04.10B WRONGFUL DEATH DAMAGES — PAIN AND SUFFERING OF BENEFICIARY

The \_\_\_\_\_ item of noneconomic loss claimed by the plaintiff is a fair amount to compensate [statutory beneficiar(y)(ies)] for the sorrow, mental distress and grief that [he][she][they] [has][have] suffered because of the death of [decedent].

# **Use Note**

This instruction should be used in wrongful death actions where a claim for damages for pain and suffering is asserted on behalf of one or more statutory beneficiaries.

## **Comment**

In *Tommy’s Elbow Room, Inc. v. Kavorkian*, 727 P.2d 1038, 1048 (Alaska 1986), the supreme court held that damages for pain and suffering may be awarded under the wrongful death statute when the jury finds that such damages are necessary to “(fairly compensate for the injury resulting from the death.)” Damages for pain and suffering are not available where there are no statutory beneficiaries. *Id.* at 1045 n.11.