

Rule 68. Offer of Judgment

(a) Offer of judgment; liability for costs. At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against the defending party for the money or property or to the effect specified in the offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the Court shall enter judgment, unless it finds that the provisions with respect to custody, visitation or with support are not in the best interests of the child. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If the Court finds that the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer. When the liability of one party to another has been determined by order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which shall have the same effect as an offer made before trial if it is served within a reasonable time but not less than 10 days prior to the commencement of hearings to determine the amount or extent of liability.

(b) Costs. For purposes of this Rule, costs may include such attorney's fees as may be awarded by statute or otherwise in connection with the pending action.

COMMENT

Because attorney's fees are routinely statutorily at issue in domestic relations cases, paragraph (b) provides that the fees incurred after the making of an offer of judgment are properly awardable as costs under this Rule. See *Kelly v. Clyburn*, 490 A.2d 188 (D.C. App. 1985). See D.C. Code § 16-911, 16-918.