

*“The Wisconsin Civil Justice Council has a national reputation for its successes and also for accomplishing its objectives efficiently as well as effectively.”*

**Bill G. Smith**, State Director, National Federation of Independent Business

## **WE NEED YOUR SUPPORT BECOME A PARTNER**

WCJC’s mission is to promote fairness and equity in Wisconsin’s civil justice system. Often we must fight against an aggressive anti-business agenda being advanced by the plaintiffs’ bar that would weaken the state’s ability to attract new or keep existing businesses.

WCJC’s success is predicated on financial and lobbying support from Board members and our vital Partners. To date, this leadership and cohesiveness among the business and professional communities has resulted in sweeping victories. But help is always needed.

Please consider becoming a Partner by 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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**WISCONSIN CIVIL JUSTICE COUNCIL, INC.**

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



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Equity in Wisconsin's  
Civil Justice System*

*“The Wisconsin Civil Justice Council was the driving force behind enactment of numerous key civil justice reforms in 2011. WCJC achieved a record of outstanding accomplishments that will substantially enhance fairness in Wisconsin’s civil justice system while promoting economic growth.”*

**Sherman Joyce**, President  
American Tort Reform  
Association

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## ABOUT US

The Wisconsin Civil Justice Council, Inc. (WCJC) was formed in 2009 to represent Wisconsin business interests on civil litigation legislation before the Wisconsin Legislature. Our goal is to achieve fairness and equity within our judicial system to reduce unnecessary litigation costs, and enhance Wisconsin's image as a rewarding place to live and work.

## FIGHTING for FAIRNESS (and WINNING)

The 2011-12 Legislative Session has presented an opportunity to make positive reforms to Wisconsin's civil justice system. WCJC has successfully capitalized on this opportunity by advancing sweeping tort reforms.

Early in 2011, Gov. Scott Walker called the Legislature into special session to enhance the state's business climate. WCJC was instrumental in helping draft and enact 2011 Wisconsin Act 2, which contained comprehensive tort reforms.

In September 2011, Gov. Walker introduced, and the Legislature enacted, three more civil justice reform bills supported by WCJC.

WCJC has successfully defeated harmful legislation. In 2009-10, the plaintiffs' bar pushed an aggressive anti-business agenda. For example, legislation supported by the plaintiffs' bar would have:

- Forced someone as little as 1% at fault to pay 100% of the damages.
- Allowed someone more at fault to sue those less at fault.
- Required the court to inform the jury how to maximize awards from "deep pockets."

## Legislation Championed by the Wisconsin Civil Justice Council in 2011

### 2011 Wisconsin Act 2—Product Liability:

Encompasses a comprehensive rewrite of Wisconsin's product liability laws, including moving away from the overly broad "consumer expectation" standard.

### 2011 Wisconsin Act 2—Expert Opinion

**Evidence-Daubert Standard:** Requires expert witness testimony to be based on sufficient facts or data, and must be the product of reliable principles and methods.

### 2011 Wisconsin Act 2—Risk Contribution:

Overturns a controversial 2005 Wisconsin Supreme Court decision (*Thomas v. Mallet*) that allowed claimants to recover based on a "risk contribution" theory. This legal doctrine spread liability among all manufacturers marketing the product during the relevant time period, regardless of whether the company actually manufactured the product.

### 2011 Wisconsin Act 2—Caps on Punitive Damages:

Caps punitive damages in civil liability cases at \$200,000 or two times compensatory damages, whichever is greater. Prior to this new law there were no caps on punitive damages.

### 2011 Wisconsin Act 2—Frivolous Claims:

Provides that a party or party's attorney may be held liable for costs and fees for bringing a lawsuit, cross complaint, defense, or appeal in bad faith, and solely for the purpose of harassing or maliciously injuring another party. Previously, damages were not available for a party who was the target of a frivolous claim.

### 2011 Wisconsin Act 69—Interest on Judgments:

Resets Wisconsin's interest on both pre- and post-judgments from a fixed rate of 12 percent to a variable rate (Federal prime rate plus 1%). The rate is reset twice a year and applies to all cases.

### Special Session SB 22—Trespasser Liability:

Codifies current court made law relating to the duty of care owed to trespassers. The law prevents a court from adopting the new *Restatement (Third) of Torts*, which expands the duty of care owed to trespassers, thus exposing landowners to greater liability. (Passed both houses and sent to Governor.)

### Special Session SB 12—Reasonable Attorney Fees:

Sets forth a number of criteria courts are to consider when awarding plaintiff attorney fees. Also creates a rebuttable presumption that attorney fees are no more than three times compensatory damages. (Passed both houses and sent to Governor.)

### SB 202 —Eliminating Punitive and Compensatory Damages under Fair Employment Act:

Repeals 2009 WI Act 20, which for the first time enacted punitive and compensatory damages for discrimination cases under the Wisconsin Fair Employment Act. SB 202 simply eliminates those damages. (Passed the Senate and expected to pass the Assembly and be signed into law by the Governor.)

## MORE REFORMS ON THE WAY

WCJC continues to push for positive reforms and fights anti-business legislation. For continuous updates, visit [www.wisciviljusticecouncil.org](http://www.wisciviljusticecouncil.org).

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