



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2011 Wisconsin Act 92
[September 2011 Special Session
Senate Bill 12]

Attorney Fees

Current law provides that in certain actions, the court may grant reasonable attorney fees to a prevailing party. In addition, a court may resolve a dispute involving the reasonableness of attorney fees.

2011 Wisconsin Act 92 provides that in any action involving the award of attorney fees that are not governed by s. 814.04 (1), Stats., or involving a dispute over the reasonableness of attorney fees, a court must, in determining whether to award attorney fees and in determining whether the attorney fees are reasonable, consider all of the following: (1) the time and labor required by the attorney; (2) the novelty and difficulty of the questions involved in the action; (3) the skill requisite to perform the legal service properly; (4) the likelihood that the acceptance of the particular case precluded other employment by the attorney; (5) the fee customarily charged in the locality for similar legal services; (6) the amount of damages involved in the action; (7) the results obtained in the action; (8) the time limitations imposed by the client or by the circumstances of the action; (9) the nature and length of the attorney's professional relationship with his or her client; (10) the experience, reputation, and ability of the attorney; (11) whether the fee is fixed or contingent; (12) the complexity of the case; (13) awards of costs and fees in similar cases; (14) the legitimacy or strength of any defenses or affirmative defenses asserted in the action; and (15) other factors the court deems important or necessary to consider under the circumstances of the case.

The Act provides that in any action in which compensatory damages are awarded, the court must presume that reasonable attorney fees do not exceed three times the amount of the compensatory damages awarded, but this presumption may be overcome if the court determines, after considering the factors described above, that a greater amount is reasonable. In any action in which compensatory damages are not awarded but injunctive or declaratory relief, rescission or modification, or specific

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

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performance is ordered, reasonable attorney fees must be determined according to the factors described above.

Lastly, the Act specifies that the statute created by the Act does not abrogate the rights of persons to enter into an agreement for attorney fees, and the court must presume that such an agreement is reasonable.

Effective date: The Act takes effect on December 21, 2011.

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JKR:ksm