



**ONTARIO
BAR ASSOCIATION**
A Branch of the CANADIAN BAR ASSOCIATION



NUTS AND BOLTS

Volume 24, No. 1
October/Octobre 2009

Construction Law Section
Section du droit de la construction

4. Though 'Tis the Season to be Jolly, Reckless Partying Remains Pure Folly

Erin Kuzz*

Eggnog, latkas, parties galore and a whole lot of *beveraging*! Believe it or not, the holiday season is just around the corner.

Now is the time companies begin planning their holiday celebrations. There is no better time to incorporate some best practices into your planning to ensure that your guests arrive home safely, and your company's holiday celebration doesn't result in a costly hangover.

Long gone are the days when an employer's only responsibility was to make sure employees had a good time at the company holiday celebration – getting home was the employee's responsibility. Indeed, for some time now it has been settled law that where a guest at a work-related event consumes alcohol, drives and injures or damages someone or something, including the guest him-/herself, the host employer may be held liable by the court any for damage that is caused. Needless to say, this creates the risk of *significant* financial liability for employers.

According to the courts, it is simply not enough for a representative of the host employer to merely discourage a guest from drinking and driving; courts have made it clear that they require more active intervention. While this may place company representatives in an uncomfortable position when dealing with an intoxicated employee, the risks of not doing so are simply too high.

To protect your guests and others from harm, and your company from legal liability, consider the following best practices:

1. Ensure attendance at the party is voluntary.
2. Hire professional bartenders to serve alcohol; confirm that they have received specific training on spotting intoxicated revelers and how to handle them.
3. Provide non-alcoholic beverage options.
4. Avoid an 'open' bar; instead consider providing each guest with a limited number of drink tickets.
5. Ensure substantial food (i.e., not merely chips and pretzels) is served at all times alcohol is available.
6. Stop alcohol service two hours before ending the function.
7. Confront intoxicated guests immediately and cut them off; do not wait until they are ready to leave the party.
8. Do not inquire of the apparently impaired guest *whether he/she thinks they are able to drive home*; the worst person to ask for guidance in such a circumstance is the intoxicated person whose judgment is impaired; if you suspect someone is unable to drive do not allow them to do so.

-
9. Have a taxi chit available for every guest who requires one.
 10. Call a friend or family member to pick up intoxicated guest.
 11. Arrange for discounted rooms at the event location (if possible) or a nearby hotel.
 12. Under no conditions should you or your team allow anyone who appears intoxicated to get behind a wheel; if necessary, contact police for assistance.
 13. Contact your insurer to discuss appropriate insurance coverage for your event.

To learn more, please contact a member of Sherrard Kuzz LLP. Happy holidays to all!

** Erin Kuzz, Sherrard Kuzz LLP*
