

HOUSE BILL NO. 533

1/29 Introduced  
1/29 Referred to Judiciary  
2/12 Hearing  
2/23 Adverse Committee Report  
2/23 Objection to Adverse Committee Report  
2/27 2nd Reading Do Not Pass  
2/27 Bill Killed

1 HOUSE BILL NO. 533  
2 INTRODUCED BY Thomas

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS  
5 REGARDING PUNITIVE DAMAGES; PROVIDING THAT A PORTION OF  
6 AWARDS OF PUNITIVE DAMAGES BE PAID TO THE STATE OF MONTANA;  
7 AMENDING SECTIONS 25-10-301 AND 27-1-221, MCA; AND PROVIDING  
8 AN APPLICABILITY DATE."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 25-10-301, MCA, is amended to read:

12 "25-10-301. Determining compensation of attorneys. The  
13 Subject to the fee limits in the cases of punitive damages  
14 in 27-1-221, the measure and mode of compensation of  
15 attorneys and counselors at law is left to agreement,  
16 express or implied, of the parties, except that in probate  
17 proceedings the court may fix and allow the compensation of  
18 attorneys representing administrators, executors, guardians,  
19 trustees, and agents appointed by the court. But parties to  
20 actions or proceedings are entitled to costs and  
21 disbursements as provided by law."

22 Section 2. Section 27-1-221, MCA, is amended to read:

23 "27-1-221. When exemplary damages allowed. (1) In any  
24 action for a breach of an obligation not arising from  
25 contract where the defendant has been guilty of oppression,

1 fraud, or malice, actual or presumed, the jury, in addition  
2 to the actual damages, may give award damages for the sake  
3 of example and by way of punishing the defendant. Punitive  
4 damages shall be distributed as provided in subsections (2)  
5 and (3).

6 (2) Subject to the limitations in subsection (3), the  
7 court shall order the distribution of punitive damages  
8 awarded by the jury under subsection (1) in the following  
9 order:

- 10 (a) expenses of litigation;
- 11 (b) attorney fees;
- 12 (c) plaintiff's share, which must be equal to the  
13 amount paid as attorney fees; and
- 14 (d) the remainder to be paid to the state of Montana  
15 and deposited by the state treasurer in the general fund.

16 (3) The court may regulate the amount of attorney fees  
17 to be paid out of an award of punitive damages. In  
18 regulating the amount of the fees, the court shall consider  
19 the time the attorney was required to spend on the case, the  
20 complexity of the case, and any other relevant matter the  
21 court considers appropriate. The fee may not be in excess of  
22 33.3% of the first \$150,000 of punitive damages, 25% of the  
23 next \$200,000, and 10% of any amount awarded over \$350,000."

24 NEW SECTION. Section 3. Applicability. This act  
25 applies to proceedings filed after the effective date of

LC 1072/01

1 this act.

-End-

HB 0533/02  
COMMITTEE  
ON JUDICIARY  
AS AMENDED  
RECOMMEND DO NOT PASS  
OBJECTION RAISED TO  
ADVERSE COMMITTEE REPORT

HOUSE BILL NO. 533  
INTRODUCED BY THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS REGARDING PUNITIVE DAMAGES; PROVIDING THAT A PORTION OF AWARDS ONE-FOURTH OF EACH AWARD OF PUNITIVE DAMAGES BE PAID TO THE STATE OF MONTANA; AMENDING SECTIONS 25-10-301 AND 27-1-221, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 25-10-301, MCA, is amended to read:

"25-10-301. Determining compensation of attorneys. Subject to the fee limits in the cases of punitive damages in 27-1-221, the measure and mode of compensation of attorneys and counselors at law is left to agreement, express or implied, of the parties, except that in probate proceedings the court may fix and allow the compensation of attorneys representing administrators, executors, guardians, trustees, and agents appointed by the court. But parties to actions or proceedings are entitled to costs and disbursements as provided by law."

Section 2. Section 27-1-221, MCA, is amended to read:

"27-1-221. When exemplary damages allowed. (1) In any action for a breach of an obligation not arising from contract where the defendant has been guilty of oppression,

fraud, or malice, actual or presumed, the jury, in addition to the actual damages, may give award damages for the sake of example and by way of punishing the defendant. Punitive damages shall be distributed as provided in subsections (2) and (3).

(2) Subject to the limitations in subsection (3), the court shall order the distribution of punitive damages awarded by the jury under subsection (1) in the following order:

(a) expenses of litigation;

(b) attorney fees;

(c) plaintiff's share, which must be equal to the amount paid as attorney fees; and

(d) the remainder to ONE-FOURTH OF THE DAMAGE AWARD MUST be paid to the state of Montana and deposited by the state treasurer in the general fund.

(3)(2) The court may regulate the amount of attorney fees to be paid out of an award of punitive damages. In regulating the amount of the fees, the court shall consider the time the attorney was required to spend on the case, the complexity of the case, and any other relevant matter the court considers appropriate. The fee may not be in excess of 33.3% of the first \$150,000 of punitive damages, 25% of the next \$200,000, and 10% of any amount awarded over \$350,000."

NEW SECTION. Section 3. Applicability. This act

HB 0533/02

1 applies to proceedings filed after the effective date of  
2 this act.

-End-