



# LAW NOTES

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

March, 2006

## What Every Employer Should Know..... *ABOUT PUBLIC ACCESS TO CONFIDENTIAL RECORDS*

**M**any employers believe that confidential information exchanged in litigation or in the course of settlement discussions can avoid public disclosure through a confidentiality agreement. While such an agreement may in some situations protect certain confidential information, this is not always the case. In a recent Wisconsin Court of Appeals decision, Krier v. EOG Environmental, Inc., 2005 WI App 256, the Court of Appeals refused to uphold a circuit court's decision to seal a case file which contained confidential financial information which had previously been submitted by the parties. After the parties filed the confidential information with the Court, the parties settled their dispute and entered into a confidentiality agreement. The Court of Appeals reiterated that the State of Wisconsin has expressed a strong public policy supporting public access to public records. The Court noted, "Although an agreement of confidentiality may be enforced as between the parties, we hasten to emphasize...once the documents are filed in the court, they become a judicial record, subject to the access accorded such records." *Id.*, ¶21. Krier reiterates the principle that employers must be vigilant in reconciling a desire to resolve a business dispute with a desire to maintain the confidentiality of financial data and other private information. Kay & Andersen, S.C. can help employers in Wisconsin with protecting their proprietary interests while addressing their litigation needs.

### **Kay & Andersen, S.C.**

One Point Place, Suite 201  
Madison, WI 53719

Phone: (608) 833-0077

Fax: (608) 833-3901

Web Site: [www.kayandandersen.com](http://www.kayandandersen.com)

E-mail: [law@kayandandersen.com](mailto:law@kayandandersen.com)

Robert J. Kay

Randall J. Andersen

Robert A. Mich, Jr.

LAW NOTES is published every two months. If you have a special legal issue you would like to see covered in a future LAW NOTES by Kay & Andersen, S.C., feel free to contact us.

