
HOUSE BILL 1748

State of Washington

54th Legislature

1995 Regular Session

By Representatives Huff, Hargrove, Sheldon, Delvin, McMahan, Basich and Beeksma

Read first time 02/07/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to a sliding scale cap on attorneys' contingent
2 fees; and adding a new section to chapter 4.24 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 4.24 RCW
5 to read as follows:

6 (1) In any action based on fault seeking damages for personal
7 injury or property damage, an attorney shall not contract for or
8 collect a contingency fee for representing any person seeking such
9 damages in excess of the following limits:

10 (a) One-third of the first three hundred thousand dollars
11 recovered;

12 (b) One-quarter of the next two hundred thousand dollars recovered;
13 and

14 (c) One-tenth of any amount on which the recovery exceeds five
15 hundred thousand dollars.

16 (2) The limitations in subsection (1) of this section shall apply
17 regardless of whether the recovery is by settlement, arbitration, or
18 judgment or whether the person for whom the recovery is made is a
19 responsible adult, an infant, or a person of unsound mind.

1 (3) If periodic payments for future damages are awarded, the court
2 shall determine the present value of those payments and include the
3 present value of future periodic payments in computing the total award
4 on which attorney's fees are calculated.

5 (4) The percentages specified in subsection (1) of this section
6 shall be applied to the net sum recovered after deducting from the
7 total amount recovered an amount equal to the total expenses and
8 disbursements for expert testimony and investigative or other services
9 properly chargeable to the enforcement of the claim or prosecution of
10 the action. In computing the fee, the costs as taxed, including
11 interest upon a judgment, shall be considered part of the amount
12 recovered. For the following or similar items there shall be no
13 deduction in applying the percentages: Liens and assignments or claims
14 in favor of hospitals, for medical care and treatment by doctors and
15 nurses, or of self-insurers or insurance carriers.

16 (5) If an attorney believes in good faith that the fee schedule
17 fails to provide adequate compensation due to extraordinary
18 circumstances, then the attorney may apply for greater compensation.
19 Application may be made upon affidavit with written notice and an
20 opportunity to be heard to the party or parties to the contract and
21 other persons holding liens or assignments on the recovery.
22 Application shall be made (a) to the superior court judge to whom the
23 action had been sent for trial, or (b) if the action had not been sent
24 to trial, then to the presiding judge in the county in which the action
25 had been filed, or (c) if no action had been filed, then to the
26 superior court presiding judge in the county in which the attorney has
27 an office.

28 Upon application, if extraordinary circumstances are found to exist
29 and without regard to the consent of the other party or parties to the
30 contract, the court may fix as reasonable compensation for legal
31 services rendered an amount greater than that specified in the
32 schedule. If the application is granted, the court shall make a
33 written order and briefly set forth the reasons for granting the
34 greater compensation. A copy of the order shall be served on all
35 persons entitled to receive notice of the application.

36 (6) In determining the reasonableness of the parties' attorneys'
37 fees upon application under subsection (5) of this section, the court
38 shall consider the following:

- 1 (a) The time and labor required, the novelty and difficulty of the
2 questions involved, and the skill requisite to perform the legal
3 service properly;
- 4 (b) The likelihood, if apparent to the client, that the acceptance
5 of the particular employment will preclude other employment by the
6 lawyer;
- 7 (c) The fee customarily charged in the locality for similar legal
8 services;
- 9 (d) The amount involved and the results obtained;
- 10 (e) The time limitations imposed by the client or by the
11 circumstances;
- 12 (f) The nature and length of the professional relationship with the
13 client;
- 14 (g) The experience, reputation, and ability of the lawyer or
15 lawyers performing the services; and
- 16 (h) Whether the fee is fixed or contingent.

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