

## WSI Attorney Fee Cost Comparison - FY08

Levels of Resolution (Fee Caps) as provided for in the North Dakota Administrative Code, §92-01-02-11.1	Hourly Rate for Claimant's Counsel and WSI Counsel	Fee Cap Level as Described in the NDAC	Average Clmt's Counsel \$ Paid at this Level When Claimant Prevails*	Average WSI Counsel \$ Paid at this Level	Total Fees Paid
<b>Review of Settlement Offer -</b> For review of a proposed settlement, if the employee to whom the settlement is offered was not represented by counsel at the time of the offer of settlement	\$125/ hour for Claimant Counsel  \$115 – \$140 hour for WSI Counsel based on experience level of assigned attorney	\$500	\$375	WSI Counsel is not involved at this stage and therefore no payments are made	\$1125 (3 cases)

\*Definition of "Prevail" N.D.C.C. §65-02-08 provides that: *"An injured employee has prevailed only when an additional benefit, previously denied, is paid."*

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Except for an initial determination of compensability, twenty percent of the additional amount awarded	\$125/ hour for Claimant Counsel  \$115 – \$140 hour for WSI Counsel based on experience level of assigned attorney	20%	Any payments made under this section are included below under the appropriate section	Any payments made under this section are included below under the appropriate section	Any payments made under this section are included below under the appropriate section
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<b>Prior to Hearing</b> - For services provided if settlement or amendment to the administrative order reducing or denying benefits is reached prior to administrative hearing being held and subsequent to the OIR Certificate being issued	\$125/ hour for Claimant Counsel  \$115 - \$140 hour for WSI Counsel based on experience level of assigned attorney	\$2500 plus reasonable costs incurred	\$1465	\$2390	\$131,448.29 (38 cases)

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<b>Hearing</b> – if the employee prevails after an evidentiary hearing is held and subsequent to OIR Certificate being issued	\$125/ hour for Claimant Counsel  \$115 – \$140 hour for WSI Counsel based on experience level of assigned attorney	\$5100 plus reasonable costs incurred	\$3562	\$3834	\$284,593.70 (50 cases)

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<b>Prior to District Court Briefs Being Filed</b> - if the employee's district court appeal is settled prior to submission of briefs	\$125/ hour for Claimant Counsel  \$115 – \$140 hour for WSI Counsel based on experience level of assigned attorney	\$5700 plus reasonable costs incurred	Has not occurred this FY	Has not occurred this FY	N/A

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<b>District Court</b> - if the employee prevails after hearing by the district court	\$125/ hour for Claimant Counsel  \$115 – \$140 hour for WSI Counsel based on experience level of assigned attorney	\$7600 plus reasonable costs incurred  25% extra provision	\$4804	\$4395	\$45,591.29 (6 cases)

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<b>Prior to Supreme Court Briefs Being Filed</b> - if the employee's North Dakota supreme court appeal is settled prior to hearing	\$125/ hour for Claimant Counsel  \$115 - \$140 hour for WSI Counsel based on experience level of assigned attorney	\$9300 plus reasonable costs incurred  25% extra provision	Has not occurred this FY	Has not occurred this FY	N/A
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<b>Supreme Court</b> - if the employee prevails after hearing by the supreme court	\$125/ hour for Claimant Counsel  \$115 - \$140 hour for WSI Counsel based on experience level of assigned attorney	\$10,000 plus reasonable costs incurred	\$9203	\$6939	\$99,262.20 (9 cases)

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