

“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.
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Madison, WI 53703*



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WISCONSIN CIVIL JUSTICE COUNCIL, INC.

Promoting Fairness and Equity in Wisconsin's Civil Justice System



*Promoting Fairness and
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.

WCJC effectuates this objective through policy development, legislative lobbying, and its Appellate and Judicial Evaluation Programs.

FIGHTING FOR FAIRNESS (AND WINNING)

In a defining effort, the Wisconsin Legislature, with Gov. Walker's leadership, enacted sweeping civil justice reforms during the contentious 2011-12 Legislative Session.

Landmark reforms relating to product liability, expert opinion testimony, risk contribution, and caps on punitive damages, among others, turned Wisconsin's souring litigation and business climate into one of the most competitive jurisdictions in the country from a litigation standpoint.

WCJC has also successfully defeated harmful legislation. In 2009-10, the plaintiffs' bar pushed an aggressive anti-business agenda. WCJC defeated legislation that 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."

WISCONSIN CIVIL JUSTICE COUNCIL'S 2011-12 LEGISLATIVE SUCCESSES

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. Mallett*) 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.

2011 Wisconsin Act 93—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.

2011 Wisconsin Act 92—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.

2011 Wisconsin Act 219 —Eliminating Punitive and Compensatory Damages under the Fair Employment Act: Repeals 2009 WI Act 20, which for the first time allowed punitive and compensatory damages in discrimination cases under the Wisconsin Fair Employment Act. SB 202 simply eliminated those damages.

MORE REFORMS ON THE WAY

While we had a successful legislative session, there is still more work to do. WCJC plans to introduce more reforms in the future. In addition, WCJC will have to be prepared to defend these positive reforms in future legislative sessions and in the courts. For continuous updates, visit www.wisciviljusticecouncil.org.