

## OFFER TO CONFESS JUDGMENT

### **677.1 Offer to confess before action brought.**

Before an action for the recovery of money is brought against any person, the person may go before the clerk of the county of the person's residence, or of that in which the person having the cause of action resides, and offer to confess judgment in favor of such person for a specified sum on such cause of action, as provided for in chapter 676.

[R60, § 3403; C73, § 2898; C97, § 3817; C24, 27, 31, 35, 39, § **12672**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.1]

### **677.2 Nonacceptance costs.**

If such person, having had the same notice as if the person was a defendant in an action that the offer would be made, of its amount, and of the time and place of making it, refuses to accept it, and afterwards commences an action upon such cause, and does not recover more than the amount so offered to be confessed, the person to whom the offer was made shall pay all the costs of the action.

[R60, § 3403; C73, § 2898; C97, § 3817; C24, 27, 31, 35, 39, § **12673**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.2]

### **677.3 Effect of nonaccepted offer.**

On the trial thereof the offer shall not be treated as an admission of the cause of action or amount to which the plaintiff was entitled, nor be given in evidence.

[R60, § 3403; C73, § 2898; C97, § 3817; C24, 27, 31, 35, 39, § **12674**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.3]

### **677.4 Offer to confess judgment after action brought.**

After an action for the recovery of money is brought, the defendant may offer in court to confess judgment for part of the amount claimed, or part of the causes involved in the action.

[R60, § 3404; C73, § 2899; C97, § 3818; C24, 27, 31, 35, 39, § **12675**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.4]

### **677.5 Nonacceptance costs.**

If the plaintiff, being present, refuses to accept judgment for such sum in full of the plaintiff's demands in the action, or, having had three days' notice that the offer would be made, of its amount, and of the time of making it, fails to attend, and on the trial does not recover more than was offered to be confessed, the plaintiff shall pay the costs of the defendant incurred after the offer.

[R60, § 3404; C73, § 2899; C97, § 3818; C24, 27, 31, 35, 39, § **12676**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.5]

### **677.6 Effect of nonaccepted offer.**

The offer shall not be treated as an admission of the cause of action or amount to which the plaintiff was entitled nor be given in evidence upon the trial.

[R60, § 3404; C73, § 2899; C97, § 3818; C24, 27, 31, 35, 39, § **12677**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.6]

#### **677.7 Offer to confess after action brought.**

The defendant in an action for the recovery of money only may, at any time after service of notice and before the trial, serve upon the plaintiff or the plaintiff's attorney an offer in writing to allow judgment to be taken against the defendant for a specified sum with costs.

[R60, § 3405; C73, § 2900; C97, § 3819; C24, 27, 31, 35, 39, § **12678**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.7]

#### **677.8 Acceptance judgment.**

If the plaintiff accepts the offer, and gives notice thereof to the defendant or the defendant's attorney within five days after the offer is made, the offer, and an affidavit that the notice of acceptance was delivered in the time limited, may be filed by the plaintiff, or the defendant may file the acceptance with a copy of the offer, verified by affidavit; and in either case a minute of the offer and acceptance shall be entered upon the judge's calendar, and judgment shall be rendered by the court accordingly.

[R60, § 3405; C73, § 2900; C97, § 3819; C24, 27, 31, 35, 39, § **12679**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.8]

#### **677.9 Effect of nonaccepted offer.**

If the notice of acceptance is not given in the period limited, the offer shall be treated as withdrawn, and shall not be given in evidence or mentioned on the trial.

[R60, § 3405; C73, § 2900; C97, § 3819; C24, 27, 31, 35, 39, § **12680**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.9]

#### **677.10 Costs.**

If the plaintiff fails to obtain judgment for more than was offered by the defendant, the plaintiff cannot recover costs, but shall pay the defendant's costs from the time of the offer.

[R60, § 3405; C73, § 2900; C97, § 3819; C24, 27, 31, 35, 39, § **12681**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.10]

#### **677.11 Conditional offer.**

In an action for the recovery of money only, the defendant, having answered, may serve upon the plaintiff or the plaintiff's attorney an offer in writing that, if the defendant fails in the defendant's defense, the amount of recovery shall be assessed at a specified sum.

[R60, § 3406; C73, § 2901; C97, § 3820; C24, 27, 31, 35, 39, § **12682**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.11]

#### **677.12 Acceptance effect.**

If the plaintiff accepts the offer, and gives notice thereof to the defendant or the defendant's attorney within five days after it was served, or within three days if served in term time, and the defendant fails in the defendant's defense, the judgment shall be for the amount so agreed upon.

[R60, § 3406; C73, § 2901; C97, § 3820; C24, 27, 31, 35, 39, § **12683**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.12]

**677.13 Nonacceptance effect.**

If the plaintiff does not accept the offer, the plaintiff shall prove the amount to be recovered as if the offer had not been made, and the offer shall not be given in evidence or mentioned on the trial, and if the amount recovered by the plaintiff does not exceed the sum mentioned in the offer, the defendant shall recover the defendant's costs incurred in the defense.

[R60, § 3406; C73, § 2901; C97, § 3820; C24, 27, 31, 35, 39, § **12684**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.13]

**677.14 No cause for continuance.**

The making of any offer pursuant to the provisions of this chapter shall not be cause for a continuance of the action or a postponement of the trial.

[R60, § 3407; C73, § 2902; C97, § 3821; C24, 27, 31, 35, 39, § **12685**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 677.14]