

Case In Point

Claim Against Employer Arising out of Social Event Allowed to Proceed

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The decision of [K.L. v. 1163957799 Quebec Inc.](#) raises a caution for employers when planning social events. The employer hosted an unstructured evening social event at a water park where employees had unrestricted access to alcohol. The plaintiff brought an action against the employer and a supervisor as a result of an alleged sexual assault and forcible confinement that took place at the hands of the supervisor during the social event.

The employer brought a motion to strike out the claims of sexual harassment, sexual assault, assault, battery, false imprisonment and intentional/negligent infliction of mental harm.

The Court accepted that Canadian law does not recognize a tort of sexual harassment and dismissed this claim. However, it held that it was not “plain and obvious” that the employer could not be liable for the remaining causes of action, finding that the plaintiff need only to establish that the employer’s conduct “materially enhanced the risk, in the sense of significantly contributing to it” in order to establish that the employer was vicariously liable for the actions of its employee. In so finding, the Court noted that employer-hosted social events are very much connected to the employer as they generate goodwill and create a more loyal and dedicated workforce. As a result, the Court found that it was arguable that the plaintiff would be able to establish that the employer significantly contributed to the circumstances that gave rise to her assault.

The Court recognized that the test to continue with the action was “very low” and that the plaintiff may “face obstacles in proving her claim.” Employers, though, should continue to take steps to ensure supervision and control during employer-hosted social events in order to minimize their own liability.