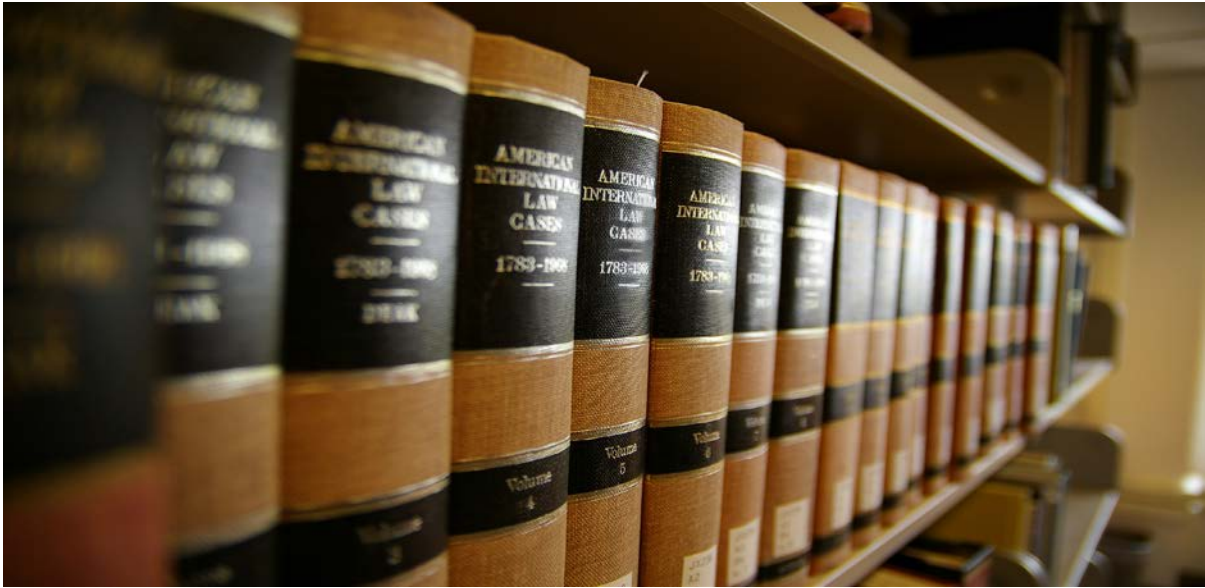


BURKE & MANGAN

Lawyers



CHRISTMAS AND STAFF

The anticipation of a fun and festive time at the team or client Christmas lunch or at the work Christmas party can often push aside the reality that it is still, in the eyes of the law, a workplace. So for employers and employees some planning will hopefully ensure that the events remain fun and festive.

While there are many instances of inappropriate and perhaps embarrassing conduct, including passing out after excessive drinking, physical assaults after conflict and urinating off balconies onto guests of other functions, the most devastating can be sexual harassment or assault.

Employee and visitor should be reminded to respect the personal space and rights of others at these events, as “unwelcomed” contact or comments can result in sexual harassment allegations. Crude jokes, offensive Kris Kringle (Christkindl), touching and demands for sexual encounters can result in significant liabilities for the perpetrator and the employer.

Recently the Federal Court of Australia awarded an employee significant damages, as result of unwelcomed advances and non-consensual sexual intercourse (possibly due to drink spiking) by a contractor. This occurred outside the office, but was still considered to be the workplace and therefore the employer’s responsibility.

Invariably alcohol is the precipitating cause of such conduct or comment. It is important therefore that staff (and those is the workplace) are aware of their obligations through appropriately drafted policies and training and that there is responsible consumption of, and reasonable service of, alcohol (including non-alcoholic or low alcohol options).