative impressions alone, whether from the inevitable office scuttlebutt and the legal allegations, damage the involved professionals and their employers. Lawyers aren't immune from such claims. On Dec. 29, 2010, the Los Angeles Times reported that a local law firm had been sued by a former employee, claiming that the firm's partners' "obsession with discussing sex" contributed to a frat house-like atmosphere — including a trip to a bikini bar complete with pre-paid lap dances. Inappropriate conduct is not limited to sexual harassment. With their propriety barriers compromised, some parties may disparage their coworkers in term that would never be tolerated in the office. If it's an office event, the rules of conduct in the office extend to the office's party.

Drinking and driving don't mix

The connection between auto accidents and excessive drinking is summed up by the billboards and TV public service ad slogans: "Don't drink and drive." The National Safety Council releases estimates of automobile accident deaths during each "holiday period," and state that celebrations involving alcohol consumption are a major contributing factor to motor vehicle crashes. The Dental Association's 2021 report, mentioned above, concludes with cautionary words: "Celebrating off-site or after hours does not negate the responsibilities of an employer. Employers can also be held liable if an employee drives under the influence and causes an accident following a work-sponsored event."

Don't forget about the food

Parties mean food, and large parties often need catering services to feed the masses. A Sept. 10, 2015 Orlando Sentinel article, "Woman sickened by bacteria-tainted food at Maitland office party sues caterer," reported 55 people were sickened by food-borne bacteria at a December 2014 lunch buffet. In a complaint against the caterer, the sickened parties alleged the caterer failed to follow industry standards of reheating and storing the food at proper temperatures. Most of the food was prepared at a commercial kitchen but stored in the owner's home and garage at her home.

The following year, a similar incident occurred in Santa Fé, New Mexico, ironically, in the State's Department of Health. Following a mid-December catered holiday party, 71 Department guests reported gastrointestinal symptoms that developed within 24-48 hours.

The takeaway message isn't to ban office holiday parties, but to recognize their risks and take preventative steps.

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