



WISCONSIN CIVIL JUSTICE COUNCIL, INC.

Promoting Fairness and Equity in Wisconsin's Civil Justice System

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Madison

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WCJC Statement on Governor Walker's Small Business Agenda

The Governor's litigation reform agenda should include common sense reforms to lower the high transactional cost of litigation that can overwhelm small businesses.

"Having a competitive legal environment has never been more important," says WCJC President Billy G. Smith. In a recent survey of corporate attorneys, 85 percent believe a state's litigation environment is likely to impact business decisions at their companies, such as where to locate or do business. This is an increase from 75 percent in 2015 and 70 percent in 2012.¹

According to Smith, "the easiest way to lower litigation costs for everyone, including large and small businesses, state and local governments, plaintiffs and defendants, is to address the escalating transaction costs associated with discovery."

A recent study found that most of the documents retrieved in discovery are never submitted as evidence. In 2008, for example, of the close to 5 million pages of documents produced in discovery in major cases that went to trial, only 4,772 exhibit pages were marked. That means over 99.9 percent of those documents retrieved were never used.² "That is an incredible waste of time and money," according to Smith.

These broad requests for documents, including electronic data, can cost tens of thousands to tens of millions of dollars. Such costs would cripple small business owners who may have no choice but to settle even if they could win on the merits of the case.

WCJC looks forward to working with Gov. Walker on other opportunities to lower litigation costs and reduce frivolous lawsuits.

¹ 2017 Lawsuit Climate Survey – Ranking the States, U.S. Chamber ILR (Sept. 2017).

² Litigation Cost Survey of Major Companies Statement, Lawyers for Civil Justice, Civil Justice Reform Group, U.S. Chamber Institute for Legal Reform (2010).