

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 619 Session of  
2007

INTRODUCED BY GREENLEAF, COSTA, BROWNE, STACK, O'PAKE, ERICKSON  
AND WASHINGTON, MARCH 21, 2007

REFERRED TO JUDICIARY, MARCH 21, 2007

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, providing for permissible  
3 argument as to damages at trial.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Title 42 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a section to read:

8 § 8320.1. Permissible argument as to damages at trial.

9 (a) General rule.--Except as provided in subsection (b), in  
10 any civil action tried before a judge, jury or other tribunal,  
11 an attorney during closing argument:

12 (1) May specifically argue to the judge, jury or other  
13 tribunal in lump sums or by mathematical formulae the amount  
14 the attorney deems to be an appropriate award for all past  
15 and future economic or noneconomic damages or both economic  
16 and noneconomic damages claimed to be recoverable.

17 (2) May, on behalf of a defendant, argue to the judge,  
18 jury or other tribunal that an award of zero damages is

1 appropriate, even if there is a finding of liability against  
2 the defendant.

3 (b) Prior disclosure required.--No party may argue a  
4 specific sum as provided in subsection (a) unless the party  
5 first discloses to the court and opposing counsel that the party  
6 intends to argue the specific damages listed in subsection (a)  
7 prior to the presentation of closing arguments.

8 (c) Jury instruction.--Whenever, in a civil action tried  
9 before a jury, specific lump sums or mathematical formulae are  
10 argued during closing arguments as provided for in subsection  
11 (a), the trial court shall instruct the jury that the sums or  
12 mathematical formulae argued are not evidence but only arguments  
13 and that the determination of the amount of appropriate damages  
14 to be awarded, if any, is solely for the jury's determination.

15 (d) Construction.--

16 (1) Nothing in this subsection shall be construed to  
17 prevent a defendant from arguing in any case that the facts  
18 and evidence support a finding of no liability.

19 (2) Notwithstanding subsection (b), arguments as to  
20 appropriate amount of economic damages may be made without  
21 notice to opposing counsel if evidence supporting economic  
22 damages has been introduced at trial.

23 Section 2. This act shall take effect in 60 days.