

Rule 68. Offer of Judgment

(a) **MAKING AN OFFER; JUDGMENT ON AN ACCEPTED OFFER.** At least 14 days before the date set for trial, a party defending against a claim may serve on an opposing party an offer to allow judgment on specified terms, with the costs then accrued. If, within 14 days after being served, the opposing party serves written notice accepting the offer, either party may then file the offer and notice of acceptance, plus proof of service. The court must then enter judgment, unless it finds that the custody, visitation, or support provisions are not in the best interests of the child.

(b) **UNACCEPTED OFFER.** An unaccepted offer is considered withdrawn, but it does not preclude a later offer. Evidence of an unaccepted offer is not admissible except in a proceeding to determine costs.

(c) **OFFER AFTER LIABILITY IS DETERMINED.** When one party's liability to another has been determined but the extent of liability remains to be determined by further proceedings, the party held liable may make an offer of judgment. It must be served within a reasonable time—but at least 14 days—before the date set for a hearing to determine the extent of liability.

(d) **PAYING COSTS AFTER AN UNACCEPTED OFFER.** If the judgment that the offeree finally obtains is not more favorable than the unaccepted offer, the offeree must pay the costs incurred after the offer was made.

(e) **COSTS.** For purposes of this rule, costs may include attorney's fees that may be awarded by statute or otherwise in connection with the pending action.

COMMENT TO 2018 AMENDMENTS

This rule conforms to Civil Rule 68, except that the substance of section (e) (formerly section (b)) was retained from the former domestic relations rule.

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.