**04.06A WRONGFUL DEATH DAMAGES – PAST LOSS OF SUPPORT**

The \_\_\_\_\_ item of economic loss claimed by the plaintiff is the past loss of support that [statutory beneficiary] could have reasonably expected to receive from [decedent] from the date of death to the date of trial, if [he][she] had lived. Support includes all forms of economic support, including money and property.

To determine how much money [decedent] would have had available to provide support, you should do the following: Compute the amount [decedent] could have earned if [he][she] had lived from the date of death, [insert date], to the date of trial, [insert date]. I will explain in a few minutes how to compute the amount the deceased could have earned. Subtract from that figure the income taxes [decedent] would have paid on those earnings. Then subtract the amount [decedent] would have spent on [himself][herself] during that period, had [he][she] lived. The remaining amount is what [decedent] would have had available for financial support.

Once you have determined the amount of money [decedent] would have had available, you must decide how much of that amount [decedent] would have actually provided for support. In determining the amount of such support, you may consider the willingness of [decedent] to provide support; the extent of the support customarily provided by [decedent] in the past; the support reasonably expected to be provided by a [insert relationship of deceased to the beneficiar[y][ies], e.g., husband to his wife and children]; and how long [statutory beneficiary] would have received such support. You may make an award for support even if [decedent] was not legally required to provide support.

# **Use Note**

This instruction should be used where there are one or more statutory beneficiaries who claim past loss of financial support. This instruction should be followed by Instruction 20.03 which tells the jury how to compute past loss of earnings. In a case that involves a claim for economic loss based on support other than monetary contributions (e.g., subsistence), it may be necessary to modify this instruction or Instruction 4.07 (Loss of Assistance or Services).

The only differences between Instructions 04.06A and B are the dates and the provisions regarding taxes and reduction to present value. Depending on the circumstances, the user may find it more convenient to combine these two instructions.

## **Comment**

The Alaska Supreme Court found no error in an instruction for determining loss of contributions of money or property in *Tommy’s Elbow Room, Inc. v. Kavorkian*, 727 P.2d 1038, 1046-47 (Alaska 1986), but stated that a more explicit instruction should be given on retrial. The phrase in the second paragraph, “and how long each beneficiary would have received such benefits,” is included to conform to the court’s comments in *Kavorkian*.

*See also* Comment to Instruction 04.03.