Employer Could Be Liable For Employee Alcohol at Holiday Party

A decision by the California appellate court in the *Purton v. Marriott Int'l, Inc.*, 218 Cal. App. 4th 499 (2013) case makes it possible for an employer to be liable for the actions of an off-duty employee. In this case, the off-duty employee committed vehicular manslaughter while driving drunk.

Marriott was found guilty in the wrongful death of Dr. Jared Purton who was killed by one of its employees, Michael Landri, in a drunk driving accident after Landri left the Marriott company's holiday party.

Marriott did not mandate its employees to attend the company holiday party. Landri was employed as a bartender at the Marriott hotel. Landri, who did not work on the day of the party, drank at home before arriving at the company party. Also, Landri took a flask to the party, which he estimated held about five ounces, filled to some degree with whiskey. Landri re-filled his flask with more whiskey from the bar at least once during the party. At approximately 9:00 p.m., Landri left the party and drove (or was driven) home. Landri did not drink any more after leaving the party. After arriving home safely, Landri decided to get back on the road to drive another intoxicated co-worker to the co-worker's house. The second time Landri left his home is when the fatal accident occurred. After leaving his house, Landri drove with a blood alcohol level of 0.16, and rear-ended Dr. Purton's vehicle at a speed of approximately 100 mph. The accident resulted in the death of Dr. Purton.

The debate centers on whether the Marriott should be held responsible since Landri made it home safely after the party first and then killed Dr. Purton after leaving his house again. The fact of whether or not he was within in the "scope of employment" when the fatal accident occurred came into speculation. The appellate court found that Landri's actions did fall within the scope of employment.

The trial court granted Marriott's motion for summary judgment on the ground that Landri was not acting within the scope of his employment at the time of the accident, but the Court of Appeal reversed the judgment, holding that "a trier of fact could conclude the party and drinking of alcoholic beverages benefited Marriott by improving employee morale and furthering employer-employee relations… [and] that Landri was acting within the scope of his employment while ingesting alcoholic beverages at the party."

The fact that Landri arrived home safely before leaving his house again did not cut off Marriott's liability as a matter of law. *Compare Rayii v. Gatica*, 2013 WL 4446778 (Cal. Ct. App. 2013) (judgment affirmed where jury found negligent driver was not acting within the course and scope of his employment at the time of the accident). To have avoided the ordeal, the court suggested that Marriott "could have eliminated the risk by forbidding alcohol" at the annual holiday company party.