

## **Div. 5 Policy - Offers of Settlement in Family Law Cases**

The best outcomes in family law cases are generally reached by mutual agreement (as opposed to judgments entered following a trial). It is therefore in the interest of all family law litigants for parties to engage in good faith negotiations prior to trial. This policy is intended to provide a procedural framework incentivizing such positive behavior.

The “goals” of this Policy are as follows:

1. Emphasize to parties that the failure to engage in reasonable negotiation prior to trial (thereby “unnecessarily prolonging litigation”) carries with it the increased risk of being ordered to pay attorney fees to the other party.
2. Reduce ambiguity and fact disputes regarding whether a party engaged in reasonable negotiation by allowing parties to make settlement offers part of the Court’s file.
3. Provide a framework under which parties can be confident that settlement offers **will not be used against them** if no agreement is reached and the matter is tried.

### **DIVISION 5 OFFER OF SETTLEMENT PROCEDURE**

1. In family law cases within the scope of Local Court Rule 68, parties may submit an offer of settlement which may be used as evidence in a request for attorney’s fees or costs.
2. Court consideration of such an offer of settlement shall ONLY occur after the Court has made its determinations with regard to the substantive claims in the case, including, but not limited to, child custody, child support, maintenance, or property distribution. The Court may schedule an additional hearing to address attorney fees as necessary.
3. A party wishing to submit an offer of settlement as evidence shall electronically file such offers as exhibits attached to a cover page which A) indicates the nature of the attachments, and B) attaches a copy of this Policy. *See sample cover page below.*
4. An offer of settlement is not an admission or waiver of any claims, and shall NOT be admissible for any purpose other than consideration of attorney fees and costs.
5. In making an order with regard to costs and attorney fees, the Court will consider the following:
  - A. whether the offer of settlement was one that ought reasonably to have been accepted, either on the date that the offer of settlement was delivered or on any later date;
  - B. whether a party failed to make any offer of settlement, or failed to respond to an offer in a timely manner;
  - C. the relationship between the terms of settlement offered and the final judgment of the court;
  - D. the relative financial circumstances of the parties;
  - E. any other factor the court considers appropriate;
  - F. any other factor required to be considered under Missouri law.

Additional notes:

- This procedure is not mandatory.
- More specific offers of settlement (for example, a fully completed proposed parenting plan) will be given more weight.

Victor J. Melenbrink, Circuit Judge, Div 5

DIVISION 5  
OFFER OF SETTLEMENT  
COVER PAGE

NO INFORMATION FOLLOWING THIS SHEET SHOULD BE  
REVIEWED BY THE COURT UNTIL ALL SUBSTANTIVE  
CLAIMS IN THE CASE HAVE BEEN RESOLVED (INCLUDING,  
BUT NOT LIMITED TO, CHILD CUSTODY, CHILD SUPPORT,  
MAINTENANCE, OR PROPERTY DISTRIBUTION)

OFFER SUBMITTED BY (PARTY NAME) \_\_\_\_\_

DATE SENT TO OPPOSING PARTY \_\_\_\_\_