

No. 763, A.]

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CHAPTER 580

AN ACT to amend chapter 168, laws of 1951, section 15, 3; section 23, 1 and section 24, 1, relating to filing of summons and court, expert witness and attorney fees in the civil court of Milwaukee county.

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

SECTION 1. Chapter 168, laws of 1951, section 15, 3, is amended to read:

(Chapter 168, laws of 1951) Section 15. 3. Every summons of said civil court when duly served shall be filed with the clerk of said court at least * * * 4 days before the end of the time when such summons is returnable, and the action thereby commenced shall thereafter be assigned and placed upon the calendar of said court by said clerk in accordance with the provisions of law and the rules of said court.

SECTION 2. Chapter 168, laws of 1951, section 23, 1, is amended to read:

(Chapter 168, laws of 1951) Section 23. 1. There shall be paid to the clerk or deputy clerks of said civil court the following sums only as court fees in a civil action: upon the issuing of a summons or warrant, * * * \$2, provided that the fee for a small claim summons shall be * * * \$1, and upon the issuing of an unlawful detainer summons \$2; for the trial of an action if issue is joined, and the amount is \$25 or less, \$1; where the amount claimed is more than \$25 but does not exceed \$200, \$2.50; and \$5 where the amount claimed or involved is more than \$200, and in unlawful detainer actions \$1; the foregoing to be paid by the plaintiff in such action; for each transcript, execution, or certificate issued by the clerk or deputy clerk, * * * 50 cents; *for the filing and recording of a satisfaction of judgment in all actions where the recovery is \$200 or more, a fee of \$1*; for making a return upon an appeal from a judgment or order, \$2, and in addition thereto shall be paid by the appellant before the return is filed with the clerk of the circuit court 15 cents for each folio of 100 words in such return and 5 cents per folio for copies of such return; except that when the appellant is the state or any political subdivision thereof, the charge shall be 7 cents for each folio of 100 words in such return. Said per folio charges, in any return made after the passage and publication of this act, shall belong to the phonographic reporter who shall report and transcribe the testimony contained therein and any fees paid to the clerk therefor shall be by him paid to said phonographic reporter immediately upon delivery to him of said transcripts of testimony. Provided, that if the fees on appeal, including an amount sufficient to pay for 50 per cent of the folios contained in the return, as estimated by the clerk upon request of the appellant, be not paid within 20 days from the date of the entry of judgment, the appeal shall be deemed dismissed.

SECTION 3. Chapter 168, laws of 1951, section 24, 1, is amended to read:

(Chapter 168, laws of 1951) Section 24. 1. The prevailing party in any action or proceeding in said civil court shall be entitled to costs, in the discretion of the judge before whom such action or proceeding was heard or tried; provided, however, that if in actions for assault and battery, false imprisonment, libel, slander, malicious prosecution, criminal conversation or seduction, the plaintiff shall recover less than \$50 damages, he shall recover no more costs than damages. Such costs shall be taxed by the clerk or deputy clerk upon *the* application of the party entitled thereto, provided that such costs shall be limited to the actual and necessary disbursements and amounts actually and necessarily paid out for premiums on bonds, *expert testimony given by a witness not exceeding \$25*, postage, telegraphing, telephoning, express, or for plats and photographs, not exceeding \$15 for the last 2 items, made by such prevailing party in such action or proceedings, and an attorney's fee as follows: 5 per cent of the amount recovered, unless a greater amount shall have been demanded in the pleadings of the adverse party, in which case the attorney's fee shall be 5 per cent of such greater amount; and if judgment is for the defendant dismissing the action, 5 per cent of the amount demanded in the complaint; in a replevin action where a lien is established in favor of a third party, 5

per cent of the amount of said lien; provided that in no case shall said attorney's fee be less than \$5, nor more than * * * \$100, unless said judge shall fix some other amount for such attorney fee, not exceeding * * * \$100; and provided that said judge may disallow any attorney fee to be included in the costs. Provided also, * * * *that* in replevin, attachment and garnishment proceedings, said percentage shall be computed upon the value of the property or indebtedness involved. When a judgment for damages for less than \$100 is entered upon confession or upon a note or bond and warrant of attorney, no more than \$5 shall be recovered for costs including disbursements. Costs may be allowed upon a motion in the discretion of the court or a judge, not exceeding \$10, and may be absolute or directed to abide the event of the action.

Approved July 14, 1953.
