**04.09 WRONGFUL DEATH DAMAGES – LOSS OF FUTURE SAVINGS**

The \_\_\_\_\_ item of economic loss is a claim for money that [decedent] would have earned and saved during the rest of [his][her] lifetime if [decedent] had not died on [date of death]. To compute this amount, you must complete the following steps:

1. Determine the amount that [decedent] would have earned during the period between the date of death, [insert date], and the date of trial, [insert date]. From this amount, you must subtract two amounts. First, you must subtract the money that [decedent] would have spent during the same time period to provide financial support for [spouse/children/other beneficiaries]. Second, you must subtract the money that [decedent] would have spent during the same time period for all other purposes, including income taxes. This is Amount 1.
2. Determine the amount that [decedent] would have earned during the period between the date of trial, [insert date], and the end of [his][her] ordinary life expectancy. From this amount, you must subtract two amounts. First, you must subtract the money that [decedent] would have spent during the same time period to provide financial support for [spouse/children/other beneficiaries]. Second, you must subtract the money that [decedent] would have spent during the same time period for all other purposes, except income taxes. This is Amount 2.
3. The sum of Amount 1 and Amount 2 is [decedent]’s probable savings. If this amount is zero or negative, there are no savings to award. But if you determine that [decedent] would have saved money from [his][her] earnings during the rest of [his][her] lifetime, the savings must be awarded to [spouse/children/statutory beneficiaries].

In determining Amount 1 and Amount 2, you may consider, along with other evidence, [decedent]’s age, ability, and willingness to earn money and [his][her] living and spending habits.

[Any award for future loss of savings must be reduced to present cash value. I will explain in a few minutes the meaning of present cash value and how to reduce to present cash value.]

[Insert instruction on how to decide how much to award to each statutory beneficiary.]

**Use Note**

Under AS 09.17.040(c), future economic losses must be adjusted for inflation and reduced to present value, unless the parties have agreed to apply the *Beaulieu* rule. If the parties have not agreed to apply the *Beaulieu* rule, the next-to-last bracketed paragraph should be included in the instruction, and the instruction should be followed by Instruction 20.05, which is the general damage instruction on inflation and present value. If the parties have agreed to apply the *Beaulieu* rule, the next-to-last bracketed paragraph should be excluded.

**Comment**

Amounts that would have been accumulated (saved) by the decedent but for the decedent’s wrongful death are recoverable by the statutory beneficiaries. *Kulawik v. Era Jet Alaska*, 820 P.2d 627 (Alaska 1991). This recovery is sometimes described as a loss of inheritance recovery. *Id*. The statutory beneficiaries must be awarded the full amount that would have been available for inheritance, even when there is evidence – such as a will – that the decedent would have given any such accumulated property to someone other than a statutory beneficiary. *Id*.

The term “loss of inheritance” is sometimes used to describe this recovery, but it can be misleading, because this recovery does not depend upon proof that the statutory beneficiary would have inherited money from the decedent. As indicated above, the statutory beneficiaries must be awarded this amount even if the facts indicate that they would not have received it as an inheritance because the decedent intended to leave his or her property to someone else. As another example, if the statutory beneficiary is the dependent parent of the decedent, in a normal life expectancy the parent would die before the child, and would not inherit anything from the child. Nevertheless, in a wrongful death action by the parent based on the child’s death, the parent is entitled to a recovery based on the child’s life expectancy rather than the parent’s. *North Slope Borough v. Brower*, 215 P.3d 308, 313 (Alaska 2009).

Alaska case law does not indicate how the decedent’s savings or accumulations should be divided among the statutory beneficiaries. In a case where this legal question is an issue, the trial court can address the issue and this instruction can be modified to tell the jury how to divide the decedent’s savings among the statutory beneficiaries.