

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 340 Session of
2005

INTRODUCED BY GREENLEAF, EARLL, O'PAKE, THOMPSON, TARTAGLIONE,
ERICKSON AND STACK, MARCH 3, 2005

REFERRED TO JUDICIARY, MARCH 3, 2005

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 § 8317. 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 in lump sums or by
13 mathematical formulae the amount the attorney deems to be an
14 appropriate award for all past and future economic or
15 noneconomic damages or both economic and noneconomic damages
16 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.--

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

9 (2) Nothing in this subsection shall be construed to
10 prevent a defendant from arguing in any case that the facts
11 and evidence support a finding of no liability.

12 (3) Notwithstanding paragraph (1), arguments as to
13 appropriate amount of economic damages may be made without
14 notice to opposing counsel if evidence supporting economic
15 damages has been introduced at trial.

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

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