

1 **Rule 68. Settlement offers.**

2 (a) Unless otherwise specified, an offer made under this rule is an offer to resolve all  
3 claims in the action between the parties to the date of the offer, including costs, interest  
4 and, if attorney fees are permitted by law or contract, attorney fees.

5 (b) If the adjusted award is not more favorable than the offer, the offeror is not liable  
6 for costs, prejudgment interest or attorney fees incurred by the offeree after the offer,  
7 and the offeree shall pay the offeror's costs incurred after the offer. The court may  
8 suspend the application of this rule to prevent manifest injustice.

9 (c) An offer made under this rule shall:

10 (c)(1) be in writing;

11 (c)(2) expressly refer to this rule;

12 (c)(3) be made more than ~~40~~14 days before trial;

13 (c)(4) remain open for at least ~~40~~14 days; and

14 (c)(5) be served on the offeree under Rule 5.

15 Acceptance of the offer shall be in writing and served on the offeror under Rule 5. Upon  
16 acceptance, either party may file the offer and acceptance with a proposed judgment  
17 under Rule 58A.

18 (d) "Adjusted award" means the amount awarded by the finder of fact and, unless  
19 excluded by the offer, the offeree's costs and interest incurred before the offer, and, if  
20 attorney fees are permitted by law or contract and not excluded by the offer, the  
21 offeree's reasonable attorney fees incurred before the offer. If the offeree's attorney fees  
22 are subject to a contingency fee agreement, the court shall determine a reasonable  
23 attorney fee for the period preceding the offer.

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