

EMPLOYMENT LAW ALERT

November 2011

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- Executive Employment Agreements and Severance Packages
- Comprehensive Litigation Services

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'Tis the Season (For Holiday Party Liability)

By: Kimberly B. Malerba



As the holiday season nears, many companies are in the process of planning and hosting their annual holiday parties. These parties should be a chance to enjoy the holiday spirit, relax with coworkers outside the office and to celebrate a year of hard work. Holiday parties are a good opportunity for employees to socialize with supervisors and

managers on a more personal level and to build their reputation and network within the Company. Unfortunately, holiday parties can also be fraught with pitfalls for employers.

Employees often forget that holiday parties, even if they are held off of company premises, are work sanctioned events. As such, the Company's employment policies and the same level of professionalism expected in the office apply.

Most employers know not to let those attending holiday parties who become intoxicated get behind the wheel and drive home. However, what many employers may not have considered is that in this age of increased technology and access to the web, what happens that night may not only be fodder for talk around the water cooler the next day, but may be publicized on the Internet. First, most employees now have cameras on their phones as well as instant access to social media sites. Thus, that funny video made at the party of an employee mocking another employee may seem like a joke at the time, but it may not be so amusing to the employee once posted on Twitter, Facebook, or YouTube for all to see. Further, other embarrassing antics many not be well received by the company's customers. Simply stated, there are a variety of new avenues permitting inappropriate behavior to easily be broadcast far and wide beyond the company's walls. Remember, even if the company is not active in the social media world, you can be sure your employees are.

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With these potential land mines lurking, it is critical that companies review their employment policies to ensure that these issues are addressed in advance. Naturally, the company's workplace harassment policy should be reviewed and up-to-date. However, employers also should review their Internet, email and social media policies and consider distributing specific party-related memos prior to the holiday event that remind employees of the company's various policies. With recent decisions by the National Labor Relations Board narrowing the scope of allowable prohibitions by employers, it is essential that such policies be reviewed by counsel familiar with this area. Notably, the NLRB has ruled that a company cannot have a blanket policy prohibiting employees from making negative comments about the company and its management on social media websites. Accordingly, some advance thought on this topic will serve the company well to protect itself from the effects of employees' abusive conduct as well as from the NLRB.

New York Pay Notice Reminder

By: Jeffrey M. Schlossberg



All employers should keep in mind that in January 2012, employers must provide all employees (not just new hires) a Notice and Acknowledgement of Pay Rate. A copy of the respective Notice for hourly and exempt employees can be found by clicking on the following links: [Hourly Employee Form](#) and [Exempt Employee Form](#)

If you have not already done so, you should use the time now to consider the logistics of getting all employees to sign the Notices (in the appropriate language) and providing employees with a signed copy.

The Scoop: The Equal Employment Opportunity Commission issued a report this week announcing that job discrimination complaints have hit an all-time high; almost 100,000 in fiscal year 2011. The agency also reported that it recovered more than \$364.6 million in monetary benefits, the highest level in the EEOC's history. With the economy showing no significant signs of improvement, it is expected that this trend will continue.

If we can be of assistance on these or any employment law issues, please do not hesitate to contact us.


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