04.12 WRONGFUL DEATH DAMAGES – SPECIAL VERDICT FORM

)

Plaintiff )

)

vs. )

)

)

Defendant )

) Civil Action No.

# SPECIAL VERDICT

Part I

Insert the standard breach of duty, causation and comparative negligence questions that would be used in a bodily injury action. If there is more than one defendant, an appropriate series of questions must be asked for each defendant.

Part II

**Question No. \_\_\_\_\_. What if any are the damages to [statutory beneficiary] for which the conduct of [the defendant] was a substantial factor?**

**Economic loss to [statutory beneficiary]:**

Past loss of financial support $\_\_\_\_\_\_\_\_\_\_

Past loss of assistance or services \_\_\_\_\_\_\_\_\_\_

Past medical and funeral expense [if

incurred by statutory beneficiary] \_\_\_\_\_\_\_\_\_\_

Future loss of financial support \_\_\_\_\_\_\_\_\_\_

Future loss of assistance or services \_\_\_\_\_\_\_\_\_\_

**Non-economic loss to [statutory beneficiary]:**

Past loss of relationship with [decedent] \_\_\_\_\_\_\_\_\_\_

Past sorrow, grief, and emotional distress \_\_\_\_\_\_\_\_\_\_

Past loss of education and training \_\_\_\_\_\_\_\_\_\_

Future loss of relationship with [decedent] \_\_\_\_\_\_\_\_\_\_

Future sorrow, grief, and emotional distress \_\_\_\_\_\_\_\_\_\_

Future loss of education and training \_\_\_\_\_\_\_\_\_\_

Total damages to [statutory beneficiary] $\_\_\_\_\_\_\_\_\_\_

Proceed to the next question.

**Question No. \_\_\_\_\_. Was [name of putative dependent] the [name of close relationship] of [name of decedent] or, at the time of [decedent’s] death, did [putative dependent] have a relationship with [decedent] similar to that of a [name of close relationship]?**

**Answer “Yes” or “No.” Answer: \_\_\_\_\_\_\_\_\_\_**

If you answer “no” to this question, then go directly to Question No. \_\_\_\_\_.

If you answer “yes,” then answer the following question:

**Question No. \_\_\_\_\_. Did [decedent] make significant contributions of support upon which [putative dependent] was actually dependent at the time of [decedent’s] death?**

**Answer “Yes” or “No.” Answer: \_\_\_\_\_\_\_\_\_\_**

If you answer “no” to this question, then go directly to Question No. \_\_\_\_\_.

If you answer “yes,” then answer the following question:

**Question No. \_\_\_\_\_. Would these contributions have continued if [decedent] had lived?**

**Answer “Yes” or “No.” Answer: \_\_\_\_\_\_\_\_\_\_**

If you answer “no” to this question, then go directly to Question No. \_\_\_\_\_.

If you answer “yes,” then answer the following question:

**Question No. \_\_\_\_\_. What if any are the damages to [putative dependent] for which the conduct of [the defendant] was a substantial factor?**

**Economic loss to [putative dependent]:**

Past loss of financial support $\_\_\_\_\_\_\_\_\_\_

Past loss of assistance or services \_\_\_\_\_\_\_\_\_\_

Past medical and funeral expense [if

incurred by putative dependent] \_\_\_\_\_\_\_\_\_\_

Future loss of financial support \_\_\_\_\_\_\_\_\_\_

Future loss of assistance or services \_\_\_\_\_\_\_\_\_\_

**Non-economic loss to [putative dependent]:**

Past loss of relationship with [decedent] \_\_\_\_\_\_\_\_\_\_

Past sorrow, grief, and emotional distress \_\_\_\_\_\_\_\_\_\_

Past loss of education and training \_\_\_\_\_\_\_\_\_\_

Future loss of relationship with [decedent] \_\_\_\_\_\_\_\_\_\_

Future sorrow, grief, and emotional distress \_\_\_\_\_\_\_\_\_\_

Future loss of education and training \_\_\_\_\_\_\_\_\_\_

Total damages to [putative dependent] $\_\_\_\_\_\_\_\_\_\_

Proceed to the next question:

**Question No. \_\_\_\_\_. What is the amount if any that [decedent] would have earned and saved if [he] [she] had not died on [date of death]?**

Loss of future savings $\_\_\_\_\_\_\_\_\_\_

Proceed to the next question:

**Question No. \_\_\_\_\_. What is your total verdict, the sums of totals if any entered in [questions \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_].**

The foreperson should sign and date this special verdict.

**Use Note**

This exemplar special verdict form models a case with no survival action, one uncontested statutory beneficiary and one contested “other dependent” beneficiary. It should be prefaced by standard breach of duty, causation, and comparative negligence questions.

Note that the exemplar does not allocate the loss of future savings element of damage (earnings precluded by death less probable support to dependents and personal consumption of decedent) to any beneficiary. Alaska law establishes a permissive rule for division of such unallocated proceeds in a pretrial settlement context involving minor children in *Horsford v. Horsford*, 561 P.2d 722 (Alaska 1977), but does not decree a comprehensive rule for all configurations at trial. See also *Kulawik v. ERA Jet* Alaska, 820 P.2d 627, 636-637 (Alaska 1991). The trial judge must determine what formula to employ and whether there is an issue of fact for the jury.

Pre-death medical and funeral expense paid by a beneficiary is recoverable in a wrongful death action pursuant to AS 09.55.580(6). It is unclear if wrongful death damages include medical expenses paid by the deceased or his estate, or if such may only be recovered in a survival action by the estate.