

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

BARBARA ANN WILSON,)	
)	
)	2:10-cv-02386-KOB
Plaintiff,)	
)	
v.)	
)	
THE CITY OF BIRMINGHAM;)	
et al.,)	
)	
Defendants.)	

PLAINTIFF’S MOTION IN LIMINE

The Plaintiff requests this Court to enter an Order in Limine, to prevent any mention in opening statement, questioning of witnesses, closing argument or in any other way before the jury, any of the following matters:

1. Any reference to the receipt by Plaintiff, or her entitlement to receive, benefits of any kind from a collateral source, including the following: health or life insurance coverage; unemployment benefits; government benefits such as disability pension benefits, Social Security, Medicaid, Medicare, other benefits; workers’ compensation benefits; free medical services; “comp time”; or any other benefits.

FRE 402, 403; *Brown v. A.J. Gerrard Manufacturing Co.*, 715 F.2d 1549, 1550 (11th Cir.1983) (en banc)(unemployment compensation benefits should not be deducted from Title VII back pay awards); See also *Maxfield v. Sinclair Int'l*, 766 F.2d 788, 795 (3d Cir.1985), cert. denied, 474 U.S. 1057, 106 S.Ct. 796, 88 L.Ed.2d 773 (1986)(“...there are no significant, relevant differences between Social Security benefits and unemployment benefits insofar as back pay awards are concerned.)

2. Any reference to the fact that a portion of Plaintiff’s cause of action may be a subrogation claim owned by a medical care provider and/or insurance company. FRE 402, 403.
3. Any reference that a recovery from this action may or may not be subject to federal income tax or any other tax. FRE 402, 403.
4. Any reference to the fact that taxpayers will have to pay or will suffer from, directly or indirectly, or the effect on the Defendants or taxpayers of any judgment entered in this case against the Defendants. FRE 402, 403.
5. Any reference or suggestion that Defendant is uninsured as to Plaintiff’s claims, including, but not limited to, any reference as to

Defendant as a of limited means, or struggling financially, or any other such reference which would tend to convey to the jury the impression that Defendant is a party who cannot afford to pay a substantial judgment. FRE 402, 403.

6. Any reference that a motive, purpose or result of this lawsuit is or will be to compensate the Plaintiff's lawyer. FRE 402, 403.
7. Any reference that members of the Birmingham Library Board are volunteers and/or unpaid. FRE 402, 403.
8. Any reference or indication of any kind that members of the Board or any individual will personally have to pay any judgment entered in the case. FRE 402, 403.
9. Any reference or suggestion that Plaintiff has not called to testify any witness equally available to both parties in this case. FRE 402, 403; *United States v. Chapman*, 435 F.2d 1245, 1247 (5th Cir. 1971).

(An inference from a party's failure to call a witness equally available to both parties is impermissible).

Respectfully submitted,

s/Adam P. Morel

Adam P. Morel

ATTORNEY FOR PLAINTIFF

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above has been served on all counsel of record via electronic filing.

This the 9th day of April, 2012.

s/Adam P. Morel

OF COUNSEL