Have the boundaries of vicarious liability been defined further?

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The question of when businesses are and not vicariously liable for the actions of their employees and other people has been considered by the Courts in a number of recent cases. Following the Court of Appeal's judgment in *Bellman v Northampton Recruitment Limited* (DAC Beachcroft Adviser October 2018), the High Court was required to consider whether a business should face liability for an incident at its Christmas party in *Shelbourne v Cancer Research UK*, the judgment in which was handed down on 9 April 2019.

The Claimant, an employee of the Defendant, suffered injuries when, during a Christmas party organised by the Defendant, she was lifted from the dancefloor by a visiting scientist who was working with the Defendant on a joint collaboration project; the visiting scientist lost his balance and dropped the Claimant, as a consequence of which she suffered a serious back injury.

Both at first instance and on appeal, the Court decided that the Defendant had undertaken a sufficient risk assessment and taken reasonable steps to ensure that the guests at the party were reasonably safe; the Defendant was not negligent, and therefore the Claimant's claim turned on whether the Defendant was vicariously liable for the actions of the visiting scientist (who was not pursued as a Defendant in the claim).

Whilst not an employee of the Defendant, the visiting scientist's work was sufficiently integral to the Defendant's business for the Defendant to be potentially vicariously liable for his actions.

Noting that the attendance of the Claimant, her colleagues and the visiting scientist was not compulsory, Mr Justice Lane considered the judgment in *Bellman*, in which the Claimant was assaulted by the Defendant's managing director as he acted within his managerial remit. In contrast, the visiting scientist's field of activities with the Defendant was research work and the incident at the party was not sufficiently connected with his field of work to give rise to vicarious liability.

Mr Justice Lane, acknowledging that it was extremely unfortunate that the incident had occurred and the Claimant been injured, stated that "*the desirability of enabling those who have suffered injury at the hands of others to recover adequate financial compensation needs to be balanced against the wider social consequences which may ensue from achieving this result through the imposition of vicarious liability*".

This judgment should assist Defendants and their insurers in marking a boundary to the doctrine of vicarious liability, and reassuringly reminds us that employers are not vicariously liable for all incidents between members of their workforce. The question of the extent to which an activity must be connected to an employee's field of work will be considered further by the Supreme Court, which has given permission to appeal in the case of *Morrison Supermarkets PLC v Various Claimants*.

DAC Beachcroft acted for the Defendant in this matter.

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