

SHORT TITLE: Civil procedure; allowing the court to award certain attorneys fees and costs under certain circumstances; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 262

By: Stipe of the Senate

and

Thornbrugh of the House

AS INTRODUCED

An Act relating to civil procedure; amending 12 O.S. 1991, Section 940, which relates to attorneys fees, court costs, and interest; increasing time limit for certain notice; setting limit for amount of certain awards; allowing the court to award certain attorneys fees, costs, and interest under certain circumstances; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12 O.S. 1991, Section 940, is amended to read as follows:

Section 940. A. In any civil action to recover damages for the negligent or willful injury to property and any other incidental costs related to such action, the prevailing party shall be allowed reasonable ~~attorney's~~ attorney fees, court costs, and interest, to be set by the court and to be taxed and collected as other costs of the action.

B. ~~Provided that, the~~ The defendant in such action may, not less than ten (10) days after being served with summons, serve upon the plaintiff or ~~his~~ the plaintiff's attorney a written offer to allow judgment to be taken ~~against him~~. If the plaintiff accepts the offer and gives notice thereof to the defendant, if

unrepresented, or his the defendant's attorney, within five (5) ten
(10) days after the offer was served, the offer, and an affidavit
that the notice of acceptance was delivered within 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. The
offer and acceptance shall be noted in the journal, and judgment
shall be rendered accordingly. If the notice of acceptance is not
given in the period limited, the offer shall be deemed withdrawn,
and shall not be given in evidence or mentioned at the trial. If
~~upon the action being adjudicated the~~ a judgment is rendered is for
the defendant ~~or for the plaintiff and is for a lesser amount than~~
~~the defendant's offer, then,~~ the plaintiff defendant shall not be
entitled to recover attorney's reasonable attorney fees, and court
costs and interest to be set by the court and to be taxed and
collected as other costs of the action. If the judgment rendered is
for the plaintiff, and is for the same amount as, or for a lesser
amount than the defendant's offer, then the plaintiff and defendant
shall each incur their own attorney's attorney fees, and court costs
~~and interest.~~ And if the judgment rendered is for the plaintiff,
and is for a larger amount than the defendant's offer, then the
plaintiff shall be entitled to recover attorney's attorney fees, not
to exceed the amount of actual damages awarded for the negligent or
willful injury to property, court costs, and interest; provided,
however, that if the judgment rendered for the plaintiff at trial
for actual damages for the negligent or willful injury to property
exceeds the defendant's offer by more than ten percent (10%), the
plaintiff shall be awarded reasonable attorney fees, court costs,
and interest, to be set by the court and to be taxed and collected
as other costs of the action. If the defendant fails to serve upon
the plaintiff, if unrepresented, or the plaintiff's attorney a
written offer to allow judgment to be taken against him or her, as
provided hereinabove, and judgment is rendered for the plaintiff,

the plaintiff shall be awarded reasonable attorney fees, court costs, and interest, to be set by the court and to be taxed and collected as other costs of the action.

SECTION 2. This act shall become effective November 1, 1995.

45-1-0637

KSM