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73.091 Costs of the proceedings.--

(1) The petitioner shall pay attorney's fees as provided in s. [73.092](#) as well as all reasonable costs incurred in the defense of the proceedings in the circuit court, including, but not limited to, reasonable appraisal fees and, when business damages are compensable, a reasonable accountant's fee, to be assessed by that court. No prejudgment interest shall be paid on costs or attorney's fees.

(2) At least 30 days prior to a hearing to assess costs under this section, the condemnee's attorney shall submit to the condemning authority for each expert witness complete time records and a detailed statement of services rendered by date, nature of services performed, time spent performing such services, and costs incurred, and a copy of any fee agreement which may exist between the expert and the condemnee or the condemnee's attorney.

(3) In assessing costs, the court shall consider all factors relevant to the reasonableness of the costs, including, but not limited to, the fees paid to similar experts retained in the case by the condemning authority or other parties and the reasonable costs of similar services by similarly qualified persons.

(4) In assessing costs to be paid by the petitioner, the court shall be guided by the amount the defendant would ordinarily have been expected to pay for the services rendered if the petitioner were not responsible for the costs.

(5) The court shall make specific findings that justify each sum awarded as an expert witness fee.

History.--s. 1, ch. 65-369; s. 2, ch. 87-148; s. 52, ch. 90-136; s. 1, ch. 90-303; s. 2, ch. 94-162; s. 60, ch. 99-385.

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73.092 Attorney's fees.--

(1) Except as otherwise provided in this section and s. [73.015](#), the court, in eminent domain proceedings, shall award attorney's fees based solely on the benefits achieved for the client.

(a) As used in this section, the term "benefits" means the difference, exclusive of interest, between the final judgment or settlement and the last written offer made by the condemning authority before the defendant hires an attorney. If no written offer is made by the condemning authority before the defendant hires an attorney, benefits must be measured from the first written offer after the attorney is hired.

1. In determining attorney's fees, if business records as defined in s. [73.015\(2\)\(c\)2.](#) and kept by the owner in the ordinary course of business were provided to the condemning authority to substantiate the business damage offer in s. [73.015\(2\)\(c\)](#), benefits for amounts awarded for business damages must be based on the difference between the final judgment or settlement and the written counteroffer made by the condemning authority provided in s. [73.015\(2\)\(d\)](#).

2. In determining attorney's fees, if existing business records as defined in s. [73.015\(2\)\(c\)2.](#) and kept by the owner in the ordinary course of business were not provided to the condemning authority to substantiate the business damage offer in s. [73.015\(2\)\(c\)](#) and those records which were not provided are later deemed material to the determination of business damages, benefits for amounts awarded for business damages must be based upon the difference between the final judgment or settlement and the first written counteroffer made by the condemning authority within 90 days from the condemning authority's receipt of the business records previously not provided.

(b) The court may also consider nonmonetary benefits obtained for the client through the efforts of the attorney, to the extent such nonmonetary benefits are specifically identified by the court and can, within a reasonable degree of certainty, be quantified.

(c) Attorney's fees based on benefits achieved shall be awarded in accordance with the following schedule:

1. Thirty-three percent of any benefit up to \$250,000; plus
2. Twenty-five percent of any portion of the benefit between \$250,000 and \$1 million; plus

3. Twenty percent of any portion of the benefit exceeding \$1 million.

(2) In assessing attorney's fees incurred in defeating an order of taking, or for apportionment, or other supplemental proceedings, when not otherwise provided for, the court shall consider:

(a) The novelty, difficulty, and importance of the questions involved.

(b) The skill employed by the attorney in conducting the cause.

(c) The amount of money involved.

(d) The responsibility incurred and fulfilled by the attorney.

(e) The attorney's time and labor reasonably required adequately to represent the client in relation to the benefits resulting to the client.

(f) The fee, or rate of fee, customarily charged for legal services of a comparable or similar nature.

(g) Any attorney's fee award made under subsection (1).

(3) In determining the amount of attorney's fees to be paid by the petitioner under subsection (2), the court shall be guided by the fees the defendant would ordinarily be expected to pay for these services if the petitioner were not responsible for the payment of those fees.

(4) At least 30 days prior to a hearing to assess attorney's fees under subsection (2), the condemnee's attorney shall submit to the condemning authority and to the court complete time records and a detailed statement of services rendered by date, nature of services performed, time spent performing such services, and costs incurred.

(5) The defendant shall provide to the court a copy of any fee agreement that may exist between the defendant and his or her attorney, and the court must reduce the amount of attorney's fees to be paid by the defendant by the amount of any attorney's fees awarded by the court.

History.--s. 1, ch. 76-158; s. 37, ch. 85-180; s. 3, ch. 87-148; s. 54, ch. 90-136; s. 3, ch. 90-303; s. 3, ch. 94-162; s. 1370, ch. 95-147; s. 61, ch. 99-385.

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73.131 Appeals; costs.--

(1) Appeals in eminent domain actions shall be taken in the manner prescribed by law and in accordance with the appellate rules, except that an appeal shall not prevent appropriation of the property by the petitioner where the amount awarded by the judgment has been deposited with the court as aforesaid. If, at any time after entry of the judgment, a defendant shall take out of the court the amount due him or her, any pending appeal taken by the defendant shall be dismissed by the appellate court upon the filing of a certificate by the clerk of the circuit court stating that the defendant taking the appeal has withdrawn the amount due him or her.

(2) The petitioner shall pay all reasonable costs of the proceedings in the appellate court, including a reasonable attorney's fee to be assessed by that court, except upon an appeal taken by a defendant in which the judgment of the lower court shall be affirmed.

History.--s. 1, ch. 65-369; s. 4, ch. 87-148; s. 364, ch. 95-147.

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