**04.01A SURVIVAL ACTION — PLAINTIFF DECEASED — IDENTITY OF PARTIES**

The plaintiff in this case is the personal representative of [decedent], who is deceased. The law allows the plaintiff to bring this lawsuit on behalf of the deceased. This lawsuit is not related to [decedent]'s death. You should not be prejudiced for or against, or have any sympathy for or against, either side of this case because [decedent] is deceased and appears by a personal representative.

**Use Note**

This is an introductory instruction for survival claims under AS 09.55.570, where the plaintiff is deceased. This instruction does not give substantive law and is offered only for the purpose of clarifying the identity of the parties for the jury. This instruction may be used at the beginning of trial to explain why the action is being prosecuted by someone other than the person on whose behalf it is asserted.

This instruction should be used only where the survival claim is unrelated to the deceased’s death. If the survival claim arises out of the same incident that caused the death, use Instruction 04.03.

In the instructions relating to the substantive cause of action and damages, the words “the deceased” can be substituted for the word “plaintiff.”

**Comment**

AS 09.55.570 provides that all causes of action except defamation survive the death of the injured party and may be brought by the deceased’s personal representative.