



WISCONSIN CIVIL JUSTICE COUNCIL, INC.

Promoting Fairness and Equity in Wisconsin's Civil Justice System

2011-12 Legislative Successes

[Special Session SB1/AB 1 \(Act 2 – Products Liability\)](#) – Adopts more reasonable products liability standards for manufacturers and sellers; requiring proof of a “reasonable alternative design,” which moves Wisconsin away from the broad “consumer expectation” test.

Status: PASSED. Signed into law ([2011 Wisconsin Act 2](#)).

[Special Session SB 1/AB 1 \(Act 2 – Risk Contribution Theory\)](#) – Eliminates the deeply flawed “risk contribution” theory in manufacturing lawsuits adopted in 2005 by the Wisconsin Supreme Court in *Thomas v. Mallett*.

Status: PASSED. Signed into law ([2011 Wisconsin Act 2](#)).

[Special Session SB 1/AB 1 \(Act 2 – Daubert Standards\)](#) – Gets rid of junk science in the courtroom by limiting testimony of experts and evidence to that which is based on sufficient facts or data and is the product of reliable principles and methods. This is derived from the federal court rules and the U.S. Supreme Court decision (*Daubert v. Merrell Dow Pharmaceuticals*).

Status: PASSED. Signed into law ([2011 Wisconsin Act 2](#)).

[Special Session SB 1/AB 1 \(Act 2 – Punitive Damages\)](#) – Places a cap on punitive damages instead of relying on a judicial balancing test. The cap is set at \$200,000 or two times compensatory damages, whichever is greater.

Status: PASSED. Signed into law ([2011 Wisconsin Act 2](#)).

[Special Session SB 1/AB 1 \(Act 2 – Sanctions on Frivolous Lawsuits\)](#) – Imposes sanctions on frivolous lawsuits. A party may now be liable for costs and fees for bringing a lawsuit or claim that is done solely for the purpose of harassing or maliciously injuring another party.

Status: PASSED. Signed into law ([2011 Wisconsin Act 2](#)).

[Special Session SB 12/AB 12 \(Reasonable Attorney Fees\)](#) – Sets forth a number of criteria courts must consider when awarding attorney fees, and provides a rebuttable presumption that attorney fees shall be no more than three times compensatory damages.

Status: PASSED. Signed into law ([2011 Wisconsin Act 92](#)).

[Special Session SB 14/AB 14 \(Interest on Judgments\)](#) – The new law changes Wisconsin’s pre- and post-judgment interest from 12 percent – the highest in the nation – to the Federal Reserve prime rate plus one percent.

Status: PASSED. Signed into law ([2011 Wisconsin Act 69](#)).

[Special Session SB 22/AB 22 \(Trespasser Liability\)](#) – Protects landowners from courts adopting the new Restatement of Torts by codifying the current law as it relates to the duty of care owed to a trespasser by a possessor of land.

Status: PASSED. Signed into law ([2011 Wisconsin Act 93](#)).

[SB 202/AB 286 \(Eliminating Punitive and Compensatory Damages\)](#) – Eliminates punitive and compensatory damages under the Wisconsin Fair Employment Act by repealing 2009 Wis. Act 20.

Status: PASSED. Signed into law ([2011 Wisconsin Act 219](#)).

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.