

ATTACHMENT*

Rule 68. Offer of Judgment

(a) **Time for Making; Procedure.** At any time more than 30 days before the trial begins, any party may serve upon any other party an offer to allow judgment to be entered in the action. However, in cases subject to arbitration, no offer of judgment may be made during the period beginning 25 days before the arbitration hearing and ending upon the date of the filing of any notice of appeal of an award pursuant to Rule 77(a).

(b) – (f) [No change]

(g) **Sanctions.** If the offeree rejects an offer and does not later obtain a more favorable judgment other than pursuant to this Rule, the offeree must pay, as a sanction, reasonable expert witness fees and double the taxable costs, as defined in A.R.S. § 12-332, incurred by the offeror after making the offer and prejudgment interest on unliquidated claims to accrue from the date of the offer. If the judgment includes an award of taxable costs or attorneys' fees, only those taxable costs and attorneys' fees determined by the court as having been reasonably incurred as of the date the offer was made shall be considered in determining if the judgment is more favorable than the offer. The determination whether a sanction should be imposed after an arbitration hearing shall be made by reference to the judgment ultimately entered, whether on the award itself pursuant to Rule 76(c) or after an appeal of the award pursuant to Rule 77.

(h) **Effective Period of Offers; Subsequent Offers; Offers on Damages.** An offer of judgment made pursuant to this Rule shall remain effective for 30 days after it is served, except that (i) an offer made within 60 days after service of the summons and complaint shall remain effective for 60 days after service, ~~and~~ (ii) an offer made within 45 days of trial shall remain effective for 15 days after service, and (iii) in a case subject to arbitration, an offer that has not previously expired shall expire at 5:00 p.m. on the fifth day before the arbitration hearing. If the effective period is enlarged by the court, the offeror may withdraw the offer at any time after expiration of the initial effective period and prior to acceptance of the offer. The fact that an offer has been rejected does not preclude a subsequent offer. When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, any party 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 not fewer than 10 days before the commencement of hearings to determine the amount or extent of liability.

Rule 74. Powers of Arbitrator; Scheduling of Arbitration Hearing; Permitted Rulings by Arbitrator; Time for Filing Summary Judgment Motion; Receipt of Court File; Settlement of Cases; Offer of Judgment.

(a) – (b) [No change]

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(c) Rulings by Arbitrator

(1) *Authorized Rulings.* After a case has been assigned to an arbitrator, the arbitrator shall make all legal rulings, including rulings on motions, except:

(A) – (C) [No change]

(D) motions to withdraw as attorney of record under Rule 5.1 of these rules; ~~or~~

(E) motions for summary judgment that, if granted, would dispose of the entire case as to any party; or

(F) motions for sanctions under Rule 68 of these rules.

(d) – (f) [No change]

(g) Offer of Judgment. Any party to an action either subject to compulsory arbitration under A.R.S. § 12-133 and these rules or referred to arbitration by Agreement of Reference may serve upon any other party an offer of judgment pursuant to Rule 68.