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Employers Must Be Aware that Harassment Incidents Occurring during Business Social Events Could Lead to Workers' Compensation Claims

'Tis the season for jovial work parties among friends and colleagues and possibly for work-related injuries arising from sexual harassment during such events. Across the nation, many employers approach holiday parties and other business social occasions with trepidation, as sexual harassment claims are on the rise. With alcohol available at many parties and celebrations, comradery among colleagues could potentially develop into situations involving sexual harassment. Employers should be aware that in Pennsylvania sexual harassment claims by employees can give rise to work-related injuries via interactions with other coworkers, supervisors, or third parties.

In Pennsylvania, mental or psychological claims present an elevated burden of proof for the employee. Given this high burden of proof, these claims present a challenge for the employee to win but, if successful, an employee can be awarded wage loss benefits and medical benefits for psychological injuries under the Workers' Compensation Act. To support a psychological injury, an employee must show a work-related stress, such as sexual harassment, was caused by "abnormal" working conditions, as opposed to subjective, perceived, or imagined employment events.

Comment: As an employer facing such claims, there are specific actions you can take to prevent and handle these issues. Workforce education is an important tool to inform employees of actions that constitute sexual harassment. By making employees aware, employers can hope to lessen the odds of inappropriate conduct. Employers should devise and distribute plans for reporting sexual harassment incidents to prevent continuing conduct. Because psychological claims require the employee to demonstrate an abnormal working condition, each case varies and is extremely fact specific. If a complaint is made, we recommend conducting an early, thorough investigation by taking statements from witnesses regarding the incident. Fact witnesses are key should the case go into litigation.

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