

TRANSCRIPT OF CODY'S INTERVIEW WITH WFBL'S BILL COLLEY

On December 13, 2005, Mary Anne Cody, Tax and Estates attorney and partner at Mackenzie Hughes LLP, made a guest appearance on WFBL-AM 1390's Bill Colley Show to discuss employee holiday parties. The interview preceded a seminar called "Labor Law Review", a monthly seminar for Human Resource Professionals sponsored by Mackenzie Hughes LLP.



Bill Colley: I'm Bill Colley; we are joined by a very special guest during this segment of our program. Mary Anne Cody is a lawyer with the Mackenzie Hughes Law Firm here in Central New York and she is doing a presentation for area businesses about what their responsibilities and liabilities potentially would be for a holiday or Christmas party as they have traditionally have been called. Good morning Mary Anne, welcome to our program.

Mary Anne Cody: Good morning Bill, thank you.

Bill Colley: Place to start, we have our party I guess next Tuesday, and I have been to many of these things over the years and obviously we probably don't think about it as being one of the workers here, but there is a lot of concern I guess on a business owner's part when you have these parties.

Mary Anne Cody: Yes, there certainly is. There can, of course, be liability attached to the employer for injuries that happen. Our goal is to let people know the law and to give practical suggestions as to what to do to reduce the risk of anything happening.

Bill Colley: Injuries, that would be someone even, maybe, coming or going to a party.

Mary Anne Cody: Oh yes, or a third party that could be hurt by one of our employees after our party.

Bill Colley: Can you mention any instances or examples that you can think of that have happened that can underscore this?

Mary Anne Cody: For example, an employee becoming intoxicated at a party and then, driving home, either injuring themselves or injuring a third party.

Bill Colley: That has been, I think, the greatest concern over the last two decades. The awareness of this has grown so that you really want to try to control the amount of imbibing that people do.

Mary Anne Cody: Oh definitely, and I think that there are some practical things that employers can do, because certainly, I wouldn't tell someone not to have a Christmas party. But, there are some practical things that employers can do such as designating one or two people not to drink; keep an eye out for what is going on at the party; hiring a professional bartender who would be able to tell which person perhaps should not be drinking any more; stop serving alcohol an hour before the party is to end. Some companies are even starting the procedure of giving out drink tickets; for example, two tickets for drinks at the party.

Bill Colley: And then limiting it to that.

Mary Anne Cody: Right.

Bill Colley: You know the other thing too is that they contract with the I'm Smart Program. If there are any concerns, there are people standing by to drive folks home who have maybe had too much.

Mary Anne Cody: That is a great idea. We are lucky to have that service here in Syracuse.

Bill Colley: Yeah, because it is relatively unique isn't it?

Mary Anne Cody: I believe that it is yes.

Bill Colley: Now when you talk about this too, I know that there is a lot of concern I've noticed over the years, I don't believe that I have been to one of these parties in years and seen anybody who is drunk, but that is part of the cultural change I guess that is taking place just because of the workers, of employees and the employers who are both really concerned about that sort of behavior.

Mary Anne Cody: Oh, I think that you are certainly right . We have different laws that will put liability on the parties that are responsible. There is the Dram shop Act, that is specifically for when alcohol is sold. Of course, it is a whole different situation when you have minors involved. There is very specific liability for not just selling but providing alcohol to minors.

Bill Colley: Yeah, there are some work places that have 16 or 17 year olds obviously in the work place.

Mary Anne Cody: Oh, certainly, you have to remember that the drinking age is twenty one and you can have people who we think of as adults but they are 18, 19, or 20, and are not of legal drinking age.

Bill Colley: So, you want to make sure that they stay away from the bar.

Mary Anne Cody: Definitely.

Bill Colley: When you mention that, I know that in a lot of places it is almost frowned upon now to see people drinking at these parties?

Mary Anne Cody: I think so. I think as employers we should promote that the goal of the party is for everyone to have a good time, but not to take it past that.

Bill Colley: Any other particular liability concerns when you are doing one of these parties?

Mary Anne Cody: I think you should be aware of situations where employers and employees themselves can become injured, for example maybe doing something crazy out on the dance floor and an injury could result, then the issue will be whether it is a Worker's Comp claim for the employee, whether the injury was a result of being on the job.

Bill Colley: And that could even be somebody at a party tripping on a stairway. I mean, if they blow out a knee while doing it, somebody's going to end up paying for that. It could be the employer, right?

Mary Anne Cody: You're right. So that's why, for example, if employers are concerned about something like that, we suggest to them that it be very clear that the party is not mandatory, and not to pressure employees if they feel that they don't want to attend, and any other factors that you can do to make it so that it is clearly not part of employment.

Bill Colley: We are speaking with Mary Anne Cody. She is a lawyer for the Mackenzie Hughes Law firm discussing an area of labor law that covers Holiday or Christmas parties and these things obviously apply to company picnics in the summer or company bowling leagues, if there are still any of those available and still any of those out there, right?

Mary Anne Cody: Yes, they certainly do.

Bill Colley: You mentioned a certain liability and the parties not being mandatory. Also, when you brought that up, I was thinking in this day and age, you've got people who are in the work place who may have a disability. Should the employer be concerned about having the party in a place that can accommodate those folks?

Mary Anne Cody: Yes, I think that that is certainly a good idea so that everyone in the work force will feel that they can attend if they wish to.

Bill Colley: You don't want someone saying that essentially, a stairway barred them from coming.

Mary Anne Cody: Right. No, that's a great idea.

Bill Colley: I know that a lot of folks out there would probably be able to go to court and, with a decent lawyer, would be able to say, well gee, it is important to network at these parties for career advancement and if I couldn't attend, I didn't get the same opportunities as other people did.

Mary Anne Cody: I think you are right that the employer should make sure that our employees are able to attend if they wish to, yes.

Bill Colley: Because I think we need to keep in mind that there is no shortage of imagination on how someone could approach a lawsuit in any of this.

Mary Anne Cody: I agree.

Bill Colley: When you mention a Christmas Party, do they call it a Christmas Party or a holiday party or a winter party, or end of year party or even a New Year's Party, and I saw it again this week, but this is a joke that circulated I think on the internet the last couple of years as well, about the plans for the work place Christmas party, and I think it came out of England. But, everyday there is an update about somebody on staff complaining, so you have to have a separate table for people who may be recovering alcoholics, you don't want to offend people of other faiths. Is there any concern among the people you talk to about what they call the party? Have we reached that point where we have to be so politically correct in the workplace that you have to be worried about legal trouble if you call it a Christmas party?

Mary Anne Cody: I don't believe so. We want to give practical advice to people that we work with, and I don't think that anyone has quite gone that far yet. But, I think you should look at the environment, you should look at the people that you work with. If you have people of different faiths that don't necessarily celebrate Christmas, you still are going to have a party, I think it is only reasonable to call it a holiday party.

Bill Colley: I think you made a very good point when you said that no one has gone that far yet. If you work in the legal profession I am sure you realize that there are people out there with backgrounds in law who obviously could look into any of this and make any case that they wanted to right?

Mary Anne Cody: Oh, I agree. You are right, but, the holiday party is a small part of what the employer does. It is an important part, so we want to give advice that is practical. We can't protect against all liability.

Bill Colley: You're doing a program for some employers. Is that today?

Mary Anne Cody: Yes we are, this morning at Drumlins at 8:30 a.m.

Bill Colley: How many people do you expect to be there?

Mary Anne Cody: We expect about 25 to 30 people. We do this on a monthly basis where we have topics that we think are of importance to employers. We bring them up to speed on that topic and then give some practical suggestions as how it will affect them in their workplace.

Bill Colley: I guess another question to ask is, if anybody has an interest in learning more about these issues how do they go about getting a hold of the firm.

Mary Anne Cody: They can call me at the Mackenzie office.

Bill Colley: Ok, super, and that's obviously in the yellow pages under lawyers.

Mary Anne Cody: Oh, certainly, Mary Anne Cody, I certainly am.

Bill Colley: Ok, super. We want to thank you and stay warm on the drive to Drumlins.

Mary Anne Cody: Very good. Thank you Bill. I appreciate speaking with you.

Bill Colley: You too. Mary Anne Cody from the Mackenzie Hughes Law Firm.