

Amend CSHB 4 as follows:

(1) On page 12, between lines 5 and 6, insert:

Sec. 42.0015. POLICY; INTENT. It is the policy of this state to enact incentives and procedures to encourage the settlement of civil cases on terms that are fair and just to all parties, whether claimant or defendant. The procedures in this chapter are intended to be balanced toward all claimants and all defendants. It is the intent of the Legislature that, to the greatest extent possible, these procedures shall be implemented such that claims are resolved efficiently and fairly and without overreaching by any party or abuse of the system of civil justice.

(2) Strike page 13, line 22 through page 16, line 25, and substitute:

Sec. 42.051. SETTLEMENT OFFER. (a) A party or a group of parties may serve on a party a settlement offer to settle all claims in the action between the parties.

(b) The settlement offer must:

(1) be in writing;

(2) state that it is a settlement offer under this chapter;

(3) state the terms by which the claims may be settled;

(4) state a deadline by which the settlement offer must be accepted; and

(5) be served on the claimant to whom the settlement offer is made.

(c) A party may not make a settlement offer under this section before the 90th day after the later of:

(1) the date any of the defendants filed a responsive pleading; or

(2) the date any of the defendants otherwise appeared in the action.

(d) A party may not make a settlement offer under this section after the 30th day before the date set for trial.

(e) The parties are not required to file a settlement offer with the court.

Sec. 42.052. ACCEPTANCE OF SETTLEMENT OFFER. (a) A party may accept a settlement offer made under this chapter on or before 5

p.m. on the 30th day after the date the party received the settlement offer or before the deadline stated in the settlement offer, whichever is later.

(b) Acceptance of a settlement offer must be:

(1) in writing; and

(2) served on the party who made the settlement offer.

Sec. 42.053. WITHDRAWING SETTLEMENT OFFER. (a) A party may withdraw a settlement offer by serving a written withdrawal on the party to whom the settlement offer was made before the party accepts the settlement offer. A party may not accept a settlement offer after it is withdrawn.

(b) If a settlement offer is withdrawn, the party that made the settlement offer is not entitled to recover litigation costs under this chapter.

Sec. 42.054. REJECTION OF SETTLEMENT OFFER. For purposes of this chapter, a settlement offer is rejected if:

(1) the party to whom the settlement offer was made rejects the settlement offer by serving a written rejection on any party making the settlement offer; or

(2) the settlement offer is not withdrawn and is not accepted before the deadline for accepting the offer.

Sec. 42.055. AWARD OF LITIGATION COSTS. (a) Any party who makes a settlement offer under this chapter to another party seeking monetary relief shall recover litigation costs from the party if:

(1) the settlement offer is rejected;

(2) the amount of monetary relief to be awarded in the judgment, exclusive of any litigation costs awarded under this chapter and exclusive of any attorney's fees, expenses, and costs incurred by the party after rejection of the offer, is more favorable to the party who made the settlement offer than the settlement offer; and

(3) the difference between the amount of monetary relief to be awarded to the party in the judgment, exclusive of any litigation costs awarded under this chapter and exclusive of any attorney's fees, expenses, and costs incurred by the party after rejection of the offer, and the amount of the settlement offer is

equal to or greater than 10 percent of the amount of the settlement offer.

(b) Any party who makes a settlement offer to a party seeking nonmonetary relief, other than injunctive relief, may recover litigation costs from the party if:

(1) the settlement offer is rejected; and

(2) the judgment, exclusive of any litigation costs awarded under this chapter and exclusive of any attorney's fees, expenses, and costs incurred by the party after rejection of the offer, is more favorable to the party who made the settlement offer than the settlement offer.

(c) Litigation costs awarded to a party under this section include only those litigation costs incurred by the party who made a settlement offer after the rejection of the earliest settlement offer that entitles the party to an award of litigation costs under this section.

(d) Litigation costs awarded under this section shall:

(1) be awarded in the judgment;

(2) offset the claimant's recovery against the offering defendant; or

(3) be added to the claimant's recovery against any nonsettling defendant.

(3) On page 18, strike lines 2-8, and substitute:

(d) If litigation costs are awarded against a party under this chapter, the party shall not be awarded any attorney's fees, expenses, or costs to which the party would otherwise be entitled under any other law that were incurred by the party after the party's rejection of the earliest settlement offer that entitles the other party to an award of litigation costs under this section.