

September 24, 2013 /**24-7PressRelease**/ -- Sometimes an employer can be held liable if an intoxicated employee causes an accident

Article provided by Law Offices of W. Douglas Easton Visit us at <http://www.eastonlawoffices.com>

If a person is seriously injured or killed in a motor vehicle collision with an intoxicated driver, it may seem clear that the intoxicated driver is at fault. But what if, in addition to the driver, another party might be responsible as well? This can be an especially important question when the insurance policy limits of the intoxicated driver are insufficient to fairly compensate the injured party.

A recent California Court of Appeal case, *Purton v. Marriott International*, provides an example of how the employer can be held liable.

Drinking at the holiday party

In this case, an employee of a hotel attended the company's annual holiday party, held as a "thank you" for its employees and management. The hotel managers organizing the party decided that each attendee would receive two drink tickets, and the hotel would serve only beer and wine.

On the day of the party, the employee did not work and received a ride to the event. Before the party, he consumed both a beer and a shot of whiskey at home, but also brought a flask that contained approximately five ounces of additional liquor. At one point during the party, one of the hotel's managers had a bottle of whiskey brought to the bar, and the employee filled his flask at least once. Later, the employee returned home, although there was disagreement about whether he received a ride or drove himself.

About 20 minutes after he returned home, the employee decided to drive home a coworker who had also become intoxicated at the party. While driving at more than 100 miles per hour, the employee struck a vehicle driven by the victim, killing him. Following the accident, the employee had a .16 blood alcohol level.

Was the employer also at fault?

While clearly the employee was at fault, the hotel argued that it should not also be held responsible for the accident, since the accident did not occur within the "scope of employment" of the employee. Under a legal doctrine called "respondeat superior," an employer is generally only held liable for injuries committed by an employee within the scope of employment. The hotel alleged that when the employee left his home the second time, he was doing so for a reason unrelated to work, meaning that the hotel would not have been responsible for the victim's injuries.

In reviewing the lower court decision, the Court of Appeal noted that the hotel's purchase of alcohol for its recurrent parties on the hotel premises demonstrated that it considered the gatherings to be company activities that benefited the company by fostering company camaraderie. Liability could apply where the employee, due to the activity, became a danger to others, even where the danger might have manifested at times and locations remote from the ordinary workplace, such as immediately after he returned home.

Thus, the court held that the hotel could be found liable for the injuries caused by its employee, so long as the proximate cause of the injury--that is, both the actual and legal cause, which in this case was alcohol consumption--occurred within the scope of employment.

All responsible parties should pay

In the aftermath of a motor vehicle accident, it may seem clear that the intoxicated driver behind the wheel is at fault for the collision. However, it is important to remember that other parties, such as the driver's employer, may also be at fault, even if they are not behind the wheel or at the scene of the accident.

If you are injured by an intoxicated, reckless, speeding or distracted driver, seek the advice of an attorney with experience in motor vehicle accidents to ensure that all responsible parties are held to account for your damages.