

VIRGINIA:

IN THE CIRCUIT COURT FOR FREDERICK COUNTY

MICHAEL PASTERNAK,)
)
 Plaintiff,)
)
 v.) Case No. CL24000051
)
 PAUL ANTHONY AUSTIN,)
)
 Defendant.)

PLAINTIFF’S MOTION IN LIMINE TO PRECLUDE DEFENDANT FROM OFFERING EVIDENCE OF PLAINTIFF’S MEDICAL BILLS AND EXPENSES AT TRIAL

Plaintiff, by counsel, respectfully requests that the Court enter an order precluding Defendant from offering any evidence, testimony, inquiry, argument, or reference, directly or indirectly, of any kind with respect to the fact or amount of Plaintiff’s incurred medical bills or expenses at trial because they would not be relevant and would be improperly prejudicial.

Plaintiff is not seeking to recover compensatory damages for his incurred medical bills and expenses as an element of his damages. As such, at trial, Plaintiff will not offer medical bills into evidence or claim reimbursement for them as part of the damages he is seeking.

“Evidence that is not relevant is not admissible.” Va. Sup. Ct. R. 2:402(a). Whether evidence is relevant and admissible depends upon the issues in the case and the purpose for which the evidence is offered. “Evidence is relevant if it has any logical tendency to prove an issue in a case.” *John Crane, Inc. v. Jones*, 274 Va. 581, 590 (2007) (citation omitted).

When a plaintiff seeks to recover their incurred medical bills or expenses as an element of damages, their medical bills are plainly relevant to an issue in the case: the amount of medical bills

and expenses. When a plaintiff does not seek compensation for their incurred medical bills or expenses, however, they are not relevant and, as such, are not admissible at trial.

Even if Defendant could offer some remote, attenuated theory of relevance, the evidence of medical bills and expenses should still be excluded as collateral, distracting, confusing, and prejudicial. *See PTS Corp. v. Buckman*, 263 Va. 613, 620 (2002) (“Evidence of collateral facts, from which no fair inferences can be drawn tending to throw light upon the particular fact under investigation, is properly excluded for the reason that such evidence tends to draw the minds of the jury away from the point in issue, to excite prejudice and mislead them.”) (citation omitted); Va. Sup. Ct. R. 2:403(a) (“Relevant evidence may be excluded if . . . the probative value of the evidence is substantially outweighed by (i) the danger of unfair prejudice, or (ii) its likelihood of confusing or misleading the trier of fact.”).

For the foregoing reasons, and in accordance with the Rules of Evidence, Plaintiff respectfully requests that the Court enter an order precluding Defendant from offering any evidence, testimony, inquiry, argument, or reference, directly or indirectly, of any kind with respect to the fact or amount of any of Plaintiff’s incurred medical bills or expenses.

MICHAEL PASTERNAK

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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of May 2025, a true and accurate copy of the foregoing was served by e-mail and fax on the following:

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