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Considerations for Employers During the Holiday Season

The holiday season is upon us and, as employers plan work-sponsored holiday parties and approve holiday-related absences from the office, they should keep in mind some helpful tips to avoid liability. With regard to work-sponsored parties, remember that excessive drinking may lead to inappropriate behavior between guests which could expose employers to, among other things, potential sexual harassment claims. Employers should distribute their harassment prevention policies and remind employees that their obligations under those policies apply to company-sponsored events. Employers also should bear in mind that individuals, including non-employees, may attempt to bring potential claims against them for damages or injuries sustained by either themselves or their property because of an intoxicated guest.

Ideally, an alcohol-free holiday party is the safest type of event for an employer to sponsor. If, however, an employer chooses to make alcohol available to guests, it should explore measures aimed at preventing guests from becoming intoxicated. Employers, for example, may hire professional bartenders. They also may choose to place a limit on the number of drinks that guests consume by keeping track through some sort of voucher system. Ideally, the system should require the presentation of identification to confirm that the voucher being used was in fact issued to the particular guest seeking to obtain a drink. An employer also may consider making alcohol unavailable after a certain

hour in order to decrease the likelihood that a guest will drive too soon after having consumed a drink. If a guest is visibly intoxicated, an employer should consider arranging for a taxi service, family member, or friend to take the guest home; taking away the guest's car key if necessary; and/or calling the police if necessary.

With regard to holiday-related absences, employers should remember that they must reasonably accommodate an employee's sincerely held religious beliefs or practices unless doing so would impose an undue hardship. A reasonable religious accommodation typically entails, among other things, time off from work to allow employees to practice their religion.

Although holiday time is, for most, a joyous time of the year, for others it can be a catalyst for depressive emotions. To the extent employers have employee assistance programs in place, they should be prepared to distribute that information, as well as information about other support services, for any employees in need of such programs. We wish everyone a happy and safe holiday season. If you have any questions, please contact Farah Mollo at (212) 758-1078.

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747 Third Avenue
New York, N. Y. 10017
Tel: 212-758-7600
www.cfk-law.com