

Deck the Halls, but take precautions

The holiday season is upon us, but it may be visions of lawsuits, not sugarplums, dancing through the heads of office party planners. Sexual harassment, drinking and driving, defamatory comments? Alcohol-fuelled end-of-year merriment can be a potential minefield.

Employer liability for workers' alcohol-related accidents has been a growing issue for years, one that came into sharp focus following the 2001 Ontario Superior Court case of *Hunt v. Sutton Realty*. In that case, an employee became inebriated at the office Christmas party, refused her boss's offer to have her husband pick her up, and had a serious car accident after several post-party drinks at a bar.

The trial judge found the employer and the bar jointly and severally liable for 25% of the more than \$1 million in damages, stating that the employer had a duty to safeguard its employees from harm and should have taken more steps to protect the employee. The Ontario Court of Appeal overturned the ruling on procedural grounds and ordered a new trial, but the matter was eventually settled.

As a result, everyone agrees the costs of office party drinking can be high. "Social hosts are responsible not only for injuries suffered by guests who drink and drive, but also for injuries inflicted by those guests," points out Geoff Aylward, a partner with Aylward Chislett & Whitten in St. John's. "Although a social host may be only ten percent responsible for an accident, that may still leave you with a very significant loss."

Aylward suggests employers take a few basic precautions to prevent problems:

- Be clear that drinking and driving at office events is not acceptable and contravenes the employment contract.
- Consider alternatives to an open bar. Issue drink tickets, or limit bar hours, and make sure non-alcoholic drinks are available.
- Be aware of how the event is being promoted. An invitation to "have a few drinks on the boss" may leave you more exposed than an invitation to a dinner party or a wine-and-cheese event.

How to throw a liability-free office Christmas party.

- If you're serving alcohol, provide safe ways for employees to get home afterwards. Hand out taxi vouchers, put a designated driver program in place, or book hotel rooms for guests to sleep off the effects — and let everyone know beforehand.
- Monitor, monitor, monitor. Designate a few non-drinkers to greet guests and ensure they're not arriving under the influence, to keep an eye on everybody during the event, and to offer taxis to anyone leaving who's had too many.
- If an inebriated employee is determined to drive, you may be forced to threaten disciplinary action, confiscate car keys or call the police.
- Consider having a responsible licensed establishment host the party. Their staff should be better trained to spot warning signs and control the situation, and your potential liability may be reduced.

It's not just employers who should be concerned about prevention: drinking too much at an office party can be an employee's downfall. "There are many, many cases of discipline following Christmas parties," says Francine Lamy, a partner with Grondin Poudrier Bernier in Montreal, who cites instances of inebriated



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Action-rétroaction

Nul besoin de mettre en œuvre de lourds processus pour obtenir une rétroaction de votre client. Posez simplement les questions.

Vous vous demandez bien ce que vos clients pensent de vos services et vous cherchez un moyen d'obtenir la réponse. Vous vous dites que vous devez obligatoirement avoir recours à un moyen d'enquête systématique et que

seuls les grands cabinets disposent des sommes nécessaires pour entreprendre un lourd processus de ce genre. Vous vous trompez sur toute la ligne...

Selon M. Michel Poulin, président de l'Association des administrateurs d'études juridiques du Québec (ALA

Québec) et directeur général du cabinet Robinson Sheppard Shapiro, il est essentiel de se rappeler que la relation avocat-client est avant tout une relation personnelle.

« Les grands et moyens cabinets peuvent développer une image corporative pour attirer le client mais lorsque le client est assigné à un avocat, c'est la relation qu'il développera avec ce dernier qui importe. »

C'est pourquoi, une rétroaction efficace peut s'obtenir de manière informelle. « Il n'est pas toujours nécessaire de procéder

de façon systématique, c'est la relation personnelle qui déterminera souvent le niveau de satisfaction du client. »

Il vous faudra ainsi prendre le taureau par les cornes et poser les questions simplement, le plus clairement possible. Choisissez le moment approprié, un moment où vous vous sentez à l'aise — un lunch d'affaires avec le client ou la fin d'une rencontre particulièrement efficace — et posez simplement les questions : Êtes-vous satisfaits de mes services? Que puis-je faire de mieux?



employees who badmouthed the boss or criticized clients. And when it comes to the humorous skit or end-of-year roast, educate employees on the difference between bad taste and defamation.

Nor is alcohol the only issue. Pay special attention to the guest list — excluding an employee or a group of employees from an office function could be perceived as discrimination. If you can't invite everyone, be very clear and open about it.

To avoid unwanted kisses under the mistletoe, have a sexual harassment policy in place and remind employees about it regularly. A standard sexual harassment and anti-discrimination policy should also prevent inappropriate gifts.

Unfortunately, that may not eliminate gifts of cheap perfume or dubious wine, since, as Lamy notes wryly, "You cannot be disciplined for having bad taste."

The holiday season is an excellent opportunity to boost office morale, so don't be afraid to spread some joy and goodwill. With all these precautionary measures in place, you've set the scene for liability-free celebrations. **N**

Non seulement recueillerez-vous des informations pertinentes mais vous pourrez aussi en connaître plus long sur les perceptions du client. Car, toujours selon M. Poulin, c'est l'impression qu'aura le client d'avoir obtenu le meilleur service qui fera en sorte qu'on vous attribuera une évaluation favorable.

« Dans certains domaines plus sensibles comme le droit de la famille, la complicité est un élément primordial. Au-delà du résultat obtenu, c'est souvent la relation de confiance qui fera une différence. »

Mais n'allez pas vous morfondre si votre opération rétroaction obtient un résultat mitigé.

« Encore une fois, on se doit de se rappeler qu'il s'agit d'une relation personnelle et qu'il ne faut pas extrapoler les réponses obtenues. » À tort, par exemple, un client peut considérer que vous êtes trop amical avec la partie adverse. Pour un autre, vous serez trop agressif. Expliquez alors à votre client pourquoi vous avez choisi une stratégie et efforcez-vous de vous adapter...une relation à la fois! **N**

Mind of the meetings

How to become a meetings leader.

If asked, most lawyers would say they spend too much time in meetings, while others would add that these get-togethers are unproductive, if not an outright waste of time. Nonetheless, many lawyers spend several hours every week stuck in such meetings.

How can you make your meetings more productive? Take charge! Use your influencing skills to lead and direct meetings. This will help make the discussions that occur at your meetings more productive, and ultimately help you achieve actual results from those conferences.

Here are some strategies to use when you are preparing to lead a meeting:

1. Seek input ahead of time

Don't surprise people at meetings expecting them to make important decisions. Provide information or ask for input ahead of time, so they have a chance to think about it first.

2. Practise effective meeting behaviour

Be "on stage" during your meetings: listen actively, make eye contact, offer opinions confidently, take up powerful physical space by leaning forward or spreading your hands

or paperwork on the desk. Body language is highly underrated.

3. Understand what you can't change

Focus your energy on the things you can change — yourself, your attitudes and the work you do. Remember, you can't change others, but you can display positive behaviour and attitudes that will influence others.

4. Become resilient

Don't give up easily. Keep working to get the agreement of others. If they're not listening, find out why and try a different approach, or just try again.

Now, some homework. Identify an important upcoming meeting that you have to attend. Review each of the four strategies above and prepare a written plan to use them in preparing for and executing the meeting. Follow the steps you've outlined to prepare for and run the meeting. In doing so, you'll improve your performance and conduct a meeting that is far more productive for everyone involved. **N**

This column is adapted from one of the modules in LawPRO's Online Coaching Centre (www.practicepro.ca).

Quote Unquote

How to lead professionals

"How do you help other people succeed and play as a team? Part of the answer may be about substance and content — they don't know what to do or how to do it — but this is rarely the biggest issue. Most often, you will be working with highly talented people who do know what to do and how to do it, but just aren't doing it.

"The causes may be numerous — fear, suspicion, lack of drive, attitudes, problems at home, or structural firm impediments — and you will find that most of the barriers have to do with feelings, attitudes and emotions. Your role, therefore, and your essential skill, will be to help people fulfill their potential by influencing these feelings, attitudes and emotions." **N**

From *First Among Equals: How to Manage a Group of Professionals*, by Patrick J. McKenna and David H. Maister (2003: The Free Press, New York).