

State of Wisconsin



September 2011 Special Session
Senate Bill 12

Date of enactment: **December 7, 2011**
Date of publication*: **December 20, 2011**

2011 WISCONSIN ACT 92

AN ACT to create 814.045 of the statutes; relating to: factors for determining the reasonableness of attorney fees.

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

SECTION 1. 814.045 of the statutes is created to read:

814.045 Attorney fees; reasonableness. (1) Subject to sub. (2), in any action involving the award of attorney fees that are not governed by s. 814.04 (1) or involving a dispute over the reasonableness of attorney fees, the court shall, in determining whether to award attorney fees and in determining whether the attorney fees are reasonable, consider all of the following:

- (a) The time and labor required by the attorney.
- (b) The novelty and difficulty of the questions involved in the action.
- (c) The skill requisite to perform the legal service properly.
- (d) The likelihood that the acceptance of the particular case precluded other employment by the attorney.
- (e) The fee customarily charged in the locality for similar legal services.
- (f) The amount of damages involved in the action.
- (g) The results obtained in the action.
- (h) The time limitations imposed by the client or by the circumstances of the action.
- (i) The nature and length of the attorney's professional relationship with his or her client.

(j) The experience, reputation, and ability of the attorney.

(k) Whether the fee is fixed or contingent.

(L) The complexity of the case.

(m) Awards of costs and fees in similar cases.

(n) The legitimacy or strength of any defenses or affirmative defenses asserted in the action.

(p) Other factors the court deems important or necessary to consider under the circumstances of the case.

(2) (a) In any action in which compensatory damages are awarded, the court shall presume that reasonable attorney fees do not exceed 3 times the amount of the compensatory damages awarded but this presumption may be overcome if the court determines, after considering the factors set forth in sub. (1), that a greater amount is reasonable.

(b) In any action in which compensatory damages are not awarded but injunctive or declaratory relief, rescission or modification, or specific performance is ordered, reasonable attorney fees shall be determined according to the factors set forth in sub. (1).

(3) This section does not abrogate the rights of persons to enter into an agreement for attorney fees, and the court shall presume that such an agreement is reasonable.

* Section 991.11, WISCONSIN STATUTES 2009-10: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].