



EMPLOYER HAS NO DUTY TO PROTECT TIRED EMPLOYEES DRIVING TO OR FROM WORK

Barbara Behrens worked a mandatory overtime shift at the Harrah's Casino in Joliet. In fact, she had worked three nights in a row. On her way home, her car hit a pole and she sued Harrah's, arguing that it was negligent for:

1. failing to monitor her physical condition;
2. over-working salaried employees to cut costs, causing them to be tired going home; and
3. failing to adequately staff the department so she did not have to work overtime.

The Illinois Appellate Court threw out Behrens' claim, stating that while employers should not overwork employees and should look out for employees' general well being, there is no legal duty imposed on an employer to ensure that an employee "who is off the clock and not in the course of his or her employment, drives home safely." The Court also held that a victim hit by the car driven by a tired employee has no cause of action against the drivers' employer.

This case represents a rare victory in the ever expanding reach of employer negligence. Even so, employers do remain responsible, in some cases, for employees who are over-served at a company holiday party. Steps can be taken to lessen that exposure, as outlined in our prior web posting entitled "[Celebrate \(Responsibly\) at Company Holiday Parties.](#)"

If you have any questions about employer liability, call or write Bret Rappaport at 312-845-5116 or brappaport@schwartzcooper.com or Joan Eagle at 312-845-5439 or jeagle@schwartzcooper.com.