



Offer of Judgment – Simplified

Offers of judgment are meant to promote settlement in litigation, but Oklahoma's offer of judgment statutes are confusing and underutilized. Replacing them with a statute that mirrors the federal offer of judgment rule will simplify the process, increase utilization and reduce time and money spent in litigation for businesses and individuals alike.

What is an Offer of Judgment?

A defendant will make a reasonable offer of judgment to the plaintiff. The plaintiff then either accepts or rejects the offer of judgment.

If the plaintiff accepts:

- The offer of judgment is entered into the court records, making the final judgment of the case public without going to trial.

If the plaintiff rejects:

- If the plaintiff is awarded less at trial than the defendant offered in the offer of judgment, the plaintiff will have to pay for the defendant's court costs and attorney fees from the date the plaintiff rejected the defendant's offer of judgment.

Oklahoma's Offer of Judgment Statutes

Oklahoma has four offer of judgment statutes that apply in different situations along with case law established by the Oklahoma Supreme Court. It is unclear when to use each statute, so the statutes are underutilized and don't serve the intended purpose of promoting settlement. Here is why:

- [12 O.S. 2011 § 940](#) Exclusively for negligent or willful injury to property.
- [12 O.S. 2011 §1101](#) Any civil case with monetary judgment sought.
- [12 O.S. 2011 §1101.1](#) Exclusively for personal injury, wrongful death and other actions.
- [12 O.S. 2011 §1106](#) Partial confession from defendant for claims of monetary judgment sought.

Simplification Leads to Utilization

Consolidating four confusing statutes into one will lead to utilization by providing:

- One statute for all case types.
- Clear guidance on what should be included in an offer of judgment.
- Details on the costs paid after an offer of judgment is made if the final trial judgment is less.
- How to determine if the final trial judgment is more than, less than or equal to the offer of judgment.

