**04.10A WRONGFUL DEATH DAMAGES – LOSS OF CONSORTIUM**

The \_\_\_\_\_ item of noneconomic loss claimed by the plaintiff is the loss of society, comfort, care, protection, affection and companionship that [decedent] reasonably could have been expected to give to [statutory beneficiar(y)(ies)] if [decedent] had continued to live.

In fixing this amount for each individual beneficiary, you may consider, along with other evidence, the closeness and harmony of the relationship between [decedent] and [the][each] beneficiary and the willingness of [decedent] to participate in activities with [the][each] beneficiary.

# **Use Note**

This instruction should be used in wrongful death actions where a claim for loss of consortium is asserted on behalf of one or more surviving statutory beneficiaries.

# **Comment**

Alaska’s Wrongful Death Act expressly includes loss of consortium as one of the elements of damages that must be considered. AS 09.55.580(c)(4). Damages for loss of consortium are available to “other dependents” as well as to a spouse or child. In *Greer Tank & Welding, Inc. v. Boettger*, 609 P.2d 548, 551 (Alaska 1980), the supreme court upheld awards for loss of consortium to a divorced wife and a non-adopted stepchild. However, the parents of a deceased child who had no dependents cannot recover for loss of society under the wrongful death statute; their remedy is under AS 09.15.010. *Gillispie v. Beta Construction Co.*, 842 P.2d 1272, 1273-74 (Alaska 1992).

*See also* Comment to Instructions 04.03 and 04.06A.