



## Season 3, Episode 17: “Jingle All the Way to January: Holiday Season Must-Dos for Employers, Part 1”

Speakers: Lee Jacobs and Rosemary Enright, Barclay Damon

**[Lee Jacobs]:** Hello, and welcome to the latest episode of Barclay Damon’s *Labor & Employment Podcast*. And this episode is Part 1 of “Jingle All the Way to January: Holiday Season Must-Dos for Employers.” My name is Lee Jacobs, a partner here at Barclay Damon, and it is my pleasure to say hello and welcome back, Rosemary, to the show. How are you doing, Rosemary?

**[Rosemary]:** I am great, Lee, and I’m glad to be back. Sorry, gang, I ...you know, I had to take a brief little hiatus there, but. But I’m back now, so you’re stuck with me.

**[Lee]:** I got to tell you, Rosemary, it was so difficult manning this endeavor without you over the last couple of episodes, just talking blankly into a camera was very lonely and not as fun. Not as much fun as we have, I know, together when we do these things. So again, welcome. Welcome back.

**[Rosemary]:** Thanks. Thanks.

**[Lee]:** So, listeners, where we are today, this is part one of our season finale. What we’re going to be talking about during today’s episode and the next episode that comes up are what you should be doing and thinking about now for the end of year. Today, we’re going to be talking about holiday parties, some do’s and don’ts as it relates to that. And then our next episode is going to be talking about some year-end things that you should be thinking about, such as PTO/vacation policies and making sure that your pay policies and W-2s and things of that nature are all lined up. So you’re good to go for the new year. But as usual, and since Rosemary is back, we took a break from this when I was solo. We’re going to do some fun facts of the day. So Rosemary, going to kick the ball over to you first. What’s your fun fact of the day?

**[Rosemary]:** All right. Well, I got to say, you know, I love the title of our ...of these episodes, Jingle All the Way to January. So it sounds like wait for it, a Hallmark title. So for those of you that don’t know that the Hallmark does holiday shows and they have already started. They started in October and they’re every single night from now until ...for people who celebrate Christmas through Christmas. And I love those shows. It’s a great way to unwind. So this year, first time ever, Lee, Hallmark is doing the “Hallmark Holiday Experience.” Yes. And so Hallmark is based out of Kansas City, Kansas. That’s where their headquarters is. They are doing every weekend starting the weekend after Thanksgiving. So Friday, Saturday, Sunday, they are doing the holiday events based on the holiday shows. Now, if any of you have never seen a Hallmark show, generally what happens is someone returns to their small hometown from the big city because they’ve lost their job. They come back and they move back in with a parent, and they run into... on the first day, their high school sweetheart, who also happens to be single. That high school sweetheart will own either a Christmas tree farm, a bakery or an inn. And the story goes from there. So it’s very simple. But they’re just fun. And so anyway, they are going to... and there’s a Christmas tree lighting and there are reindeer games, everything and every show. They’re doing all of that at the Hallmark experience every weekend. There will be reindeer games, there will be a tree lighting, there will be holiday eggnog, drinks. They actually have an inn because again, there is always an inn featured in one of the holiday shows. So we are going the second weekend because they have

different stars I'm sure you're all thinking "stars, Hallmark"; that's an oxymoron but it's not bad. So we pick the weekend with some of my favorite stars. So that's my fun fact. I will be in Kansas City, Kansas, having a Hallmark experience.

**[Lee]:** Well, that I you know, I have seen a few of those movies and they are very heartwarming. And I will admit that I may have shed a tear or two while watching them. They're just good. They're wholesome and good. Yes. And speaking of wholesome and good for those listeners, you know, I shared this probably earlier in the year or maybe even around this time last year. I am a theme park enthusiast. So a couple weeks back, me and my friends, we went to Universal Studios in Florida, and we did Halloween Horror Nights again. So a 43-year-old grown man with the other group of 40-year-old grown men were running around the theme park with a bunch of kids screaming way into the night 2, 3 o'clock in the morning at these various haunted houses. And it was a blast. I find it very cathartic because very few places can me, as a big, big guy, can just scream at the top of my heads off and people laugh and smile rather than run away with fear.

**[Rosemary]:** Yes, exactly.

**[Lee]:** It was it was super fun. And I... if you enjoy those kinds of things every year, they keep getting better and better. But before we go on for a quick moment of personal indulgence, I want to congratulate you, Rosemary, and you don't know what I'm about to say.

**[Rosemary]:** I do not.

**[Lee]:** But I want to congratulate you for those listeners. And we know that we had a whole bunch of you that had attended our Labor and Employment Symposium that Barclay Damon had hosted about two weeks ago from the time that we're filming this episode and Rosemary put this together, hosted it, emceed it, got a keynote speaker, Maureen Kelt, who is the EEOC director for the Buffalo office. And we had about 150 people locked in a room voluntarily listening for hours upon hours about various different L&E, labor and employment topics. And I think it was a smashing success. And I just wanted to congratulate you, Rosemary, for putting that on, getting it all together, because I know I had a great time. I know my clients that were there had a great time, and it was... I look forward to the next one that we're going to be doing next year. So congrats again, Rosemary.

**[Rosemary]:** Oh, my God. That's... I did not know you were going to do that. Well, thank you. Lee. Thank you. Lee. Yeah, it was it was a lot of work, but it was a lot of fun. So, and I hope those of you who are listening, if you didn't join us, please plan on joining us next year. And, and if you have thoughts on something you'd like us to cover, let us know. So but thanks, Lee. That's great.

**[Lee]:** And we're going to be, in the next couple of weeks, in addition to this episode, the wrap-up episode we're going to be posting on our website clips and other snippets from that symposium for those of you that want... that were there and wanted some backup materials and those of you that couldn't make it, you'll be able to join us after the fact. But for those that came, thank you. And we look forward to seeing you all again next year because it was a fantastic, fantastic event that Rosemary put on for all of us. Okay, so holiday parties, Rosemary. Right. That's what we're talking about first here. So, when I think of holiday parties, I think of, you know, unfortunately for better or worse, the bad things about holiday parties. About how they always go awry. And that's because people are people. And when you add some alcohol and some after hours, and people have been working all year and they want to blow off some steam, just some bad things start happening. But I think if you listen to what we're about to tell you, we can help you through it and hopefully let you jingle all the way successfully to January.

**[Rosemary]:** That's right. That's right. And I just have to say, when you were talking about parties, just quickly, as everybody knows, Lee and I both really like movies. Wasn't there a holiday party featured in "Die Hard"? Like, weren't they all? Yes. So, so think about "Die Hard." And the other one is, I think it was "Office Party"

with Jennifer Aniston and all that. That's a holiday party. Now, hopefully we don't have to deal with any "Die Hard" issues. But seriously, that's why they make movies about it, right, Lee. I mean, that's why they make those crazy movies, because reality is often better than, you know, what is the saying? Reality's better than fiction or whatever.

**[Lee]:** I think so, and it's because what happens in reality and truth, we wind up and we hear of all those horror stories about one person who had too many drinks. And then this happened, and someone said the off-color comment, and someone felt sidelined and discriminated against. All of these things happen. But there's a there's a way forward. I mean, I think the first thing to talk about is—note that what we're calling it a "holiday party." Right? And we're not calling it a Christmas party or a Hanukkah party or whatever party. It's a holiday party, an end-of-year celebration, something that is neutral and inclusive and welcoming to everyone else. So start there from the very beginning because you don't want to sideline anyone because of what they do or don't celebrate at the end of the year and you know... but Rosemary, what are your thoughts about holiday parties inviting plus ones—spouses, partners, boyfriends, girlfriends? Do you have any thoughts on that? Should holiday parties do that? And if so, what do we call the others that are being invited?

**[Rosemary]:** Yeah, well, you've said it perfectly. Plus one I'd stay away from, you know, boyfriends, girlfriends, husbands, wives, because we don't know what anybody's... what their personal situation is, you know? And so and that's even, how people identify, how the person with whom they spend their time identifies. We don't know any of that. But the other thing is there are individuals who may... they may be solo. Right. And so you just say bring a guest, bring your guest whoever you want to bring. Bring a guest. And I'll tell you, I'm okay with holiday parties and including guests. So our firm does...I think it's like we'll do two years where it's just, you know, the staff and the attorneys and then maybe the third year, it's where guests, you know, guests are invited. And I think that's a nice thing to do. I know it's not required, obviously, by any stretch of the imagination, but sometimes. So you get more participation, right. Because someone says, oh, I can come with my guest. Yes, I work with all these people, but after hours, do I really want to spend that time? Or again, if it's someone who's a little more solitary, they may think, you know, it's hard for me, the social stuff. So I like the idea of including a plus one, and I would call them a plus one or a guest.

**[Lee]:** And I agree with that. And it's hard. It's hard. And you've got to think of, unfortunately, the right terminology. And it seems like we're being the P.C. police here by first telling you to call it a holiday party versus a Christmas party, even though we all know what it is. But as an as an aside, I have a... one of the people that I am very close with that I've known since I was in sixth grade. She's a teacher in Amsterdam. And they... in that part of the world, they're even more sensitive to the terminology and the words that they use. They don't call parents "parents" anymore. They call them guardians, because it may not be the that like the guardian-teacher conference, because the person who shows up may not be a parent. It could be a grandparent.

**[Rosemary]:** Oh, that's true.

**[Lee]:** It could be an uncle. And for young child, they're saying, yeah, this person who loves me and takes care of me isn't my parent. They're my grandparent, they're my aunt, they're my uncle, they're my adoptive this.

**[Rosemary]:** Yeah, my older sister. Right. That or my older brother.

**[Lee]:** Yeah. So, you know, words matter, and you may not think about it until you hear that one exception. And here for that one person who could feel sidelined and marginalized during the holiday season, let's be inclusive. Let's get everyone to get there, because that's the point of the party, is to celebrate everyone's hard work. So you get everyone there in a happy and joyful way. And on the other hand, do you even need to do a holiday party, right? That there's no requirement to do a holiday party under any stretch of the imagination but try to get creative. I know that one of the most rewarding things that I did this year as an attorney at Barclay Damon, was we worked at a local food bank and we served food to homeless people and to people who were...

had food insecurity. That three-hour service project was, like I said, one of the most rewarding things. So, you know, if you don't want to have a holiday party, do try to think about things to that nature where you, you and your staff can give back because having a drink and some free food may make you all... may make you feel good. I mean, that may not be the only thing that makes you feel good. So try to be creative and see other ways that you and your staff could help and have a meaningful impact.

**[Rosemary]:** Yeah, and you know, that's... I couldn't agree more with that, Lee. And you know, what's interesting is that a lot of places look for... like so here in Buffalo at the Buffalo City Mission which is big... they... right before Thanksgiving have people come in and help cook the meals and so a bunch of us went there and I mean, we were in charge of sweet potatoes, which was not fun, by the way. But we did the whole, you know, the side, the sweet potato side with the marshmallows and all of that. We spent several hours, and we had fun doing it, you know, because you're all chatting and all of that. But then you know that someone is having a fabulous meal. All right. Fabulous, maybe an overstatement, but it's very good. A good meal on Thanksgiving. So you're absolutely right. You know, the other thing is a lot of the donation centers need people to help come in and sort because they get so much at... during the holidays. That's another thing. Take a whole group. So I think your point is spot on, spot on, Lee, that sometimes it's more enjoyable and more, you know what do they say "the reason for the season," you know so for the season you know giving back and helping those who maybe not as fortunate as any of us.

**[Lee]:** And I think, again, that was the first time that I've ever done something like that in my life. And it's something that I'm committed to be doing more often because it stuck with me. And I think if you as a business owner, you did that for your employees. It sends a really good message and perhaps you do that in addition to the holiday party or a substitution for it, what is that showing the commitment that you have to not just your staff but to the community that you serve. I think that's a good idea and something for people to think about. But, you know, and the next topic, Rosemary, that I want to guide us towards is dress codes on holiday parties.

**[Rosemary]:** Yep.

**[Lee]:** So you may have think of a scenario where you've got a casual work office where people don't have to get dressed up or you do have, on the other hand, a very strict environment where people do get business attire for work. And now you have a holiday party that's either at a fancy, ritzy-ditzy place or you have a holiday party that's at a... with all the love in my heart, a dive bar, right. How, how do we manage dress codes and should even be thinking about those types of things? What are your thoughts on that, Rosemary?

**[Rosemary]:** Yeah, well, so, you know, so what I would say is, you know, it's interesting. The way I would tee it up is I would say, all right, so you decide to have a holiday party, so you got to send the invitation out. We know we're going to call it a holiday party or an end-of-year celebration or something. But as you said, you... and we're going to do a plus one or a guest. All right. And what do you do with this dress code.... So what I would say and we have personal experience with this, with a client, they were holding an event or they're going to be holding an event at a club, at a country club. And the country club has a dress code. And the country club innocently provided the dress code, and the clients sent it out. And the dress code said men must wear this and are not permitted to wear that and women wear this... and immediately it was problematic, and I wasn't aware of it and it was done. And then some people came forward and said, hey, and they were uncomfortable because as we all know, we've had discussions around this. Not everyone identifies as male or female, right? And so if there is a dress code that is required, I advise that you simply say this is what is permitted. So a suit and tie or a sport coat with this type of shirt or a dress or a skirt and then let someone decide, all right, this is how I identify. So these are the types of clothes I wear. So this is what I will wear to this event. And so get away from... if you happen to be. Most restaurants do not differentiate. But a lot of times you've got employers who are saying, oh, let's do it at the local country club, and then there are there are dress code requirements, but stay away from talking about or differentiating between genders or sexes. So that would be my comment on the dress code.

**[Lee]:** I think that's spot on because the rule here that everyone needs to remember that even though we're having a holiday party at the country club or the dive bar or wherever, the same rules and procedures that you have in your day-to-day life in your business, in your office, in your wherever, apply when that party is going on. So that's a theme that we're going to be jumping into here now as we continue to talk the talk through these ideas, because where we're headed to now are where good intentions, everyone having a good time can quickly go off course and cause a lot, a lot of problems. So the first thing that I want to talk about is actually a... I'll tell a story and then see, Rosemary, your reaction to it. So at a prior job that I had, we did Secret Santa—and Secret Santa, for those that don't know, that's where you pull someone's name out of the hat and you have to pull... and then give that person a gift. One year someone gave somebody a roll of toilet paper.

**[Rosemary]:** Oh, that's awful.

**[Lee]:** Awful, awful.

**[Rosemary]:** Yes.

**[Lee]:** But there were no guidelines. There were... there was nothing that the... that my prior employer said. There was no minimum number dollar that you should be spending no maximum dollar, that you should be spending. I... the cause of that I have been burned by not me personally, but I have been burned by the notion of having employer-sanctioned gift giving activities, whether it be Secret Santa or that swap thing where you're able to.

**[Rosemary]:** White elephant?

**[Lee]:** White elephant. So what are your thoughts on those of having employer sanctioned gift giving activities?

**[Rosemary]:** Yeah, I would. I'm not necessarily a fan. I think it's undue pressure. Makes people uncomfortable, like the toilet paper roll. Like what does that even mean? What message are you sending? So I think for me, if you know employees like Lee, if you and I wanted to exchange something, I'm fine with that. But an employer-sanctioned...Oh, okay. Everybody put in their name. You know, I'm not a huge fan of that myself, but I. You agree?

**[Lee]:** Yeah, yeah, I agree completely. Because someone you know, there's going to be someone who's going to throw in a big wad of cash and try to impress everyone, some other people can't afford it. That does it just leading to all levels of, I think, hard feelings and hurt feelings. So don't make it an employer-sanctioned event.

**[Rosemary]:** That's I agree.

**[Lee]:** That's how I think about it.

**[Rosemary]:** Yeah, I agree. Yeah.

**[Lee]:** Okay. Alcohol. This is a big one here for our holiday parties. Do you as a baseline, at a holiday party, do you think alcohol should be served, Rosemary?

**[Rosemary]:** See, this is so hard, Lee. We labor over this this question so I'm ...so I don't want to pass judgment. So what I'd say is yes, it's a holiday party. You're going to serve the alcohol. But I'll tell you right now, I'm going to cut to the chase everybody. Lee and I, we don't have some silver bullet for you here. Like we've heard it all. We're going to give people tickets, and everybody just gets two tickets and that's all they can drink. But you know what? They can step over to another section of the bar and, you know, or the restaurant, wherever you are, and they can get more drinks. All right. We have them say we're only going to do wine and beer. Well, you can have too much to drink with wine and beer and end up with bad behavior. So



I just think, you know, there is no good answer other than, you know, putting it, reminding everyone that, we expect them to be responsible. And Lee and I are going to talk about some of the different things you can do. But, not that you necessarily need alcohol, but it's an end of year. It's a celebration. I don't I don't have an issue with people doing it. You just have got to be aware of the... all the pitfalls.

**[Lee]:** Yeah, I think that's right. Staff members will probably expect there to be alcohol. And if there isn't alcohol, they're going to well, first: no matter what you do as an employer on a holiday party, you're not going to please everybody. So that's just number one. So just accept that as a given in this equation. But I think it's one, you got to know your people, know your staff, and understand what they want... so and what they can handle to a certain extent. So these are what I've seen people do over the years to help prevent it. So ultimately, what we're trying to prevent is a couple of scenarios. You have your staff that are now liquored up because of you and they're drunk and now they're drunk driving. You have your staff that are liquored up because of you and now they are inappropriately touching one another and saying inappropriate things to one another. You have your staff that are liquored up because of you and then they continue on to another bar down the street and then they continue drinking. Then they do even more inappropriate things with one another. It's just a recipe for a disaster, as I see it. And those disasters probably will happen even if you put all of these mitigation steps into place. So what we want you to hopefully get from this, the message that we're trying to impart is, is prior proper planning prevents poor performance so that if there are.

**[Rosemary]:** Everybody uses that Lee give them those, give them.

**[Lee]:** Prior proper planning prevents poor performance. You can figure out what that other is. But that seven Ps you can get with the other P is by the Ps. Proper planning prevents poor performance. So it's... so these things, so if something does happen, the inevitable does happen. You can show that you took some steps to try to prevent it so that you had some good intent to protect your staff and protect everyone that was at the party. So the first...

**[Rosemary]:** Can I start raising that just before I forget, because I know we're going to talk about some different things. Just quickly, one of the things that I've had several clients do so that some of the senior leadership, they'll say to them, senior leadership, we're going to ask that you not partake all right. And in fact, you're kind of the, we'll use another "p," I'll say police, but that's too strong a word.

**[Lee]:** Chaperones.

**[Rosemary]:** But yeah, that's the better word. You're the chaperones. It's like the parents at the school dance, right? So you're just kind of the bad... and you're not there to ruin anybody's good time, but you're paying attention. And if it looks like someone may overserved you, you intervene. But that's a whole 'nother discussion. But, I mean, but that's something, you know, I like the idea of just having chaperones that are kind of keeping an eye out for what's going on. I just wanted to throw that out.

**[Lee]:** Yeah, that's exactly where I was going to move to. I got the next topic on our discussion is, is that prepare for the party. Prepare for the party. Talk to your managers, talk to your supervisors, talk to your staff. You know, without being a grinch, the message should be sent to your staff: This isn't a frat party that we're about to embark in. You know, this is a holiday party where we want you to relax, kick back and have fun, but also not get drunk and act inappropriately. And remind your staff, just because we're at the country club or the bar or a local restaurant, the same rules apply. No one, this sexual harassment, sexual discrimination, inappropriate touching, jokes, slurs, etc., etc. all still apply. And I and... Rosemary, I couldn't agree more. Identifying those that... because there probably are people in your staff that don't drink anyways for whatever reason it's good for them to be chaperones. And if senior management sets the example, if senior management is getting drunk and sloppy and stupid, your employees will get sloppy and stupid, and I can think of them. We're going to save them for the end, but we're going to have a bunch of holiday horror holiday party for you all to hopefully learn from.

**[Rosemary]:** And Lee, if I could add one thing, you know, when Lee's talking about, you know, the sexual harassment and that at these parties, remember... and I think Lee and I've talked about this on another episode but anything that occurs outside the workplace between employees or let's say, you know, a client or a customer or something, if it can affect the workplace, then you as the employer are on the hook, right? So and so that individual. So that's why we're making this point. Someone is made uncomfortable at one of these events and they come to you. They, they the response is not well, you went to an after-party or, you know what, it was after hours. Or it wasn't on company property. You know, none of those are the right answer. Those are all the wrong answer. So any activity that occurs that can negatively impact the workplace, we need to conduct an investigation and take whatever remedial corrective action needed. So that's why, you know, Lee keeps making that point because, again, I can't tell you how many times, you know what, Rosemary, our party was from 4 to 6 and we didn't serve alcohol. And a bunch of people went to an after-party and started drinking. And then this happened. Okay, well, you know what? That's going to affect the workplace. Yes, I know that was not a company-sanctioned event. But if one of your managers touched someone inappropriately or made some derogatory joke about someone's national origin, and often I've had this happen, Lee, where it's not even any of the people who are standing there, somebody just starts telling jokes, you know, that off-color jokes that aren't particularly specific to or targeted to the people who are standing there, but they're offensive. It's no different than the workplace, because now those people feel uncomfortable with this person, and they now have to face them in the workplace.

**[Lee]:** It's the... so again, you know, why do the holiday party? Go to the food bank. Sounds so much easier in many respects, less risky, and people will still feel warm and happy. But speaking of warm and happy, how to manage alcohol intake. So, Rosemary, you alluded to a couple of these things and different things that you can do. So obviously there's open bar, you know that concept. There's a cash bar. Have your employees pay for it? You know, they could pay for themselves for the alcohol. You know, your staff, you know what type of message that will be sent. Then there is the ticket system where you can give your employees a set number of tickets, what they can then use to get alcohol. I will fully admit years past for me, if you control the tickets or you're friends with the person who has the tickets, you're going to get more than two tickets.

**[Rosemary]:** That's right.

**[Lee]:** You just will.

**[Rosemary]:** And somebody who doesn't drink is going to give you their tickets.

**[Lee]:** So, so good intentions may go awry very quickly. Rosemary was exactly right about beer and wine. Yeah, you may not... it may take longer to get your staff drunk, but they can still get drunk and get sloppy. And then there's something else to think about when there's... people tend to act on their best behavior, when their significant other when their plus one is around as well.

**[Rosemary]:** That's true. Oh, great point, Lee. Great point. Yes.

**[Lee]:** So that's another that's another strategy to think about that your staff will probably act better if they've got their spouse with them. They're less likely to get sloppy and messy if they've got their significant others with them. So think about all of those things. In addition to having chaperones and people watching. And if someone needs to be cut off, they need to be cut off because so many bad things can happen as a result of it. So things to think about as you're planning your holiday party just very briefly. Right. You know, there's different considerations based upon geography of where you are. So like, if the holiday party was here in New York City where I am, this is an easy thing, right? Everyone is... can get easy access to the subway, easy access to an Uber, to a taxi, whatever it may be, so that I don't have to worry about my staff who are necessarily getting behind the wheel of a car. So that's not something that's at the back of my mind. But Rosemary, for you, where you are, and I could see from out the window you today in lovely Buffalo today. Yeah. How do you how would you advise your clients about choosing a location for a holiday party, is that part of the calculus at all?

**[Rosemary]:** You know, it's a little bit and I'd say you do have to factor it in because there are also some people who are using public transportation. Right. And they don't have a car. And if they can't, if you put it in some remote place that isn't accessible, how are they going to get to it? So, yes, they could carpool or something. But generally, I'm just trying to think—I would absolutely think about where how are people going to get to this, to our end-of-year celebration? And where is it in relation to where a lot of our people are based, which is why a lot of times for a while, a couple of years, our firm actually did it here, right? So up in our we have a big, beautiful lobby and we had them cater and everything and you know, and, and ultimately then as we got bigger and bigger, we couldn't do that anymore. But who knows, depending on your office location, I mean, yes, it's nice to go out, but if you have a beautiful spot our Syracuse office has a beautiful outdoor balcony or terrace now again, Syracuse in December, you I don't want to do that. But seriously, you know, you know. No, you know, different things. I mean, you may have a beautiful atrium that you could use, so but yeah, that is something I try to keep and I would encourage people to keep in the back of their mind because of the driving, the drinking and driving. But also for those individuals who don't have cars and need to use public transportation.

**[Lee]:** And I think and if you've that you should keep in mind that if you are going to have alcohol and it is going to be off-site and your staff are drivers who rely upon cars to get to and from where they go build into your budget, build into your process, an Uber ride home for everybody. Something to that extent. Because if an employee gets behind the wheel of a car and then something bad happens, who are they going to blame? You. Whether or not they will win in any form that they fight, it's irrelevant. They will blame you for the reason for why they were drunk, got behind the wheel of a car and then did whatever they did.

**[Rosemary]:** And then you've got to deal with it. Like you said, whether or not they will prevail is a whole 'nother question. But you've got to deal with it.

**[Lee]:** Like if everyone like I think it would be, you know, then you've got to be thinking about the message that you're sending right. On one hand, drink responsibly and everyone would be safe. But here's also a \$25 voucher for everyone to get an Uber home. You kind of send two conflicting messages.

**[Rosemary]:** It's really hard. I mean, it's really hard. You're probably all sitting there saying, how is this helpful, Rosemary and Lee? Well, you know, unfortunately with this, we can't give you that that single answer. It's this is more of a... sit down with your management team or whoever the planning committee and figure out what makes sense for us and our work force, you know, and go from there, I think don't you Lee because I mean, that really is like you said, that it's brilliant. It's a mixed message that you're sending.

**[Lee]:** Every staff is going to be different. You know your staff much better than we do and what message they're going to receive and more importantly, what messages they're going to follow. So, and then perhaps you have those chaperones that are available watching, ready and able to prevent people from getting behind the wheel of a car. Or you have, if you're doing an offsite, you know, rent a bus or a transportation service that takes everyone from your office or wherever it is to that place. And then we'll take everyone back to your office. So there are no expectations, no issues with getting people to where... to the party or home from the party, and then hopefully on their way back from the party on that bus, they can sober up a little bit if they were overserved and then be able to continue home on their own. And then this is something that's come up in the past for me. It's offsite... continuation of the parties. You can't control what your staff does, obviously, once the party's over. But I've seen this come up with a number of clients here in New York City where there'll be a party at a restaurant at one end of the block. The party ends at 11:00 and then everyone just goes across the street to a bar and the drinking continues. I would make it very clear that in all of your invites, your documentation, the messages that are being sent, that our party ends at 11:00. Goodnight, goodbye. Do not like give a call over to the bar across the street and give the company credit card and give everyone another drink. No matter how good of a time you had. And the party is over at 11. Goodbye. Thank you. We're done. That's it.



**[Rosemary]:** And no wink and a nod, you know. Which is the other thing. Oh, there's this fun bar over there. I'm going to go over there. Maybe I'll see you there. And don't... none of it. None of it. Because we... I had a client who had that. There was an after-party. Everything was fine at the party. They went to the after-party and everyone could see one of the senior managers talking very closely to a much younger new hire and put the hand in the small of the back, different things and, you know, take it from there. We then had, you know, the next day, three young women come in and complain, file a complaint, had to do a full investigation. I mean, you know, and the group had called ahead, right. And said, we're coming over, how late's the bar open. So it's... no good ever comes of that.

**[Lee]:** And I think that that that probably segues into the holiday party horror stories in a good way... or a bad way. So I've got two horror stories. The first one was I had a client who hosted a party at her, the owner's, beach house in Fire Island.

**[Rosemary]:** Oh, this is not going to end... that just right there. You don't even have to tell us anything more. Go ahead, Lee.

**[Lee]:** So beach house in Fire Island and the business was based in Manhattan, and there is no good, reliable transportation to get you to Fire Island. So what she did and she happened to own a Mercedes transport van like one of those 1624 vans, she piled everyone in and drove ...drove them to the holiday party. Nothing bad happened. Right. But they got into a car accident on the way to the holiday party. Someone T-boned the van on the way to a holiday party. Alcohol wasn't involved. No sexual harassment, no sexual discrimination, no rude jokes. But you had a lot of hurt employees that were in a van that was owned by the company that was driven by the owner. Is this worker's comp? Who's insurance? What's this? What? No good deed goes unpunished.

**[Rosemary]:** Wow. That's a good one, Lee.

**[Lee]:** You know, second story. So in that scenario, if you really want to have it at your house, which I would say you wouldn't, because now you're going to have bad things potentially happen at your house. But if you really want to have it at your house or have it at an offsite, get a third-party independent company to do it. You don't do it. You don't do the driving, have someone else do. It was a professional who has insurance and all those other things that are prepared for it, not necessarily you and your insurances and things of that nature.

**[Rosemary]:** And don't have your significant other pouring the drinks. Yeah, you know all of that and your house.

**[Lee]:** I... because who knows what could happen at these holiday parties and this is a sad, sad story about... you may be saying to yourselves Lee and Rosemary, you're just being overcautious, you're being holiday grinchers. But unfortunately, our clients' hands have been burned so many times over the years. So in February, a female employee comes forward and reports that something terrible had happened to her after a holiday party. The series of events were that there was an open bar at the holiday party, at a bar on one where the holiday party was, and that she continued to drink thereafter with some of her coworkers at another bar where there was a wink and nod. We'll see you there. Call ahead, the company put a credit card down to buy everyone one round of drinks, and... terrible. She alleged that terrible, terrible, terrible things happened to her in the bathroom of that second bar and then later that night at a male colleague's apartment. The facts of the case, when we were able to get into the evidence and things that were happening there, was that she... when she was left the holiday party that was endorsed and hosted by the business, she had to be... on video. The cameras were still there because she filed a police report in February when the cameras were kept for 90 days, we found that she was literally... had to be held up by two people to be walked out of the bar.

**[Rosemary]:** Oh, my heavens, Lee.

**[Lee]:** And the argument that was made there and which was very, very true, if the camera could see it, if two people had to hold her up, how did you, supervisor, how did you, manager, or how did you, owner, how did you not see this? How did you not know this was going down?

**[Rosemary]:** Right?

**[Lee]:** Terrible events where there was criminal liability for the man who did it was alleged to do things to her and civil liability to the business that condoned and allowed her to be drunk and as was said, to be carried off to another party where she was fed more alcohol and things happened to her in the bathroom and then later at the man's apartment.

**[Rosemary]:** Oh, my gosh.

**[Lee]:** This is why I say no alcohol. Go to the food bank.

**[Rosemary]:** Yeah, there you go. Yeah. See, so I didn't know that story, but, you know. But, but that... to your point, we started this whole thing off when you asked me, what do you think about alcohol? And you saw me kind of, you know, fumble with my words. It's really hard to know what to do. Right. Because people look at it like, come on, it's an end of year party. We can have one drink or two drinks and, you know, but then you end up with this, Lee. It's just it's very hard, like you said. So go to the food bank, go to the homeless shelter, go to the donation center. You know, the other thing is there are places, there's a place here in Buffalo that you can go and build bicycles. Now, I don't want to build a bicycle that any of us built, but I mean, but they regulate it. Think of all the kids who get bicycles during the holidays, you know, do that stuff.

**[Lee]:** Do you have any horror stories where clients whose hands have been burnt being from the goodness of the holiday season?

**[Rosemary]:** Well, I told you about the one that we ended up with the with the harassment and had to deal with that. There was one. And this interestingly, it was not a holiday party in December. It was one around the 4th of July. Still a holiday. And this particular employer took all the managers out on a... and they're big, like, boat. I don't know if it was a sailboat or a speedboat, but they all were out there. Alcohol was consumed and they were in the sun. And that's a terrible combination. And a woman had a lot to drink, and she was feeling hot and literally took all of her clothes off and dove overboard into the water. And so not good.

**[Lee]:** Alcohol. Alcohol and employees don't mix well.

**[Rosemary]:** That's right. That's right.

**[Lee]:** They just don't. But with that being said, there is a way that we are confident that you, with your staff and your management, can figure out a way to chart the course so you can jingle all the way to January with happiness and good fortune and merriment. Even with alcohol, if you set appro...even with alcohol, if you set appropriate expectations, guidelines and monitoring because it can be done, just do it the right way. Just a little forethought. Yeah. Or any other closing thoughts, Rosemary from you on holiday parties before we wrap this episode up?

**[Rosemary]:** No. Other than, you know, the only thing I'd say, Lee, and it's and somebody will think, well, how is that that a party, Rosemary? But, you know, all the professionalism and the respect, everything that you expect in the workplace should be the same, you know, at your holiday party. Right? It's no different. The standards of conduct carry over. It doesn't matter that it's after hours an offsite, it's a party. None of that matters. And so if you keep that in mind when you're planning, when you're sending the invitation, when you're picking the location, when you're picking the foods, I mean, it sounds crazy, but you even have to pay attention to that. All right. Because there are people who, for religious reasons, don't eat certain things. So, I mean,

there's lots of different things going on here. But they're all things that you think about in the workplace. And I think they carry over when you're planning these parties, Lee. So I think that's what I what I'd say.

**[Lee]:** If you do that, you will jingle all the way to January.

**[Rosemary]:** Exactly. Exactly. Yeah.

**[Lee]:** So with that, we thank you for listening. Stay tuned for part two of this episode where we are going to discuss end of year thoughts and wrap up things that you should be taking into account with payroll and getting ready for taxes and bonuses. What do you do with end of year bonuses and how to distribute them and maintain policies of the like? And we ask you, as always, please, we thrive, and we love your feedback. Thank you to all you listeners that message, Rosemary and I, on a regular basis with your questions and comments. We love to hear it. It has a true impact on what we provide to you. So please message us, like us. Subscribe to us. Hit the thumbs up on whatever platform you're listening to us, direct message us, put comments. We love it, we thrive, and we want to hear from you. So until next episode, happy holidays. Happy holiday party planning. And we will talk soon. And Rosemary, as always, I look forward to continuing the conversation and am so, so happy that you're back.

**[Rosemary]:** Thanks, Lee. Talk soon.

**[Lee]:** We'll talk soon here and everyone, thanks again.

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