## **OFFERS TO SETTLE and "COSTS"**

You may shorten an expensive court case, and maybe avoid a trial completely, by making a timely and reasonable **Offer to Settle**. It may also help you to recover some of your own lawyer's fees (called "**costs**") from the opposing party, or protect you from their claim for a costs order against you.

## "Costs" Considerations

- 1. The party who rejected the Offer to Settle will have to pay some or all of the successful party's lawyer's bill ("costs"), if the original Offer to Settle was more favourable than the Court Order finally obtained.
- 2. The earlier an Offer to Settle is made, the larger the costs award. Although the judge always has discretion as to the amount of "costs" awarded, the unsuccessful party will usually be required to pay a greater portion of the successful party's lawyer's bill, the earlier the Offer to Settle was made.

## Strategy

- 1. **Make it reasonable.** Over-reaching in an Offer to Settle may upset the other party, and it may be used against you when arguing about "costs".
- 2. **Make it quantifiable.** The Offer to Settle must be quantifiable, so that it can be compared with and measured against the actual end result, if necessary.
- 3. **Be prepared to revise it.** As you receive more or updated information it may be advantageous to reconsider and revise your Offer to Settle.
  - Offers to Settle have many technical, legal requirements.
  - "Costs" can be used to reward or punish litigants in many ways.

It is important to discuss these legal terms in more detail with your lawyer.