

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 HOUSE BILL 3688

 By: Kannady

7 AS INTRODUCED

8 An Act relating to civil procedure; amending 12 O.S.
9 2021, Sections 577, 651, 661, and 2403, which relate
10 to trial and evidence; prohibiting counsel or party
11 from seeking or referring to an amount specific range
12 for awards of noneconomic damages for a jury to
13 consider; providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 12 O.S. 2021, Section 577, is
15 amended to read as follows:

16 Section 577. A. When the jury has been sworn, the trial shall
17 proceed in the following order, unless the court for special reasons
18 otherwise directs:

19 First. The party on whom rests the burden of the issues may
20 briefly state his case, and the evidence by which he expects to
21 sustain it.

22 Second. The adverse party may then briefly state his defense,
23 and the evidence he expects to offer in support of it.

1 Third. The party on whom rests the burden of the issues must
2 first produce his evidence; after he has closed his evidence the
3 adverse party may interpose and file a demurrer thereto, upon the
4 ground that no cause of action or defense is proved. If the court
5 shall sustain the demurrer, such judgment shall be rendered for the
6 party demurring as the state of the pleadings or the proof shall
7 demand. If the demurrer be overruled, the adverse party will then
8 produce his evidence.

9 Fourth. The parties will then be confined to rebutting evidence
10 unless the court, for good reasons in furtherance of justice,
11 permits them to offer evidence in the original case.

12 Fifth. When the evidence is concluded and either party desires
13 special instructions to be given to the jury, such instructions
14 shall be reduced to writing, numbered, and signed by the party or
15 his attorney asking the same, and delivered to the court. The court
16 shall give general instructions to the jury, which shall be in
17 writing, and be numbered, and signed by the judge, if required by
18 either party.

19 Sixth. When either party asks special instructions to be given
20 to the jury, the court shall either give such instructions as
21 requested, or positively refuse to do so; or give the instructions
22 with modification in such manner that it shall distinctly appear
23 what instructions were given in whole or part, and in like manner
24 those refused, so that either party may except to the instructions

1 as asked for, or as modified, or to the modification, or to the
2 refusal. All instructions given by the court must be signed by the
3 judge; and filed together with those asked for by the parties as a
4 part of the record.

5 Seventh. After the instructions have been given to the jury the
6 cause may be argued.

7 B. In the trial of any civil tort action, no party or counsel
8 for a party shall seek or refer to a specific dollar amount or state
9 a range for the jury to consider with respect to awards of economic
10 damages.

11 SECTION 2. AMENDATORY 12 O.S. 2021, Section 651, is
12 amended to read as follows:

13 Section 651. A new trial is a reexamination in the same court,
14 of an issue of fact or of law or both, after a verdict by a jury,
15 the approval of the report of a referee, or a decision by the court.
16 The former verdict, report, or decision shall be vacated, and a new
17 trial granted, on the application of the party aggrieved, for any of
18 the following causes, affecting materially the substantial rights of
19 the party:

20 1. Irregularity in the proceedings of the court, jury, referee,
21 or prevailing party, or any order of the court or referee, or abuse
22 of discretion, by which the party was prevented from having a fair
23 trial;

24 2. Misconduct of the jury or a prevailing party;

1 3. Accident or surprise, which ordinary prudence could not have
2 guarded against;

3 4. Excessive or inadequate damages, appearing to have been
4 given under the influence of passion or prejudice;

5 5. Counsel or party seeks or refers to a specific dollar amount
6 or states a range for the jury to consider with respect to awards of
7 noneconomic damages;

8 ~~5.~~ 6. Error in the assessment of the amount of recovery,
9 whether too large or too small, where the action is upon a contract,
10 or for the injury or detention of property;

11 ~~6.~~ 7. That the verdict, report, or decision is not sustained by
12 sufficient evidence, or is contrary to law;

13 ~~7.~~ 8. Newly discovered evidence, material for the party
14 applying, which could not, with reasonable diligence, have been
15 discovered and produced at the trial;

16 ~~8.~~ 9. Error of law occurring at the trial, and objected to by
17 the party making the application; or

18 ~~9.~~ 10. When, without fault of the complaining party, it becomes
19 impossible to prepare a record for an appeal.

20 SECTION 3. AMENDATORY 12 O.S. 2021, Section 661, is
21 amended to read as follows:

22 Section 661. A. Whenever damages are recoverable, the
23 plaintiff may claim and recover any rate of damages to which he may
24 be entitled for the cause of action established.

1 B. In the trial of any civil tort action, no party or counsel
2 shall seek or refer to a specific dollar amount or state a range for
3 the jury to consider with respect to awards of noneconomic damages.

4 SECTION 4. AMENDATORY 12 O.S. 2021, Section 2403, is
5 amended to read as follows:

6 Section 2403. Exclusion of relevant evidence on grounds of
7 prejudice, confusion or cumulative nature of evidence.

8 Although relevant, evidence may be excluded if its probative
9 value is substantially outweighed by the danger of unfair prejudice,
10 confusion of the issues, misleading the jury, undue delay, needless
11 presentation of cumulative evidence, or unfair and harmful surprise.
12 However, in a prosecution for any criminal homicide, an appropriate
13 photograph of the victim while alive shall be admissible evidence
14 when offered by the district attorney to show the general appearance
15 and condition of the victim while alive. No party or counsel for a
16 party shall seek or refer to a specific dollar amount or state a
17 range for the jury to consider with respect to awards of noneconomic
18 damages.

19 SECTION 5. This act shall become effective November 1, 2024.
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21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated
22 02/12/2024 - DO PASS.
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