

ORIGINAL

1 Jessica G. Heppenstall, Esq. (Bar No. 259489)
2 Emily M. Straub, Esq. (Bar No. 259141)
3 TYSON & MENDES
4 5661 La Jolla Boulevard
5 La Jolla, CA 92037
6 Telephone: (858) 459-4400

FILED
Clerk of the Superior Court

DEC - 6 2019

By: R. Cersosimo, Clerk

Attorneys for Defendant DAVID ARAMBULA

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO – HALL OF JUSTICE

11 CHRISTOPHER WILLIAMS,

12 Plaintiff,

13 v.

15 DAVID ARAMBULA; CITY OF LEMON
16 GROVE; and DOES 1 through 1,000,

17 Defendants.

Case No. 37-2018-00023369-CU-PO-CTL
[Complaint Filed: May 11, 2018]

Judge: Hon. Richard S. Whitney
Dept: C-68

**DEFENDANTS' MOTION IN LIMINE TO
PRECLUDE PLAINTIFF FROM
ITEMIZING NON-ECONOMIC
DAMAGES**

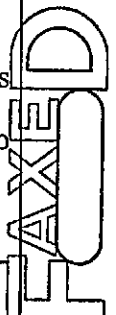
[MIL No. 11 of 22]

Trial Date: December 13, 2019

21 TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:

22 PLEASE TAKE NOTICE that Defendant David Arambula hereby moves the Court, on
23 behalf of the defense, for an order precluding Plaintiff Christopher Williams and his counsel of
24 record from presenting evidence and argument that itemizes and compounds non-economic
25 damages.

26 This motion is based on the supporting memorandum of points and authorities, the pleadings
27 and papers on file in this action, and upon such argument and evidence as may be presented prior to
28 or at the hearing of this matter.



1 **I. INTRODUCTION**

2 It is anticipated plaintiff and his counsel will attempt to present the jury with an itemized
3 listing of non-economic damages that assigns monetary amounts to each damage item. This is
4 improper as a matter of law. Furthermore, such tactic would confuse and mislead the jury. The Court
5 should preclude plaintiff and his counsel from presenting evidence and argument that itemizes and
6 compounds non-economic damages.

7 **II. AUTHORITY FOR MOTION**

8 A motion *in limine* is the appropriate method “to preclude the presentation of evidence
9 deemed inadmissible and prejudicial by the moving party.” (*Blanks v. Seyfarth Shaw, LLP* (2009)
10 171 Cal.App.4th 336, 375.) The important purpose served by such motion is “to avoid the
11 obviously futile attempt to “unring the bell” in the event a motion to strike is granted in the
12 proceedings before the jury.” (*Hyatt v. Sierra Boat Co.* (1978) 79 Cal.App.3d 325, 337.)

13 **III. CALIFORNIA LAW PROHIBITS PLAINTIFF FROM ITEMIZING NON-**
14 **ECONOMIC DAMAGES**

15 Non-economic damages include the following: pain, suffering, emotional distress, anxiety
16 invasion of a person’s bodily integrity (i.e., the fact of the injury itself), disfigurement, disability,
17 impaired enjoyment of life, grief, susceptibility to future harm or injury, shortened life expectancy,
18 humiliation, and indignity. (*Crisci v. The Security Insurance Co. of New Haven, Connecticut*
19 (1967) 66 Cal.2d 425, 433; *Bigler-Engler v. Breg, Inc.* (2017) 7 Cal.App.5th 276, 300; CACI
20 3905A.) Notwithstanding this list, plaintiff may not parse out and itemize these items as distinct
21 elements of non-economic damages – non-economic damages is a “unitary concept” which
22 provides a singular form of recovery. (*Capelouto v. Kaiser Foundation Hospitals* (1972) 7 Cal.3d
23 889, 892–893 (emphasis added).) It would therefore be an error of law to treat these inseparable
24 overlapping types of harm as distinct line-item damages requiring separate awards. To allow
25 plaintiff to do this would otherwise mislead and confuse the jury.

26 Additionally, “no fixed standard exists for deciding the amount of . . . noneconomic
27 damages.” (CACI 3905A.) The jury must “decide a reasonable amount based on the evidence and
28 . . . [their] common sense.” (*Id.*) It is up to the jury, and the jury alone, to determine the means and

1 method for calculating a non-economic damages award. (*Plotnik v. Meihaus* (2012) 208
2 Cal.App.4th 1590, 1602.) This is yet another basis for precluding plaintiff from presenting the jury
3 with any itemized guide for calculating non-economic damages.


4 **IV. CONCLUSION**

5 For all of the foregoing reasons, Mr. Arambula respectfully requests the Court grant this
6 motion and issue and order precluding plaintiff and his counsel from presenting evidence and
7 argument that itemizes and compounds non-economic damages.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: December 5, 2019

TYSON & MENDES

By: 

Jessica G. Heppenstall, Esq.
Emily M. Straub, Esq.
Attorneys for Defendant DAVID ARAMBULA