

CHAPTER SCR 81

COMPENSATION PAID TO ATTORNEYS APPOINTED BY A COURT

SCR 81.01 Compensation of attorneys appointed by court.

SCR 81.02 Compensation.

Judicial Council Committee's Note, 1979: The following rules relate to compensation paid to attorneys appointed by the supreme court. SCR 81.01 was derived from the 1977 Wisconsin Statutes section 757.49 and was redrafted to be reconciled with SCR 81.02. SCR 81.02 was adopted by the supreme court on May 19, 1978, effective immediately. It was originally numbered 1 and 2 and has been clarified and numbered SCR 81.02 for uniformity and convenience and redrafted to apply also to the court of appeals and trial courts of record.

Note: SCR Chapter 81 was amended January 1, 1989.

SCR 81.01 Compensation of attorneys appointed by court. Notwithstanding any provision of the statutes, in all cases where the statutes fix a fee and provide for the payment of expenses of an attorney to be appointed by the court to perform certain designated duties, the court appointing the attorney, after the services of the attorney have been performed and the disbursements incurred, shall fix the amount of his or her compensation for the services and provide for the repayment of disbursements in such sum as the supreme court has specified in SCR 81.02.

Case Note: SCR 81.01 and 81.02 are constitutional exercises of judicial power. The courts' power to appropriate compensation for court-appointed counsel is necessary for the effective operation of the judicial system. In ordering compensation for court ordered attorneys, a court should abide by the s. 977.08 (4m) rate when it can

retain qualified and effective counsel at that rate, but should order compensation at the rate under SCR 81.01 or 81.02 or a higher rate when necessary to secure effective counsel. A court must make a record showing its reasons for exceeding the statutory rate. *State ex rel. Friedrich v. Dane County*, 192 Wis. 2d 1, 531 N.W.2d 32 (1995).

SCR 81.02 Compensation. (1) Except as provided under sub. (1m), attorneys appointed by any court to provide legal services for that court, for judges sued in their official capacity, for indigents and for boards, commissions and committees appointed by the supreme court shall be compensated at the rate of \$70 per hour or a higher rate set by the appointing authority. The supreme court shall review the specified rate of compensation every two years.

(1m) Any provider of legal services may contract for the provision of legal services at less than the rate of compensation under sub. (1).

(2) The rate specified in sub. (1) applies only to services performed after July 1, 1994.

History: Sup. Ct. Order No. 93-02, 177 Wis. 2d xvii (1993).