



LAW NOTES

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

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What Every Employer Should Know.....

ABOUT MAINTAINING A SAFE PLACE FOR CUSTOMERS

To ensure the safety of customers visiting a place of business, the Wisconsin legislature has enacted the so-called “safe place statute,” Wis. Stat. § 101.11. That statute requires employers to furnish a safe environment, and a violation of this statute can give rise to a claim by an injured party. This statute does not, however, automatically render a business liable for all personal injuries which occur onsite. That point was recently illustrated in Thomas v. Zurich American Insurance Company, No. 2006 AP 2325 (Wis. Ct. App. July 3, 2007), available at <http://www.wisbar.org/res/capp/2007/2006AP002325.htm>. In that case, a Menards customer was injured when a pallet fell onto her from above while her family members were loading their van in Menards’ outside self-service yard. No one other than the injured woman witnessed the accident, and she did not see from where the pallet had fallen. The injured woman filed suit against Menards, alleging that Menards had violated the safe place statute. The circuit court dismissed the claim, and the dismissal was affirmed by the Court of Appeals. The record contained no testimony from Menards employees or any written policies or procedures of Menards relating to the maintenance of the self-service yard. As such, the injured woman was unable to establish that Menards had actual or constructive notice that there was a dangerous condition on its premises. In the absence of such notice, the employer would not be held liable for violating the safe place statute. The court also rejected the application of the “*res ipsa loquitur*” doctrine, which allows a jury to infer a defendant’s negligence based merely upon the occurrence of the event, because Menards did not have exclusive control over the pallet which fell due to the volume of customers using the self-service yard. Kay & Andersen, S.C. has substantial experience in defending employers against personal injury and other claims brought by customers, and we welcome inquiries from employers when such situations arise.

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