

CHAPTER 187

COURTS

HOUSE BILL 03-1121

BY REPRESENTATIVE(S) Wiens, King, May M., McCluskey, White, Crane, Fairbank, Harvey, Hoppe, Lee, Miller, Schultheis, Spence, Spradley, and Williams T.;
also SENATOR(S) Evans, Chlouber, and Teck.

AN ACT**CONCERNING OFFERS OF SETTLEMENT IN CIVIL ACTIONS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-17-202 (1), Colorado Revised Statutes, is amended to read:

13-17-202. Award of actual costs and fees when offer of settlement was made.

(1) (a) Notwithstanding any other statute to the contrary, in any civil action of any nature commenced or appealed in any court of record in this state:

(I) If the plaintiff serves an offer of settlement IN WRITING at any time more than ~~ten~~ FOURTEEN days before the commencement of the trial that is rejected by the defendant, and the plaintiff recovers a final judgment in excess of the amount offered, then the plaintiff shall be awarded actual costs accruing after the offer of settlement to be paid by the defendant.

(II) If the defendant serves an offer of settlement IN WRITING at any time more than ~~ten~~ FOURTEEN days before the commencement of the trial that is rejected by the plaintiff, and the plaintiff does not recover a final judgment in excess of the amount offered, then the defendant shall be awarded actual costs accruing after the offer of settlement to be paid by the plaintiff.

(III) If an offer of settlement is not accepted IN WRITING within ~~ten~~ FOURTEEN days after service of the offer, the offer shall be deemed rejected, and the party who made the offer is not precluded from making a subsequent offer. Evidence thereof is not admissible except in a proceeding to determine costs.

(IV) If an offer of settlement is accepted IN WRITING within ~~ten~~ FOURTEEN days

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

after service of the offer, ~~either party may file the offer, written notice of acceptance, and proof of service with the court, and the clerk shall enter judgment upon the accepted offer of settlement~~ THE OFFER OF SETTLEMENT SHALL CONSTITUTE A BINDING SETTLEMENT AGREEMENT, FULLY ENFORCEABLE BY THE COURT IN WHICH THE CIVIL ACTION IS PENDING.

(V) An offer of settlement under this section shall remain open for at least ~~ten~~ FOURTEEN days from the date of service unless withdrawn by service of withdrawal of the offer of settlement.

(VI) An offer of settlement served at any time ~~ten~~ FOURTEEN days or less before the commencement of the trial shall not be subject to this section, and evidence thereof is not admissible for any purpose.

(b) For purposes of this section, "actual costs" shall not include attorney fees BUT SHALL MEAN COSTS ACTUALLY PAID OR OWED BY THE PARTY, OR HIS OR HER ATTORNEYS OR AGENTS, IN CONNECTION WITH THE CASE, INCLUDING BUT NOT LIMITED TO FILING FEES, SUBPOENA FEES, REASONABLE EXPERT WITNESS FEES, COPYING COSTS, COURT REPORTER FEES, REASONABLE INVESTIGATIVE EXPENSES AND FEES, REASONABLE TRAVEL EXPENSES, EXHIBIT OR VISUAL AID PREPARATION OR PRESENTATION EXPENSES, LEGAL RESEARCH EXPENSES, AND ALL OTHER SIMILAR FEES AND EXPENSES.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 2003, and shall apply to actions commenced on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 25, 2003