

As Reported by the Senate Judiciary--Civil Justice Committee

128th General Assembly

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Sub. S. B. No. 36

Senator Kearney

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To request the Supreme Court to amend Rule 68 of the 1
Ohio Rules of Civil Procedure regarding offers of 2
judgment. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. The General Assembly respectfully requests the 4
Supreme Court to amend Rule 68 of the Ohio Rules of Civil 5
Procedure regarding offers of judgment to read as follows: 6

(A) **Making an offer; judgment on an accepted offer.** More than 7
ten days before the trial begins, a party defending against a 8
claim may serve on an opposing party an offer to allow judgment on 9
specified terms, with the costs then accrued. If, within ten days 10
after being served, the opposing party serves written notice 11
accepting the offer, either party may then file the offer and 12
notice of acceptance, plus proof of service. The clerk must then 13
enter judgment. 14

(B) **Unaccepted offer.** An unaccepted offer is considered 15
withdrawn, but it does not preclude a later offer. Evidence of an 16
unaccepted offer is not admissible except in a proceeding to 17
determine costs. 18

(C) **Offer after liability is determined.** When one party's 19
liability to another has been determined but the extent of 20

liability remains to be determined by further proceedings, the 21
party held liable may make an offer of judgment. It must be served 22
within a reasonable time—but at least ten days—before a hearing to 23
determine the extent of liability. 24

(D) **Paying costs after an unaccepted offer.** If the judgment 25
that the offeree finally obtains is not more favorable than the 26
unaccepted offer, the offeree must pay the costs incurred after 27
the offer was made. 28

(E) This rule does not apply to a civil action to which 29
division (B)(2) of section 2315.18 or division (A)(2) or (3) of 30
section 2323.43 of the Revised Code applies. 31

Section 2. The General Assembly respectfully requests the 32
Supreme Court to consider making the provisions of amended Rule 68 33
of the Ohio Rules of Civil Procedure regarding an offer of 34
judgment applicable to a demand made by a party that is a 35
plaintiff pursuing a claim, such that, if a demand is made to 36
settle the case more than ten days before the trial, the demand is 37
not accepted by the defending party, and the verdict is as 38
favorable or more favorable than the demand, then the defending 39
party shall pay the costs incurred after the demand was made under 40
the same terms and requirements that are applicable to a party 41
making an offer of judgment. 42