

## Company found vicariously liable for brain injury caused after a Christmas party

*In Bellman v Northampton Recruitment Ltd [2018] EWCA Civ 2214, the Court of Appeal held a company was vicariously liable for an assault committed by its managing director on an employee after a Christmas party.*

The employee worked as a sales manager for the recruitment firm. The managing director organised and paid for a Christmas party for staff and their partners. After the party, he arranged taxis to a nearby hotel, where some of the attendees were staying, and those who went continued drinking at the company's expense. Discussions turned to a new employee, who was said to be receiving higher pay than others. The managing director began to lecture the staff on his authority and when challenged by the employee he punched him twice, causing a serious brain injury.

The employee claimed the company was vicariously liable for the managing director's assault. The High Court found that it was not, because the hotel drinking session was

entirely independent of the Christmas party and unconnected to the company's business.

The employee appealed submitting that there was a sufficient connection between the managing director's position and his wrongful conduct to render the company liable under the principle of social justice.

The Court considered:

1. what was the nature of the managing director's job; and
2. was there a sufficient connection between the managing director's role and his wrongful conduct so as to make the employer liable.

The Judge found that the managing director was the directing mind of the company with a wide remit. He did not have set hours and had authority to control his own methods of work. The responsibility for all management decisions, including the maintenance of discipline, fell to the managing director and



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he would have seen the maintenance of his managerial authority as a central part of his role.

The drinking session occurred on the same evening as the work event paid for and orchestrated by the managing director on behalf of the company. He was present as managing director, not merely a fellow reveller. His managerial decision-making having been challenged, he was purporting to exercise his authority over his subordinate employees. The attack arose out of a misuse of the position entrusted to him as managing director.

The appeal was allowed. In the circumstances, there was a sufficient connection between the managing director's role and his wrongful conduct, and accordingly the company was vicariously liable for his actions.

Employers should note that liability will not arise merely because of an argument about work matters between colleagues where one is more senior than the other. The combination of circumstances in this case was critical.

If you have any questions about the issues raised in this article please contact



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