

1999 DRAFTING REQUEST

Bill

Received: **01/5/99**

Received By: **nelsorp1**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Statz**

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **Courts - costs and fees**

Extra Copies:

Topic:

DOA:.....Statz - Civil costs and disbursements, including attorney fees

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	nelsorp1 01/6/99	gilfokm 01/7/99	martykr 01/11/99	_____	lrb_docadmin 01/11/99		S&L
/2			lpaasch 01/19/99	_____	lrb_docadmin 01/19/99		S&L
/3	nelsorp1 01/20/99	gilfokm 01/20/99	jfrantze 01/20/99	_____	lrb_docadmin 01/20/99		S&L

FE Sent For:

<END>

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/2		<i>13-1-20-99</i> mgj _____	lpaasch 01/19/99	_____	lrb_docadmin 01/19/99		S&L

FE Sent For:

Statz 1/20 *mgj/lp*
 <END>
 1/20

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/1	nelsorp1 01/6/99	gilfokm 01/7/99	martykr 01/11/99	_____	lrb_docadmin 01/11/99		S&L

FE Sent For: *12-1-16-99 kmq* *1-19LP* *1-19LP*
cmh
 <END>

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Extra Copies: KMG

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1?	nelsorp1	1-1-99 KMG	KMG/8	HH KMG 11			

FE Sent For:

<END>

CORRESPONDENCE MEMORANDUM**STATE OF WISCONSIN
Department of Administration****Date:** January 5, 1999**To:** Steve Miller
Legislative Reference Bureau**From:** Andrew J. Statz *AS*
DOA - State Budget Office**Subject:** Update cost statutes

The State Bar of Wisconsin has requested to update cost statutes under ss. 814.04 and 814.07. The Bar argues that the amounts set in statute are insufficient and some terms are anachronistic. I agree and would like to include these changes in the budget.

The Bar proposes that statutes should read:

814.04(1)(a) When the amount recovered or the value of the property involved is greater than the jurisdictional limit for small claims set forth in s. 799.01(1)(d), attorney fees shall not exceed \$1,000; when it is less than the amount in s. 799.01(1)(d) and is \$1,000 or more, not to exceed \$500; and when it is less than \$1,000, not to exceed \$100. In all other cases, attorneys fees shall be not less than \$100 and no more than \$1,000.

814.04(1)(b) - Repealed.

814.04(1)(c) - Renumbered 814.04(1)(b).

814.04(2) *Disbursements.* All the necessary disbursements and fees allowed by law; the compensation of referees; a reasonable disbursement for the service of process or other papers in an action when the same are served by a person authorized by law other than an officer, but the item may not exceed the authorized sheriff's fee for the same service; amounts actually paid out for certified and other copies of papers and records in any public office; postage, photocopying, telephoning, electronic communications, facsimile transmissions, and express or overnight mail; depositions including copies; plats and photographs, not exceeding \$100 for each item; an expert witness fee not exceeding \$500 for each expert who testifies, exclusive of the standard witness fee and mileage which shall also be taxed for each expert; and in actions relating to or affecting the title to lands, the cost of procuring an abstract of title to the lands. Guardian ad litem fees shall not be taxed as a cost or disbursement.

814.07 *Costs on motion*. Costs may be allowed on a motion, in the discretion of the court or judge, not exceeding \$500, and may be absolute or directed to abide the event of the action.

Also, could you let me know when these cost statutes were last updated or maintained? I have been told both 1935 and 1938. I am sure the Governor will ask.

I have attached the Bar's original request, which you may find helpful. If you have any questions, feel free to call. Thanks.



STATE BAR OF WISCONSIN

P.O. Box 7158, Madison, WI 53707-7158
(608) 257-3838
FAX (608) 257-5502

Proposed changes to the Costs Statute, sec. 814.04 and 814.07

The *costs statute*, s. 814.04 and 814.07 WI Statutes, pertains to certain expenses that may be awarded to successful litigants in a court action. The State Bar of Wisconsin supports changes to the *costs statute* for the following reasons:

1. **Adequately compensate persons for the costs associated with litigation.** Created in 1935, the *costs statute* has changed little over the last 60 years. The current statute is based upon costs of pursuing or responding to lawsuits in the 1930s. Changes are needed to more accurately reflect the costs of litigating in today's society.
2. **Provide a more effective deterrent against frivolous lawsuits.** Increasing the amount of costs recoverable will discourage frivolous lawsuits. The *costs statute* is intended to restrain proponents of litigation by making them aware that they will have to bear the costs by themselves if their case is unsuccessful. Increasing the costs limits will provide for a more meaningful deterrent.
3. **Give judges greater discretion to award appropriate costs.** The current statute specifies the amount the court must award a successful litigant. The proposed changes gives more discretion to the court to award costs based upon the specific facts of the case.

Description of proposed changes: (see attachment 1 for drafting language)

Sec. 814.04 (1) (a) Attorney Fees (see attachment 2 for current law comparison)
The proposed changes raises the limits a prevailing party may receive for costs related to attorney fees. The changes more accurately reflect the cost of counsel. In addition, the proposed changes gives judges discretion to award costs for attorney fees up to a certain maximum. Sec.814.04 (1) (b) is repealed and recreated in par. (a). This change allows a judge to order appropriate attorney fees between \$100 and \$1,000 for actions that do not involve property or no money judgement. It is included in par. (a) for simplification.

Sec. 814.04 (2) Disbursements

These changes update the cost items that may be recovered. It deletes costs that are outdated and no longer relevant to today's litigation, such as costs associated with telegraphing, and adds items that are used, such as photocopying, emails, faxes, and overnight mail. It also raises the amount a judge may order for each item from \$50 to \$100. In addition, the cost of expert witnesses is raised from \$100 to \$500 to more accurately reflect the current cost of using expert witnesses in court.

Sec. 814.07 Costs on Motion.

The proposed changes increases the maximum a judge may order for motions from \$50 to \$500. This change will help discourage frivolous motions.

PROPOSED CHANGES
TO
WIS. STAT. §§ 814.04 AND 804.07

§ 814.04 ITEMS OF COSTS

(1) ATTORNEY FEES.

(a) When the amount recovered or the value of the property involved is ~~\$1,000~~ greater than the jurisdictional limit for small claims set forth in sec. 799.01(1)(d), attorneys fee shall not exceed \$1,000; when it is less than ~~\$1,000~~ the amount in sec. 799.01(1)(d) and is ~~\$500~~ \$1,000 or over more, ~~\$50~~, not to exceed \$500; when it is less than ~~\$500~~ \$1,000 and is ~~\$200~~ or over, ~~\$25~~ not to exceed \$100; and when it is less than ~~\$200~~, \$15. In all other cases, attorneys fees shall be not less than \$100 and no more than \$1,000.

(b) [Repeal]

(c) [Becomes (b)]

(2) DISBURSEMENTS. All the necessary disbursements and fees allowed by law; the compensation of referees; a reasonable disbursement for the service of process or other papers in an action when the same are served by a personal authorized by law other than an officer, but the item may not exceed the authorized sheriff's fee for the same service; amounts actually paid out for certified ~~and other~~ copies of papers and records in any public office; postage, photocopying, telegraphing, telephoning, electronic communications, facsimile transmissions and express or overnight mail; depositions, including copies; plats and photographs, not exceeding ~~\$50~~ \$100 for each item; an expert witness fee not exceeding ~~\$100~~ \$500 for each expert who testifies, exclusive of the standard witness fee and mileage which shall also be taxed for each expert; and in actions relating to or affecting the title to lands, the cost of procuring an abstract of title to the lands. Guardian ad litem fees shall not be taxed as a cost or disbursement.

§ 814.07 COSTS ON MOTION.

Costs may be allowed on a motion, in the discretion of the court or judge, not exceeding ~~\$50~~ \$500 and may be absolute or directed to abide the event of the action.

(Attachment 2)

Cost Statutes - Attorney Fees - s. 814.04 (1) (a).

Current Law		Proposed Changes	
Amount Recovered or Value of Property Involved	Attorney fees	Amount Recovered or Value of Property Involved	Attorney fees
Greater or equal to \$1,000	\$100	Greater than the small claims limit, s. 799.01(1)(d) currently \$5,000	Shall not exceed \$1,000
Less than \$1,000 and greater than or equal to \$500	\$50	Less than the small claims limit, (\$5,000), and greater than or equal to \$1,000	Shall not exceed \$500
Less than \$500, and greater than or equal to \$200	\$25	Less than \$1,000	Shall not exceed \$100.
Greater than \$200	\$15		
All other cases. (ie. no money judgement is demanded or no property involved)	Not less than \$15 nor more than \$100	All other cases. (ie. no money judgement is demanded or no property involved)	Not less than \$100 and no more than \$1,000.



5001
State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1597/1

RPN...:king

DOA:.....Statz - Civil costs and disbursements, including attorney fees
FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

head Courts and procedure
sub Other courts and procedure
Circuit

1 AN ACT relating to: the budget.

in all civil actions
5

Analysis by the Legislative Reference Bureau

Under current law, civil litigants generally pay their own attorney fees related to the litigation, unless otherwise specified by statute. This is called the American rule. Current law does provide for limited payment of attorney fees. Currently, the successful litigant in a civil action concerning money damages or property is entitled to attorney fees based on the following schedule:

(I) Amount recovered/value of property

(B)	\$1000 or more
(B)	\$500 to \$999.99
(B)	\$200 to \$499.99
(B)	under \$200

underscore

Fee
\$100
\$50
\$25
\$15

align score some spaces on each side also

This bill changes the amount of attorney fees allowed in these cases as follows:

(I) Amount recovered/value of property

(B)	Greater than \$5,000
(B)	\$1,000 to \$5,000
(B)	under \$1,000

score

(I) Fee, not to exceed

\$1,000
\$500
\$100

score

Current law also allows attorney fees of not less than \$15 nor more than \$100 in cases that do not involve money damages or property. This bill changes those fees to an amount not to exceed \$1,000.

Under current law, certain disbursements, such as for the costs of certified copies of public papers or records, postage, and depositions, are recoverable by the

those made

WPO:
format these
2 charts so
that they
look
centered;
have King
check
before sending
to P.A.'s

and, for a motion, from \$50 to \$500

successful civil litigant, but are limited to \$50 for each item. This bill expands the list of disbursements that are recoverable to include items such as overnight mail and facsimile transmissions and increases the limit to \$100 for each item. The bill also increases the amount that the successful civil litigant may recover for the cost of each expert witness, from \$100 to \$500.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 814.04 (1) (a) of the statutes is amended to read:

2 814.04 (1) (a) When the amount recovered or the value of the property involved

3 is \$1,000 or over ~~greater than the amount specified in s. 799.01 (1) (d)~~, attorney fees

4 ~~shall be \$100~~ ^{may} not exceed \$1,000; when it is less than \$1,000 ~~the amount specified in~~ ^{maximum}

5 ~~s. 799.01 (1) (d)~~ ^{but is} and is \$500 or over \$50 ~~\$1,000 or more~~, attorney fees ~~shall~~ ^{may} not exceed

6 \$500; ~~when it is less than \$500 and is \$200 or over, \$25; and when it is less than \$200,~~ ^{strike}

7 \$15 \$1,000, attorney fees ~~shall~~ ^{may} not exceed \$100. In all other cases, ~~in which there is~~

8 ~~no amount recovered or that do not involve property~~, attorney fees ~~shall~~ ^{may} not exceed

9 ~~\$1,000.~~ ^{plain}

History: Sup. Ct. Order, 50 W (2d) vii (1971); 1971 c. 141; Sup. Ct. Order, 67 W (2d) 585, 761, 780 (1975); Stats. 1975 s. 814.04; 1977 c. 209; 1979 c. 110 s. 60 (13); 1979 c. 271, 355; 1981 c. 123, 317; 1985 a. 52, 311; 1987 a. 348; 1991 a. 39, 65, 189, 295; 1993 a. 98, 326, 486, 490, 491; 1995 a. 24, 27, 133, 149, 262, 417; 1997 a. 55, 164, 254; s. 13.93 (2) (c).

****NOTE: The last sentence is somewhat different than requested. Part of the change is not substantive, but I did remove the \$100 minimum amount proposed for attorney fees to be consistent with the rest of the language, which creates a maximum but no minimum. OK?

10 SECTION 2. 814.04 (1) (b) of the statutes is repealed.

11 SECTION 3. 814.04 (2) of the statutes is amended to read:

12 814.04 (2) DISBURSEMENTS. All the necessary disbursements and fees allowed

13 by law; the compensation of referees; a reasonable disbursement for the service of

14 process or other papers in an action when the same are served by a person authorized

15 by law other than an officer, but the item may not exceed the authorized sheriff's fee

1 for the same service; amounts actually paid out for certified and other copies of
 2 papers and records in any public office; postage, ~~telegraphing~~ photocopying,
 3 telephoning electronic communications, facsimile transmissions and express or
 4 overnight mail; depositions including copies; plats and photographs, not exceeding
 5 \$50 \$100 for each item; an expert witness fee not exceeding \$100 \$500 for each expert
 6 who testifies, exclusive of the standard witness fee and mileage which shall also be
 7 taxed for each expert; and in actions relating to or affecting the title to lands, the cost
 8 of procuring an abstract of title to the lands. Guardian ad litem fees shall not be taxed
 9 as a cost or disbursement.

History: Sup. Ct. Order, 50 W (2d) vii (1971); 1971 c. 141; Sup. Ct. Order, 67 W (2d) 585, 761, 780 (1975); Stats. 1975 s. 814.04; 1977 c. 209; 1979 c. 110 s. 60 (13); 1979 c. 271, 355; 1981 c. 123, 317; 1985 a. 52, 311; 1987 a. 348; 1991 a. 39, 65, 189, 295; 1993 a. 98, 326, 486, 490, 491; 1998 a. 24, 27, 133, 149, 262, 417; 1997 a. 55, 164, 254; s. 13.93 (2) (c).

****NOTE: I am not sure removing "telegraphing" is a good idea if they want to be all inclusive. Also, by adding "overnight mail" is the cost of other methods of sending documents, such as UPS, not covered? I think adding all these specific items shows the flaw in trying to list all the covered costs. Perhaps the first sentence, before the first ~~was~~ ^{semicolon} should have the word "reasonable" added to it, then the language between the first and third ~~and~~ ^{and} could be removed? Note also the limits in s. 814.02 (2) and the expansion of payments for costs in s. 814.036.

semicolon

and

10 SECTION 4. 814.07 of the statutes is amended to read:

11 **814.07 Costs on motion.** Costs may be allowed on a motion, in the discretion
 12 of the court or judge, not exceeding \$50 \$500, and may be absolute or directed to
 13 abide the event of the action.

History: Sup. Ct. Order, 67 W (2d) 585, 761 (1975); Stats. 1975 s. 814.07.

14 **SECTION 9309. Initial applicability; circuit courts.**

15 (1) COSTS AND DISBURSEMENTS. The treatment of sections 814.04 (1) (a) and (b)
 16 and (2) and 814.07 of the statutes first applies to actions commenced on the effective
 17 date of this subsection.

18 (END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1597/lins
RPN.....

Insert A

1 SECTION 1. 814.04 (1) (a) of the statutes is amended to read:

2 814.04 (1) (a) When the amount recovered or the value of the property involved
3 is ~~\$1,000 or over~~ equal to or greater than the maximum amount specified in s. 799.01
4 (1) (d), attorney fees shall be \$100 may not exceed \$1,000; when it is less than \$1,000
5 and is \$500 or over, \$50 the maximum amount specified in s. 799.01 (1) (d), but is
6 \$1,000 or more, attorney fees may not exceed \$500; when it is less than \$500 and is
7 \$200 or over, \$25; and when it is less than \$200, \$15 \$1,000, attorney fees may not
8 exceed \$100. In all other cases in which there is no amount recovered or that do not
9 involve property, attorney fees may not exceed \$1,000.

History: Sup. Ct. Order, 50 W (2d) vii (1971); 1971 c. 141; Sup. Ct. Order, 67 W (2d) 585, 761, 780 (1975); Stats. 1975 s. 814.04; 1977 c. 209; 1979 c. 110 s. 60 (13); 1979 c. 271, 355; 1981 c. 123, 317; 1985 a. 52, 311; 1987 a. 348; 1991 a. 39, 65, 189, 295; 1993 a. 98, 326, 486, 490, 491; 1995 a. 24, 27, 133, 149, 262, 417; 1997 a. 55, 164, 254; s. 13.93 (2) (c).

Nelson, Robert

From: Olsen, Jefren
Sent: Friday, January 15, 1999 5:01 PM
To: Nelson, Robert
Subject: FW: Revision to # 1597/1

-----Original Message-----

From: Statz, Andrew [mailto:andrew.statz@doa.state.wi.us]
Sent: Friday, January 15, 1999 4:53 PM
To: Olsen, Jefren
Subject: Revision to # 1597/1

The GOV has reduced the amounts related to the Bar Association's proposed changes to the cost statutes in LRB draft # 1597/1.

* Attorney fees are capped at \$500. The ranges designated in # 1597/1 are still fine. New maximums are \$500, \$300, and \$100.

* Misc. costs outlined in 814.04(2) are still capped at \$100, but expert witness costs were reduced to a maximum of \$300 each.

* Costs on motion in 814.07 are reduced to a maximum of \$300. (What IS cost of motion anyway?)

Thanks.

Andrew J. Statz
State Budget Office
608-267-0370



5001
State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1597A ²
RPN:kmg:km

DOA:.....Statz – Civil costs and disbursements, including attorney fees
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT <sup>Don't
Gen Cat</sup> relating to: the budget.

Analysis by the Legislative Reference Bureau
COURTS AND PROCEDURE

CIRCUIT COURTS

Under current law, civil litigants generally pay their own attorney fees related to the litigation, unless otherwise specified by statute. This is called the "American rule". Current law does provide for limited payment of attorney fees in all civil actions. Currently, the successful litigant in a civil action concerning money damages or property is entitled to attorney fees based on the following schedule:

<u>Amount recovered / value of property</u>	<u>Fee</u>
\$1,000 or more	\$100
\$500 to \$999.99	\$ 50
\$200 to \$499.99	\$ 25
Under \$200	\$ 15

This bill changes the amount of attorney fees allowed in these cases as follows:

<u>Amount recovered / value of property</u>	<u>Fee, not to exceed</u>
Greater than \$5,000	\$1,000 \$ 500
\$1,000 to \$5,000	\$ 500 \$ 300
Under \$1,000	\$ 100

Current law also allows attorney fees of not less than \$15 nor more than \$100 in cases that do not involve money damages or property. This bill changes those fees to an amount not to exceed ~~\$1,000~~^{\$500}.

Under current law, certain disbursements (such as those made for the costs of certified copies of public papers or records, postage and depositions) are recoverable by the successful civil litigant, but are limited to \$50 for each item. This bill expands the list of disbursements that are recoverable to include items such as overnight mail and facsimile transmissions and increases the limit to \$100 for each item. The bill also increases the amount that the successful civil litigant may recover, for the cost of each expert witness, from \$100 to \$500, and, for a motion, from \$50 to ~~\$500~~^{\$300}.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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2 814.04 (1) (a) When the amount recovered or the value of the property involved
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4 (1) (d), attorney fees shall be \$100 may not exceed ~~\$1,000~~^{\$500}, when it is less than \$1,000
5 and is ~~\$500 or over~~, \$50 the maximum amount specified in s. 799.01 (1) (d), but is
6 ~~\$1,000 or more~~, attorney fees may not exceed ~~\$500~~^{\$300}; when it is less than \$500 and is
7 ~~\$200 or over~~, \$25; and when it is less than \$200, \$15 ~~\$1,000~~, attorney fees may not
8 exceed \$100. In all other cases in which there is no amount recovered or that do not
9 involve property, attorney fees may not exceed ~~\$1,000~~^{\$500}.

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10 **SECTION 2.** 814.04 (1) (b) of the statutes is repealed.

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12 814.04 (2) **DISBURSEMENTS.** All the necessary disbursements and fees allowed
13 by law; the compensation of referees; a reasonable disbursement for the service of
14 process or other papers in an action when the same are served by a person authorized

1 by law other than an officer, but the item may not exceed the authorized sheriff's fee
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11 **SECTION 4.** 814.07 of the statutes is amended to read:

12 **814.07 Costs on motion.** Costs may be allowed on a motion, in the discretion
 13 of the court or judge, not exceeding \$50 ~~\$500~~ ^{\$300}, and may be absolute or directed to abide
 14 the event of the action.

15 **SECTION 9309. Initial applicability; circuit courts.**

16 (1) COSTS AND DISBURSEMENTS. The treatment of sections 814.04 (1) (a) and (b)
 17 and (2) and 814.07 of the statutes first applies to actions commenced on the effective
 18 date of this subsection.

19

(END)
 D-Note
 "Costs on motion" are the costs that a party incurs when the party moves, the court (submits a motion to the court) asking the court to take some action such as to require a person to complete an interrogatory or comply with a discovery request. RPN

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1597/2dn
RPN:kmg:lp

January 19, 1999

“Costs on motion” are the costs that a party incurs when the party moves the court (submits a motion to the court) asking the court to take some action such as to require a person to complete an interrogatory or comply with a discovery request.

Robert P. Nelson
Senior Legislative Attorney
267-7511



2004
State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1597/3
 RPN:kmg:lp

DOA:.....Statz – Civil costs and disbursements, including attorney fees
 FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ^{Don't} ^{Even Call.} relating to: the budget.

Analysis by the Legislative Reference Bureau
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<u>Amount recovered / value of property</u>	<u>Fee, not to exceed</u>
Greater than \$5,000	\$ 500
\$1,000 to \$5,000	\$ 300
Under \$1,000	\$ 100

Current law also allows attorney fees of not less than \$15 nor more than \$100 in cases that do not involve money damages or property. This bill changes those fees to an amount not to exceed \$500.

Under current law, certain disbursements (such as those made for the costs of certified copies of public papers or records, postage and depositions) are recoverable by the successful civil litigant, but are limited to \$50 for each item. This bill expands the list of disbursements that are recoverable to include items such as overnight ~~mail~~ *delivery* and facsimile transmissions and increases the limit to \$100 for each item. The bill also increases the amount that the successful civil litigant may recover, for the cost of each expert witness, from \$100 to \$300 and, for a motion, from \$50 to \$300.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 814.04 (1) (a) of the statutes is amended to read:

2 814.04 (1) (a) When the amount recovered or the value of the property involved
3 is ~~\$1,000 or over~~ equal to or greater than the maximum amount specified in s. 799.01
4 (1) (d), attorney fees shall be \$100 may not exceed \$500; when it is less than \$1,000
5 and is \$500 or over, \$50 the maximum amount specified in s. 799.01 (1) (d), but is
6 \$1,000 or more, attorney fees may not exceed \$300; when it is less than \$500 and is
7 \$200 or over, \$25; and when it is less than \$200, \$15 \$1,000, attorney fees may not
8 exceed \$100. In all other cases in which there is no amount recovered or that do not
9 involve property, attorney fees may not exceed \$500.

10 **SECTION 2.** 814.04 (1) (b) of the statutes is repealed.

11 **SECTION 3.** 814.04 (2) of the statutes is amended to read:

12 814.04 (2) **DISBURSEMENTS.** All the necessary disbursements and fees allowed
13 by law; the compensation of referees; a reasonable disbursement for the service of
14 process or other papers in an action when the same are served by a person authorized
15 by law other than an officer, but the item may not exceed the authorized sheriff's fee

1 for the same service; amounts actually paid out for certified and other copies of
2 papers and records in any public office; postage, ~~telegraphing~~ photocopying,
3 telephoning, electronic communications, facsimile transmissions and express or
4 overnight ~~mail~~ ^{delivery}; depositions including copies; plats and photographs, not exceeding
5 \$50 \$100 for each item; an expert witness fee not exceeding \$100 \$300 for each expert
6 who testifies, exclusive of the standard witness fee and mileage which shall also be
7 taxed for each expert; and in actions relating to or affecting the title to lands, the cost
8 of procuring an abstract of title to the lands. Guardian ad litem fees shall not be taxed
9 as a cost or disbursement.

X
****NOTE: I am not sure removing "telegraphing" is a good idea if they want to be all inclusive. Also, by adding "overnight mail" is the cost of other methods of sending documents, such as UPS, not covered? I think adding all of these specific items shows the flaw in trying to list all the covered costs. Perhaps the first sentence, before the first semicolon, should have the word "reasonable" added to it; and then the language between the first and third semicolon could be removed? Note also the limits in s. 814.02 (2) and the expansion of payments for costs in s. 814.036.

10 **SECTION 4.** 814.07 of the statutes is amended to read:

11 **814.07 Costs on motion.** Costs may be allowed on a motion, in the discretion
12 of the court or judge, not exceeding \$50 \$300, and may be absolute or directed to abide
13 the event of the action.

14 **SECTION 9309. Initial applicability; circuit courts.**

15 (1) COSTS AND DISBURSEMENTS. The treatment of sections 814.04 (1) (a) and (b)
16 and (2) and 814.07 of the statutes first applies to actions commenced on the effective
17 date of this subsection.

18 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1597/3
RPN:kmg:jf

DOA:.....Statz – Civil costs and disbursements, including attorney fees
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
COURTS AND PROCEDURE

CIRCUIT COURTS

Under current law, civil litigants generally pay their own attorney fees related to the litigation, unless otherwise specified by statute. This is called the “American rule”. Current law does provide for limited payment of attorney fees in all civil actions. Currently, the successful litigant in a civil action concerning money damages or property is entitled to attorney fees based on the following schedule:

<u>Amount recovered / value of property</u>	<u>Fee</u>
\$1,000 or more	\$100
\$500 to \$999.99	\$ 50
\$200 to \$499.99	\$ 25
Under \$200	\$ 15

This bill changes the amount of attorney fees allowed in these cases as follows:

<u>Amount recovered / value of property</u>	<u>Fee, not to exceed</u>
Greater than \$5,000	\$ 500
\$1,000 to \$5,000	\$ 300
Under \$1,000	\$ 100

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