



LAW NOTES

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

July, 2007

What Every Employer Should Know.....

ABOUT LIABILITY FOR EMPLOYEE ACTIONS

Employers are sued from time to time by persons claiming damages arising from their employees' conduct. Does this mean individual employees are not responsible for the consequences of their actions while serving as employees? According to a recent Wisconsin Court of Appeals decision, both employees and employers can be held liable for employee conduct. In Daggett v. Luedeke, No. 2006 AP 2887 (Wis. Ct. App. May 9, 2007), available at <http://www.wicourts.gov/ca/opinion/DisplayDocument.html?content=html&seqNo=28905>, Daggett sued Luedeke, an employee of an auto shop, seeking damages against Luedeke for negligently repairing Daggett's vehicle, misrepresenting repair costs, and violating Wisconsin's Consumer Protection laws. Luedeke filed a motion to dismiss on the grounds that he was not a proper party to the lawsuit because he was acting within the scope of his employment at the time he performed the service work for Daggett. The circuit court granted the motion to dismiss on the basis that, "Wisconsin follows the law of *respondeat superior*, meaning that employers are responsible for actions of employees." The Court of Appeals acknowledged that under the doctrine of *respondeat superior*, an employer can be held vicariously liable for the negligent acts of its employees while they are acting within the scope of their employment. This additional liability of the employer, however, "does not shield a negligent employee from his or her own personal liability, nor does it supplant the employee's liability with that of the employer." Rather, the doctrine provides an alternative and sometimes more lucrative source from which an injured party may recover damages. Although Daggett apparently did not choose to sue the auto shop, the case was nonetheless allowed to proceed with his claim against Luedeke. Although this case is certainly the exception in that the employer was not sued for employee negligence, it serves as a reminder to employees that they have an obligation to perform to the best of their abilities because they will not necessarily be shielded from liability exposure merely because of their status as an employee. Kay & Andersen, S.C. has substantial trial experience and can help employers or employees who are sued for alleged wrongdoings while on the job.

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