



LAW NOTES

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

May, 2006

What Every Employer Should Know.....

ABOUT TRUTHFULNESS IN ADVERTISING

Wisconsin has a variety of laws designed to protect the public from false advertisements. For example, Wisconsin Statute § 100.18(1) prohibits any person, firm, corporation, association, agent, or employee with the intent to sell merchandise from distributing advertisements which contain any assertion, representation, or statement of fact which is untrue, deceptive, or misleading. Any person suffering financial loss as a result of a violation of this statute is entitled to recover their actual damages, plus costs and attorneys' fees. If an injunction has already been entered prohibiting the advertising, the victim is entitled to recover double his or her actual damages, plus costs and attorneys' fees. Wis. Stat. 100.18(11)(6)(2). Not only are individuals entitled to bring claims under this statute, the Department of Agriculture, Trade and Consumer Protection is authorized to prosecute violations in the name of the State and may obtain temporary or permanent injunctions to prevent further dissemination of false advertising. Claims may be brought up to three years after the false advertisement is distributed. Wis. Stat. 100.18(11)(6)(3). In a recent decision, the Wisconsin Court of Appeals reiterated that Wis. Stat. § 100.18(1) can be violated even though an advertisement does not contain untrue statements as long as the statements can be properly characterized as deceptive or misleading. Meyer v. The Laser Vision Institute, LLC, 2006 WI App 70 (March 1, 2006). Kay & Andersen, S.C. can help Wisconsin employers comply with Wisconsin's false advertising laws, and if necessary, assist them in responding to allegations of false advertising.

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