

TO:

Rule 28 Distribution
Lisa M Panahi
Lynn Eric Goar

ATTACHMENT¹

RULES OF CIVIL PROCEDURE

Rule 68. Offer of Judgment

(a)-(f) [No change]

(g) Sanctions.

(1) *Amount.* A party who rejects an offer, but does not obtain a more favorable judgment, must pay as a sanction: twenty percent of the difference between the amount of the offer and the amount of the final judgment.

~~(A) the offeror's reasonable expert witness fees and double the taxable costs, as defined in A.R.S. § 12-332, incurred after the offer date; and~~

~~(B) prejudgment interest on unliquidated claims accruing from the offer date.~~

(2) *Taxable Costs and Attorney's Fees.* To determine if a judgment that includes an award of taxable costs or attorney's fees is more favorable than the offer, the court must consider only those taxable costs and attorney's fees that were reasonably incurred as of the offer date.

(3) *Arbitration.* To determine whether to impose a sanction after an arbitration hearing, the court must compare the offer to the final judgment entered either on the award under Rule 76(b)(4) or after appeal under Rule 77.

(4) Application.

(A) A court may not assess a sanction under this rule if the action seeks solely injunctive relief.

(B) A court may reduce or eliminate a sanction otherwise required by this rule only if it finds the sanction to be manifestly unjust.

(h) [No change]

¹ Additions to the text of the rule or comment are shown by underscoring and deletions of text are shown by ~~strike-through~~.