



# LAW NOTES

from the Law Firm of  
**Kay & Andersen, S.C.**

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## What Every Employer Should Know . . . . .

### *ABOUT EMPLOYEE USE OF COMPUTERS*

**E**mployers frequently have policies restricting employee use of computers. Such policies are typically implemented to bolster employee production and to prevent potential liability. A recent Wisconsin Court of Appeals decision addressed the question of whether an employer could be held liable for an employee's misuse of a computer to harass outside individuals. In Sigler v. Kobinsky, 2008 WI App. 183 (Nov. 6, 2008), found at <http://www.wicourts.gov/ca/opinion/DisplayDocument.html?content=html&seqNo=34520>, Kobinsky was accused of harassing the Siglers by signing the Siglers up for various subscriptions, making commitments on their behalf, and anonymously placing public ads regarding a business which the Siglers did not have. Law enforcement tracked the source of harassment to Kobinsky. Kobinsky's employer, Cuna Mutual Insurance Society, discovered through an internal audit that Kobinsky used his cell phone to call the Siglers' workplace and used his computer to conduct searches for information relating to the Siglers. The Siglers sued Kobinsky and Cuna, alleging claims of negligence and negligent supervision against Cuna. Cuna asked the circuit court to dismiss the claims against Cuna, which it did, resulting in an appeal. The Court of Appeals found that it was not reasonably foreseeable that permitting employees to have unsupervised access to the

Internet would likely result in an unnecessary risk of harm to others. Even if the complaint alleged a viable negligent supervision claim, the Court of Appeals ruled that Cuna would not be liable as a matter of public policy because the injuries in the case were too remote from the alleged negligence to allow recovery. The actions of Kobinsky were bizarre and unexpected and Cuna had no relationship with the Siglers such that Kobinsky could have obtained the same information about the Siglers with or without the use of Cuna's computer. Cuna had computer usage policies which were communicated to employees, and the Court of Appeals concluded that if this claim was allowed to proceed, the expansion of liability would be limitless and effectively turn employers into guarantors or insurers. Although the decision did not specify the details of the Cuna computer usage policies, they were clearly a factor in the Court of Appeals' exoneration of Cuna. Employers would be wise to enact appropriate policies limiting employee use of company computers to work falling within the scope of the employee's job responsibilities.

**K**ay & Andersen, S.C. has substantial experience in helping employers deal with legal issues arising from their business operations. Feel free to call us with any of your legal needs.

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