

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

PAUL WARREN BUCK, II)
)
 Plaintiff,)
)
 v.) Case No.: CL25000841-00
)
 CITY OF RICHMOND,)
)
 Defendant.)

PLAINTIFF’S MOTION IN LIMINE TO PRECLUDE EVIDENCE OR MENTION OF DEFENDANT’S ABILITY TO PAY THE VERDICT

Plaintiff, by counsel, moves this Court to enter an order precluding Defendant from offering any evidence, testimony, inquiry, argument, or reference, directly or indirectly, of any kind that suggests or implies any of the following:

- Defendant is at risk to pay or has the burden to pay any verdict;
- Defendant’s financial position is at risk from the verdict;
- Defendant is afraid, scared, or frightened of the potential verdict;
- Defendant has limited means or resources; and/or
- Defendant might be unable to pay the verdict.

Virginia Model Jury Instruction 9.000 instructs the jury that “[y]our verdict shall be for such sum as will fully and fairly compensate the plaintiff for the damages sustained as a result of the defendant’s negligence.” Neither the plaintiff nor the defendant’s financial condition is contemplated by that instruction. *See Pa. Co. v. Roy*, 102 U.S. 451, 458 (1880) (explaining that “the damages were not, in law, dependent in the slightest degree upon [the plaintiff’s] condition as to wealth or poverty”); *see also Chesapeake & O. R. Co. v. Ghee’s Adm’x*, 110 Va. 527, 533-534 (1910) (stating that evidence of the plaintiff’s financial condition “was irrelative and improper,

and should have been excluded, since it was not material to any issue in the case. Such evidence was calculated to excite the sympathy of the jury . . . and this sympathy well calculated to influence the jury not only as to the quantum of damages they should allow, but in the determination of the question whether the case upon the evidence was for the plaintiff or the defendant”).

Suggesting the potential financial consequences on the defendant as a result of a verdict can be suggested by the defense in various ways throughout trial (e.g., making the jury aware of a defendant’s occupation). Doing so is improper and should be precluded by the Court because:

1. It is not relevant and, therefore, is not admissible. Va. Sup. Ct. R. 2:402(a). “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). A defendant’s financial condition does not have any logical tendency to prove an issue in a case, to include the amount of plaintiff’s damages.
2. It falsely suggests that a defendant has no companionship (i.e., is all by themselves) when facing a verdict, when in fact insurance companies are providing extensive coverage.
3. It is an appeal to sympathy and an invitation for the jurors to be concerned about the financial impact of a verdict on the defendant. Evoking sympathy for the defendant is impermissible. Virginia Model Jury Instruction 2.220 instructs the jury that “[y]ou must not base your verdict in any way upon sympathy, bias, guesswork, or speculation. Your verdict must be based solely upon the evidence and instructions of the court.”

The duty of the jury is to return a verdict that fully and fairly compensates the plaintiff for the damages sustained as a result of the defendant’s negligence, regardless of the financial consequences on the defendant. The defendant’s ability (or inability) to pay the verdict is not relevant or material to any issue in the case. Presumably, defense counsel in this case has no intention of making any argument or reference of that type at any stage of trial. But because of the

significant prejudice that any such argument or reference would cause, however, Plaintiff respectfully requests that the Court enter an Order precluding the defense from doing so.

PAUL WARREN BUCK, II

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CERTIFICATE OF SERVICE

I certify that I sent the foregoing on October 21, 2025 by email and fax to:

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