



LAW NOTES

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

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What Every Employer Should Know.....

ABOUT WORKER'S COMPENSATION APPLICABILITY TO NON-WISCONSIN RESIDENTS

Businesses routinely engage in activities across state lines. A recent decision by the Wisconsin Court of Appeals addressed the question of whether Wisconsin's Worker's Compensation Act applies to employees who are injured or killed in Wisconsin although they live and generally work outside the state. In *Estate of Torres v. Morales*, Appeal No. 2007AP1519 (June 18, 2008), found at <http://www.wicourts.gov/ca/opinion/DisplayDocument.html?content=html&seqNo=33052>, Richard Torres and Rene Morales worked for a company based in Texas. They traveled together to Wisconsin to attend a work-related seminar. Morales and Torres were injured in a car accident on route from the hotel where they were staying to the location of the seminar, and Torres was killed. Torres' estate and family members sued Morales for negligently causing the accident which resulted in Torres' death. Morales' insurance company denied liability on the basis that Torres' exclusive remedy for Morales' negligence was worker's compensation benefits because Torres was engaged in work-related activity when he died. The circuit court agreed and dismissed the claims, and the Court of Appeals affirmed. The "exclusive remedy" provision of Wisconsin's Worker's Compensation Act bars an employee from pursuing any other remedy for the same injury or death not only against his or her employer but also against a co-employee. The Court of Appeals noted that Torres had been sent to Wisconsin as a part of his work and was working for his employer when he was injured. When an employee is working in Wisconsin at the behest of his or her employer, that employee and that employer have an employment relationship in the state, and the existence of that employment relationship renders the Wisconsin Worker's Compensation Act applicable to any injuries which may occur during the performance of the work. Kay & Andersen, S.C. has substantial experience in assisting businesses in disputes regarding employee benefits, including worker's compensation claims.

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LAW NOTES is published quarterly. 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.