



## Employer-sponsored events: the benefits and the pratfalls

By Courtney C. Kreutz and Kelly J. Niemeyer ■ March 2, 2016

In an increasingly competitive economy, employers are seeking an edge to grow their business and retain knowledgeable and dedicated employees. One way of fostering those goals is through employer-sponsored events. These include events geared toward advertising and promoting the business to the public as well as activities aimed at improving social relations among co-workers, strengthening allegiance to the employer, and ideally, generating greater productivity.

While these activities often achieve the desired result, they can also create potential liability for the employer through workers' compensation claims. What happens when a worker, while at an employee-sponsored event, twists her knee and tears her meniscus? Is the employer liable? The answer is...it depends. As is often the case in the ever-complex world of workers' compensation law, the answer lies in the specific facts of an injury. The determinative issue is whether the activities were arranged "primarily for the worker's personal pleasure."<sup>1</sup> Well, that clears everything up, right? Not really.

Claims examiners are asked to review the circumstances surrounding the work-sponsored function to discern the "primary" purpose of the event. Important considerations include whether the event was mandatory or voluntary, a publicity or client-relations event versus worker morale (i.e., team building), and the time and location of the event (i.e., was the worker paid to attend?).

Consider this scenario: an employer holds a company picnic with a variety of activities to engage the employees. During a relay race, an employee (supervisor) is injured and files a claim. The claim is denied and a hearing is held to address compensability. On appeal, the worker argues he was "impliedly" required to attend the picnic to foster relationships with his employees, improve morale and increase productivity. The Board found the claim not compensable, finding there was no evidence the worker's attendance was mandatory. The Board further held the employer did not derive a substantial benefit from the company picnic "beyond the intangible value of improvement in employee health and morale that is common to all kinds of recreational and social life."<sup>2</sup>

Here's a different scenario to consider: a worker attends an employer-

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***Employer-sponsored events can create potential liability for the employer through workers' compensation claims.***



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## Employee-sponsored events (continued)

sponsored event meant to advertise its business. The employer is recognized at the event as a sponsor and encourages its employees to attend the event to engage with potential customers. The employees were not paid for their time, but were furnished with free passes and product to display. At the event, an employee is injured while engaging in a recreational (but business-related) activity and files a workers' compensation claim. The claim is denied and a hearing is held to address compensability. Ultimately, the denial is set aside. Here, the Board held the worker was not engaged in an activity "primarily for his personal pleasure," but rather was there primarily for the employer's benefit - he was there to represent the employer, generate sales leads and advance his career.<sup>3</sup>

As you can appreciate, determining the "primary purpose" of an activity varies from case to case. A careful review of the considerations outlined above is needed when determining whether a claim is compensable under the law.

The attorneys at Reinisch Wilson Weier PC are here to review these considerations, provide education on recent case law and aid in making an informed decision. ■

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<sup>1</sup> ORS 656.005(7)(b)(B)

<sup>2</sup> *Gregory K. Anderson*, 54 Van Natta 1707 (2002) (citing *Colvin v. Industrial Indemnity*, 83 Or App 73 (1986))

<sup>3</sup> *Matthew E. Barrall*, 63 Van Natta 2218 (2011)

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