

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1389 Session of
2007

INTRODUCED BY WALKO, BELFANTI, CREIGHTON, CURRY, HENNESSEY,
JAMES, KORTZ, KOTIK, LEACH, MAHONEY, PALLONE, PETRARCA,
RAMALEY, SABATINA, SIPTROTH, McILVAINE SMITH AND YOUNGBLOOD,
MAY 29, 2007

REFERRED TO COMMITTEE ON JUDICIARY, MAY 29, 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 § 4566. Permissible argument as to damages at trial.

9 (a) Permissible argument.--Subject to subsection (b), in any
10 civil action tried before a judge, jury or other tribunal, a
11 party may make any of the following arguments during closing
12 argument and after the judge, jury or other tribunal, has
13 requested for the argument to be made:

14 (1) Specifically argue in lump sums or by mathematical
15 formula the amount he or she deems to be an appropriate award
16 for all past and future economic or noneconomic damages or
17 both economic and noneconomic damages claimed to be

1 recoverable.

2 (2) Argue that an award of zero damages is appropriate,
3 even if there is a finding of liability against the
4 defendant.

5 (b) Disclosure.--

6 (1) Except as provided in paragraph (2), a party may not
7 argue a specific sum as provided in subsection (a) unless the
8 party first discloses to the court and opposing counsel that
9 the party intends to argue the specific damages listed in
10 subsection (a) prior to the presentation of closing
11 arguments.

12 (2) 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 to trial.

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

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

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