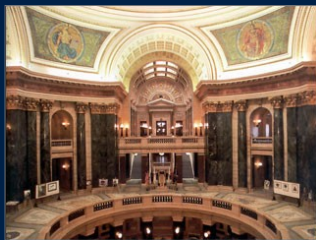


## How to become a partner

Within the context of a *new* political environment, the plaintiffs' bar is advancing legislation that would tip the scales of justice in favor of increased litigation and higher damage awards. These attempts to unwind the reforms enacted in the 1990s would weaken the state's ability to attract new or keep existing businesses. WCJC's mission is to fight these initiatives and otherwise promote fairness and equity in Wisconsin's civil justice system.

*To achieve these objectives, however, it will take substantial resources. Please consider making a contribution to the:*

Wisconsin Civil Justice Council, Inc.  
c/o Andrew Cook  
10 E. Doty Street, Suite 500  
Madison, WI 53703



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*Promoting Fairness and Equity in Wisconsin's Civil Justice System*



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Wisconsin Civil Justice Council, Inc.



*Promoting Fairness and Equity in  
Wisconsin's Civil Justice System*

*Proposed changes to our liability system that were recently defeated would have been devastating to Wisconsin's tourism industry and overall economic development. This victory could not have been accomplished without the leadership of the Wisconsin Civil Justice Council.*

Tom Diehl  
President, Tommy Bartlett, Inc.

[www.wisciviljusticecouncil.org](http://www.wisciviljusticecouncil.org)

*The recent rejection of anti-business efforts to increase the number and amount of damage awards was accomplished by a textbook government relations effort, in the best sense of the term. Congratulations and thank you to Wisconsin Civil Justice Council for leading that effort and setting the right example.*

**Jonathan Barry, former legislator and County Executive, small business owner**

## ABOUT US

The Wisconsin Civil Justice Council, Inc. (WCJC) was formed to represent Wisconsin business interests on civil litigation legislation before the Wisconsin Legislature. Our goal is to achieve fairness and equity, reduce costs, and enhance Wisconsin's image as a place to live and work.

## SUCCESSSES

The 2009-10 Legislative Session has been and will continue to be extremely active for Wisconsin's civil justice system. The most notable – and controversial – were policies buried deep in the budget bill, as initially introduced, that would have made fundamental changes to our civil justice system relating to contributory negligence and jury instructions.

Through the efforts of many, but led by the Wisconsin Civil Justice Council, the following provisions ultimately were removed from the budget.

- Changes to Wisconsin's joint and several liability law that could force co-defendants as little as one percent at fault to be responsible for 100 percent of the damages. Under current law, a co-defendant can only be held jointly and severally liable if he or she is 51 percent or more at fault.
- A new policy that would allow a person or business that is less at fault than the plaintiff to be sued so long as the combined fault of all the persons sued was equal to or greater than that of the plaintiff. Existing law requires the plaintiff to be less at fault than each defendant he or she is suing.
- Overturning well established law regarding jury instructions, a mandate that courts inform the jury how the jury's findings on fault affect responsibility for damages; that is, to allow the jury to adjust fault determinations to maximize awards.

WCJC was also instrumental in advancing amendments to SB 20 to assure punitive damages relating to employment discrimination could only be awarded upon a finding that the employer

acted with malice or recklessness. Also deleted was the 10 percent surcharge or bounty awarded the Department of Workforce Development.

## CHALLENGES AHEAD

After the last election, leadership of the plaintiffs' bar announced to its members that "We won!" and will have an aggressive agenda aimed at more and greater damage awards.

We can expect the budget provisions – joint and several liability, combined fault and advising jurors of the consequences of their findings – to be reintroduced as separate legislation. We also face efforts to expand those eligible to recover for loss of society and companionship and to lengthen the time (statute of limitations) to bring lawsuits, among other pro-plaintiff proposals.

On the proactive side, there are areas of our civil justice system that beg for changes in the interest of fairness – including the integrity of expert opinion evidence, product liability reform, standards for the award of punitive damages, and reasonable medical liability protections. While enactment of the reforms in the current atmosphere is highly unlikely, it is imperative to continue the public visibility and education surrounding these issues.

September 2009

