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Assessing Economic Damages in Personal Injury and Wrongful Death Litigation: The State of North Carolina

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I. Introduction[1]

This article is one in a series of articles in the *Journal of Forensic Economics* detailing the different and the common methods for assessing economic damages in the various states. In this article we discuss the legal framework by which economic damages are computed in personal injury (PI) and wrongful death (WD) cases in the state courts of North Carolina. Section II presents the legal framework for these torts; Section III discusses the calculation of damages in Wrongful Death torts, while Section IV deals with Personal Injury torts where they differ from Wrongful Death. Section V highlights practice and other issues for forensic economists in North Carolina.

II. Legal Framework

A. General

An expert economist's testimony as to the present monetary value of economic damages arising from personal injury or wrongful death is admissible. The testimony of an expert can provide a reasonable basis for the computation of damages even though, at best, the result is approximate. (*Beck v. Carolina Power & Light Co.,*1982) In *Beck* the court wrote:

> In allowing recovery under this statute [North Carolina General Statutes 28A-18-2], the North Carolina courts have recognized that, by necessity, some speculation is necessary in determining damages. In *Bowen v. Constructors Equip. Rental Co.,* 283 N.C. 395, 196 S.E.2d 789 (1973), the court noted that monetary recovery cannot be denied simply because no yardstick for ascertaining the amount thereof has been provided.

In *Powell v. Parker* (1983), it is recognized that "some speculation is necessary in determining damages" and that recovery can not be denied simply be-

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cause the loss may be difficult to measure. Courts will not allow expert testimony "based upon obviously inadequate data." (*Rutherford v. Air Conditioning Co.,* 1978) However, "whether certain data is a sufficient basis for an opinion will often be a matter within the witness' expertise."

In general, questions of sufficient basis for the opinion are left for cross-examination. (*Short v. Chapman*, 1964)

> In determining the appropriate amount of compensation for such loss, "the age and occupation of the injured person, the nature and extent of his employment, the value of his services and the amount of his income at the time, whether from fixed wages or salary, are matters properly to be considered by the jury," and "great latitude" is allowed in the introduction of such evidence. "The right of cross-examination provides the opposing party opportunity to challenge estimates of this nature."

B. Wrongful Death

North Carolina has established statutory rights for dealing with wrongful death torts and their associated damages–a right that did not exist under common law. Damages in wrongful death cases are governed by General Statute 28A-18-2 (b). The damages recoverable for death by wrongful act include:

1) Expenses for care, treatment and hospitalization incident to the injury resulting in death;
2) Compensation for pain and suffering of the decedent;
3) The reasonable funeral expenses of the decedent;
4) The present monetary value of the decedent to the persons entitled to receive the damages recovered, including but not limited to compensation for the loss of the reasonably expected:
    a. Net income of the decedent,
    b. Services, protection, care and assistance of the decedent, whether voluntary or obligatory, to the persons entitled to the damages recovered,
    c. Society, companionship, comfort, guidance, kindly offices and advice of the decedent to the persons entitled to the damages recovered;
5) Such punitive damages as the decedent could have recovered had he survived, and punitive damages for wrongfully causing the death of the decedent through maliciousness, willful or wanton injury, or gross negligence;
6) Nominal damages when the jury so finds.

The wrongful death statute confers a right of action for fair and just compensation for the pecuniary injury resulting from death, recoverable by the personal representative for the benefit of a specific class of heirs. Only the personal representative of the deceased, his executor or administrator, may bring suit for damages, and any damages recovered must be distributed under the laws of intestacy in North Carolina. Proceeds recovered under the wrongful

death statute are not part of the estate and are not distributed by provisions of a will, but according to the Intestate Succession Act. (*Harrison v. Carter,* 1946; *Bowen v. Constructors Equip. Rental Co.*, 1973)

The damages are to individuals who may have reasonably expected to receive benefit(s) from the deceased. Cases confirming that damages are limited to those who may have reasonably expected to receive benefits include: *Bowen v. Constructors Equip. Rental Co.*, 1973; *Carver v. Carver*, 1984; and more recently, *Bahl v. Talford*, 2000. These cases all involved the death of children. Such cases are exceptions to the norm and as such, have generated a number of recorded appeals. Initially, in the *Bahl v. Talford* case, the parents were awarded money for income they might reasonably have expected from the deceased daughters. This case was remanded because no evidence was presented at trial to show that the deceased had ever expressed intent to provide income to the parents. The daughters were 11 and 16 at the time of death.

The "services" in paragraph 4(b) of the statute have been construed in actual cases to be the household maintenance services typically considered by forensic economists. These would include care of a dwelling, inside and out, care of children or adults unable to provide their own care, food preparation, etc.

In *State v. Smith*, 1988, the deceased's annual gross income was estimated to be $25,000. The parents' life expectancy was 30 years resulting in a loss estimated to be $750,000 with a present value of $500,000. The Appeals Court stated that the trial court:

> …erred, however, in using the victim's annual salary as a base figure… only the "reasonably expected" net income of the decedent can be recovered…
> No evidence was presented at the sentencing hearing to show that either of the victim's parents reasonably expected to receive any, let alone all, of his income. Since the restitution order is not supported by the evidence, it cannot be allowed to stand.

The reason the judgment was vacated appears to be either because (a) gross instead of net income was used or (b) no evidence was provided that the parents could be expected to receive any income from the daughters. This decision was affirmed by the North Carolina Supreme Court in *State v. Smith*, 1989.

There does not seem to be any question concerning reasonably expected when the survivor is a spouse and/or child. From *Bowen v. Constructors Equip. Rental Co.*, 1973:

> If the persons entitled to receive the damages recovered were a wife and child or children, obviously the present value of their monetary loss would involve different considerations. If the persons entitled to the damages recovered were collateral relatives whose contacts with the decedent were casual and infrequent, there may be no basis for the recovery of any significant amount under paragraph (4).

The legislature intended the damages recoverable under the wrongful death statute to compensate the beneficiaries in manner such as restores them to the position they would have had experienced had there been no death. (*Scallon v. Hooper*, 1982, cert. denied, 306 N.C. 744, 295 S.E. 2d 480, 1980) and *Beck v. Carolina Power & Light Co.*, 1982) In addition to lost earnings and services, these recoverable damages include such items as lost health care insurance and reduced pension benefits to which the beneficiaries would have been entitled.

C. Personal Injury

The North Carolina Pattern Instructions (NCPI–810.00, p. 1) for personal injury state:

> The plaintiff may also be entitled to recover actual damages. On this issue the burden of proof is on the plaintiff. This means that the plaintiff must prove, by the greater weight of the evidence, the amount of actual damages [proximately caused by the negligence] [caused by the wrongful conduct] of the defendant.

The possible damages are enumerated in NCPI–810.02, p. 1:

> Actual damages are the fair compensation to be awarded to a person for any [past] [present] [future] injury [proximately caused by the negligence] [caused by the wrongful conduct] of another.
>
> In determining the amount, if any, you award the plaintiff, you will consider the evidence you have heard as to:
> [medical expenses]
> [loss of earnings]
> [pain and suffering]
> [scars or disfigurement]
> [(partial) loss (of use) of part of the body]
> [permanent injury]
> [any other type of damage supported by the evidence; e.g. loss of consortium]

III. Wrongful Death Damages

A. Life Expectancy

In determining the reasonable value of the loss to survivors of the decedent, the loss is calculated over the life expectancy of the deceased, or the life expectancy of the persons entitled to receive the damages if it is shorter than that of the deceased. *Bowen*. In either case, the life expectancy is mandated by the statutory mortality table in N.C General Statute 8-46. This is a unisex, unified race table last updated in 2004 (see Appendix 1 for comparisons of North Carolina and recent United States life expectancies). The legislature's source for this table is unknown to the authors. Differences between male and female, or between black and white expectancies are not admissible, nor is the

fact that life expectancies are generally increasing over time. The statutory table is not conclusive by itself as to life expectancy, but must be considered in connection with "the other evidence as to the health, constitution and habits" of the deceased (*Russell v. Windsor Steamboat Co.,* 1900).

B. Earning Capacity

In wrongful death cases, there is no indication in the jury instructions or in case law that the "net income" is anything other than "expected" income, not capacity. However, the jury instructions and case law in personal injury torts explicitly recognize that in at least some situations, earning capacity is the measure to use (see Part IV.B). North Carolina Pattern Instructions say in part (NCPI–810.50):

> Damages for (*name deceased's*) death also include fair compensation for the present monetary value of (*name deceased*) to *his* next-of-kin….You may consider:
> [The net income (name deceased) would have earned during the remainder of *his* life. You must subtract from (name deceased's) reasonably expected income the amount *he* would spent on *himself* or for other purposes which would not have benefited *his* next of kin.
> The amount he would have earned depends upon *his* prospects in life, health, character, ability, industry and [the means *he* had for making money] [the business in which he was employed]. It also depends upon *his* life expectancy–that is, the length of time *he* could reasonably have been expected to live but for the [negligence] [wrongful conduct] of the defendant].

The North Carolina Pattern Jury Instructions (NCPI) are neither easy to locate nor use because annual supplements must regularly be used to replace original instructions. A committee made up of 10 superior court judges meets monthly from August through June to create instructions for both civil and criminal court. In June of each year all new/revised instructions are published as supplements to the North Carolina Pattern Jury Instructions, Volume 1 (Criminal) and Volume 2 (Civil). The original compilation of instructions and the supplements are published by the Institute of Government at the University of North Carolina School of Government, Chapel Hill, North Carolina. Complete volumes may be obtained from the North Carolina Bar Association (1-800-662-7407), and annual supplements may be obtained from the Institute of Government (www.sogpubs.unc.edu).

C. Work-life Expectancy

There is no statute or jury instruction relating specifically to the determination of a person's work-life expectancy. However, it must be considered because the jury instruction refers to "The net income he would have *earned* during the remainder of his life…The amount he would have earned depends upon his prospects in life, health, character, ability, industry, and the means he had for making money." (NCPI–810.50, p. 1)

D. Personal Consumption Deduction

The jury instructions state: "You must subtract from deceased's reasonably expected income the amount he would have spent on himself or for other purposes which would not have benefited his next-of-kin." (NCPI–810.50, p. 1) *State v. Smith* confirms that net income, as opposed to gross income, must be used to determine the loss. There is no case law regarding how the amount subtracted is to be determined.

E. Household Services

"Services, protection, care and assistance of the decedent, whether voluntary or obligatory, to the persons entitled to the damages recovered..." (NCPI–810.50, p. 2) are a part of the statutory recoverable damages. The only elaboration of the determination of these damages is in the jury instructions (NCPI–810.50, p. 2): "These words are to be given their ordinary meanings. You may consider the family and personal relations between the deceased and his next-of-kin…"

F. Fringe benefits

Nothing in the statute or in case law addresses this issue. Therefore, forensic economists may, and oft-times do, include such calculations.

G. Income Taxes

There is nothing in the statute or in the jury instructions specifying that income taxes must be deducted from lost income. However, the term "net income" is used repeatedly in the jury instructions, and in an appeal not involving wrongful death/personal injury but an allowance under a will, the Court of Appeals held that the words "net income" meant income after deducting federal and state income taxes *(Pritchard v. First-Citizens Bank and Trust*, 1978). In *Scallon v. Hooper* the court does state "it is a reversible error for the trial court to instruct the jury that damages awarded in a wrongful death action are exempt for federal and state income taxes."

Again, because nothing in the statute or case law addresses FICA taxes, such taxes and benefits may be considered by a forensic economist on a case-by-case basis.

H. Present Value

The jury instructions say "Any amount you allow as damages for the future monetary value of the deceased to his next-of-kin must be reduced to its present value, because a smaller sum received now is equal to a larger sum received in the future." (NCPI-810-50) Then, even if the future monetary value has been reduced to its present value, the instructions state, "Whether it has in

fact been so reduced is for you to determine from the evidence and from your logic and common sense."

No case law was found regarding the discount rate to use in a wrongful death action, but in a determination of the present value of a partnership as part of a marriage dissolution, the Court of Appeals said:

> While the method used was not unreasonable, the interest rate used to discount the payments to defendant of his interest in the partnership was relatively low. The trial judge did not explain why he used this particular rate. The plaintiff notes in her brief that this is the rate used in G.S. 8-47 to calculate the present worth of annuities payable annually to a person during his life. We do not believe that the purpose of that statue was to cover cases such as the present, where the trial judge sought to find the actual or true net value of the partnership interest to defendant in 1983. We take notice that the rate of 4½% was far below the going or market rate in 1983, and that the use of it produced a present value thousands of dollars in excess of the actual or market value of the money. We therefore remand for a recalculation of the partnership interest, using a rate reasonably in keeping with the fair market value of the money. Reasonable rates of comparison, for example, might include the rate used by the Internal Revenue Service in determining assessments and refunds, Treasury bill rates, or the prime rate charged by banks. (*Weaver v. Weaver*, 1985)

This ruling would seem to indicate the use of a current market interest rate, however such a rate might be determined. The *Weaver v. Weaver* ruling is not one that is particularly cited in Wrongful Death/Personal Injury cases. It is simply one of the few appealed cases involving the discount rate. Since there is no mandated way to deal with a discount rate, either by statute or case law or jury instructions, different experts use a variety of different methods. The authors are familiar with cases where net discount rates (both real and nominal) were used, portfolios of differing bond maturities were used, and an historical nominal rate was used. Sometimes tax-adjusted rates have been used, and sometimes taxes have been accounted for in the earnings of both the decedent and the award interest. The method most commonly seen has been a real net discount rate, but that is because one expert has done so much work in North Carolina for the last 30 years and uses such an approach

IV. Personal Injury

A. Life Expectancy

The NCPI includes Mortality tables. The tables, described above, are to be used in personal injury cases "Whenever it is necessary to establish the expectancy of continued life of any person from any period of the person's life…" (NCPI–810.14, p. 3) In addition to the data in the tables, factors specific to the individual involved such as health and habits can be considered by the jury.

B. Earning Capacity

The N.C.P.I. Instructions state (NCPI–810.06, p. 1):

> Damages for personal injury also include fair compensation for the [past] [present] [future] loss of time from employment, loss from inability to perform ordinary labor, or the reduced capacity to earn money experienced by the plaintiff...
> In determining this amount, you should consider the evidence as to:
> [the plaintiff's age and occupation]
> [the nature and extent of the plaintiff's employment]
> [the value of the plaintiff's services]
> [the amount of the plaintiff's income at the time of his injury from salary, wages or other compensation]
> [the effect of the plaintiff's disability or disfigurement on his earning capacity]
> [the plaintiff's loss of profits from his business or profession]
> [and the loss of capacity to earn money]
> [*specify any other factor supported by the evidence*].
> (The fact that a person [was not working at the time of his injury] [had not begun to work at the time he was injured] does not, in and of itself, prevent a person from recovering fair compensation for loss of future earning capacity.)

Two cases, *Johnson v. Lewis,* 1960 and *Purgason v. Dillon*, 1970, state that it is not necessary for an individual to be employed at the time of injury in order to be compensated for the diminished ability to work. Both contain the quote:

> A person is not deprived of the right to recover damages because of inability to labor or transact business in the future, because of the fact that at the time of the injury he is not engaged in any particular employment… The fact that a woman attends merely to household duties will not deprive her of a right to recover for loss of earning capacity.

This reasoning is also used for children who have no earning history. *Kirk v. Hannon,* 2001, confirms that a child can be compensated for impairment of his or her earning capacity he or she would have had once attaining majority.

In the injury of a child there are two causes of action, *Emanuel v. Clewis,* 1968. An action on behalf of the child to recover damages for pain and suffering, permanent injury and impairment of earning capacity after attaining majority; and (2) an action by the parent, ordinarily the father, for (a) loss of the services and earnings of the child during minority and (b) expenses incurred for necessary medical treatment for the child's injuries.

C. Profits from Business

In *Smith v. Corsat,* 1963, the Supreme Court writes that the profits of a business are not to be considered when the business depends in part on the employment of capital and the labor of others for the purpose of establishing the value of the lost time or diminished earning capacity because profits are uncertain and speculative. The court goes on to state that: "In such case, the

measure of damages is the loss in value of the injured person's services in the business." The exception is when the business is small and relies principally on the personal services and attention of the owner in which case the profits may be "useful in helping to determine the pecuniary value of loss of time or impairment of earning capacity."

The exception is exemplified in a citation from *Young and Young v. William Stewart, Jr. and A-1 Services, Ltd.,* 1991:

> This court has held that various cases fit into this exception and has approved the admission of evidence of business earnings to show lost earning capacity resulting from negligently inflicted injury. In *Griffin v. Disco, Inc.,* 49 N.C. App. 77, 270 S.E. 2d 613 (1980*),* the Court held admissible evidence of plaintiff's business earnings where plaintiff owned and operated a paint and body shop and employed only one laborer. In *Rolling Fashion Mart, Inc. v. Mainor*, 80 N.C. App. 213, 341 S.E.2d 61 (1986), the Court stated that evidence of business earnings of a small door-to-door sales company, having only one employee – its president – would be admissible in a suit for lost earning capacity brought by its president. In *Smith v. Pass*, 95 N.C. App. 243, 382 S.E.2d 781 (1989), the Court held admissible evidence of plaintiff's van pool business earnings. The common thread in all of these cases is that each plaintiff's business earnings resulted from the personal efforts of the plaintiff and not from employment of capital or labor of others.

D. Work-life Expectancy

As in the wrongful death situation, there is no statute or jury instruction relating specifically to the determination of a person's work-life expectancy. The NCPI states that when determining damages in personal injury cases the jury is to consider evidence regarding the plaintiff's age and occupation and the nature and extent of the plaintiff's employment (NCPI–810.06).

E. Personal Consumption Deduction

In personal injury cases there are no personal consumption deductions.

F. Household Services

The N.C.P.I. do not directly address the determination of household services. Damages may include "any other element of damages supported by the evidence" (NCPI–810.14, p. 1). In *Johnson v. Lewis* the court quotes *Rodgers v. Boynton* (1943), that the injured woman "was entitled to have considered in the assessment of her damages her inability, due to the injury, to perform her household duties, just as she would be entitled to have considered any other restriction, due to the injury, of her activities." Economic experts routinely calculate household services lost because of personal injury or wrongful death, but the basis for these calculations is as varied as the number of experts performing them.

G. Fringe benefits

The N.C.P.I. refers to "earnings" (NCPI–810.02) and "capacity to earn." What constitutes earnings, i.e., how (or if) fringe benefits are to be calculated or included, is not elaborated on in the Pattern Instructions, and no case law was found. It is, however, common practice to include fringe benefits in the determination of economic losses.

H. Income Taxes

Nothing in the Pattern Instructions gives instruction specific to the treatment of taxes, and no case law was found on the topic of personal injury and taxes. Because income taxes are deducted from earnings in wrongful death cases according to the statute, they are customarily deducted in personal injury cases.

I. Present Value

The Pattern Instructions for personal injury state (NCPI–810.16, p. 1) "Any amount you allow as the future damages for …must be reduced to its present value, because a smaller sum received now is equal to a larger sum received in the future." As is the case for a wrongful death action, no specific instruction is provided for present value calculations.

V. Issues for Forensic Economics in North Carolina

A. Hedonic Damages

Damages recoverable for death by wrongful act do not include hedonic damages. (*Livingston v. United States*, 1993).

There have been no North Carolina Supreme Court or Court of Appeals decisions on the issue of recovering specified hedonic damages for the loss of enjoyment of life in personal injury cases. However, there is some latitude in the jury instructions on the pain and suffering, the scars and disfigurement, and the loss of use of part of the body components of personal injury damages. All three components (NCPI 810.08, 810.10, 810.12) include the instructions:

> Damages for personal injury also include fair compensation for the actual past, present, future [physical pain and mental suffering] [scars and disfigurement] [loss, or partial loss of the use of [identified body part(s)]]. There is no fixed formula for placing a value on [these conditions]. You must determine what fair compensation is by applying logic and common sense to the evidence.

While the phrase "There is no fixed formula for placing a value on these conditions," might be interpreted to allow *any* method of calculating the value, apparently the next sentence with "fair compensation," "logic," and "common sense" prevails, and a hedonic damages calculation for loss of enjoyment of life

in personal injury cases is virtually never seen in North Carolina; i.e., the authors know of no such cases.

B. Pre-judgment Interest

Interest on an award in North Carolina has an interesting way of accumulating. By North Carolina General Statue 24-5 (b):

> In an action other than contract, any portion of a money judgment designated by the fact finder as compensatory damages bears interest from the date the action is commenced until the judgment is satisfied. Any other portion of a money judgment in an action other than contract, except the costs, bears interest from the date of entry of judgment under G.S. 1A-1, Rule 58, until the judgment is satisfied. Interest on an award in an action other than contract shall be at the legal rate.

Therefore, prejudgment interest on an award for economic damages (compensatory damages, but not punitive damages) does not start at the time of the personal injury or death, but at the time the action is filed. Interest on punitive damages awards accumulates from the date of entry of the judgment. By North Carolina General Statute 24-1, the "legal rate of interest" is 8% per annum. While there is nothing in the statute nor in case law addressing whether this is simple or compound interest, common practice is to compound the interest.

C. Loss of Consortium

In North Carolina a spouse may be compensated for loss of consortium as long as the action for the loss of consortium is joined with any suit "the other spouse may have instituted to recover for his or her personal injuries" (*Nicholson v. Chatham Hospital*, 1980). Consortium is defined as "it embraces service, society, companionship, sexual gratification and affection." If the spouse has died, the recovery period is from the time of injury to the time of death. Or, if the couple subsequently divorced the period for recovery is to the date of the divorce (NCPI–810.30). In *Nicholson v. Chatham Hospital* the Court states that the wrongful death statute 28A-18-2(b) allows compensation for loss of consortium. The statute does not specifically refer to "consortium" but to "services, protection care and assistance" and "society, companionship, comfort, guidance, kindly offices and advice."

Even though there may be compensation for lost consortium, forensic economists rarely attempt to estimate its value.

As there is an overlap between what the injured spouse has lost and what the non-injured spouse has lost (e.g. household services) specific instructions are given to avoid duplicating awards. (See NCPI–810.30)

D. Per Diem Presentations

In a wrongful death action, a per diem argument may be made by counsel for pain and suffering. From NCPI–810.56, p. 1:

> An attorney is allowed to suggest an amount of damages and therefore can suggest an amount for each [unit of time; e.g., day, hour, minute] of physical pain and suffering. Furthermore, an attorney's argument is not evidence but is merely an approach to the damage issue which you may consider but need not adopt.

A forensic economist can do the mathematics for the attorney, but that is all.

E. Common Practices in Forensic Economics in North Carolina

Reports written by the forensic economist are not required by law, but typically are submitted if the case makes it to deposition or trial. Frequently an attorney only wants a "number" to use in settlement negotiations–usually in the form of a letter–and requests a full report only if a deposition or trial appears to be likely. Reproduction of data sources in a report is also not required, but an individual judge or opposition attorney may make an issue out of the absence of supporting data. There is no fixed deadline for submitting reports in North Carolina courts. A report will be produced whenever the opposing attorney asks for it in discovery.

Depositions are commonly taken, but at the same time it is not unusual to testify without having given a deposition in the case. The availability of depositions from a plaintiff's economist's earlier cases obviously assists a defense expert's preparation for an upcoming deposition, but earlier depositions are not guaranteed to be available.

The authors know of no wrongful death/personal injury trials in North Carolina state court which were not tried in front of a jury (with 12 members). Other types of trials, such as divorce settlements or child support matters, will be tried in front of a judge only.

CASES

Bahl v. Talford, 138 N.C. App. 119 (2000)
Beck v. Carolina Power & Light Co., 57 N.C. App. 373, 291 S.E. 2d 897, affirmed 307 N.C. 267, 297 S.E. 2d 397 (1982).
Bowen v. Constructors Equip. Rental Co., 283 N.C. 395 (1973)
Carver v. Carver 310 N.C. 669 (1984)
Emanuel v. Clewis, 272 N.C. 505, (1968)
Harrison v. Carter, 226 N.C. 36, 36 S.E.2d 700 (1946)
Johnson v. Lewis 251 N.C. 797 (1960)
Kirk v. Hannon, 142 N.C. App. 267 (2001)
Livingston v. United States, 817 F. Supp. 601, E.D.N.C. 1993
Nicholson v. Chatham Hospital, 300 N.C. 295, 266 S.E. 2d 818, 1980
Powell v. Parker 62 N.C. App. 465(1983)
Pritchard v. First-Citizens bank and Trust, 38 N.C. App. 489; 248 S.E.2d 467; 1978
Purgason v. Dillon 9 N.C. App. 529, (1970)
Rodgers v. Boynton, 314 Mass. 279, 52 N.E. 2d 576, 151 A.L.R. 475 (1943)
Russell v. Windsor Steamboat Co., 126 N.C. 961, 36 S.E. 191 (1900)
Rutherford v. Air Conditioning Co. 38 N.C. App 630 (1978)
Scallon v. Hooper, 58 N.C App. 551, 293 S.E.2d 843 (1982)
Short v. Chapman, 261 N.C. 674, (1964)

Smith v. Corsat, 260 N.C. 92 (1963)
State v. Smith 90 N.C. App. 161 (1988)
State v. Smith 323 N.C. 703 (1989)
Weaver v. Weaver, 72 N.C. App 409; 324 S.E.2d 915; (1985)
Young and Young v. William Stewart, Jr. and A-1 Services, Ltd., 101 N.C. App 312; 399 S.E.2d 344 (1991):

STATUTES

North Carolina General Statutes, North Carolina General Assembly; Legislative Building, 16 West Jones Street, Raleigh, NC 27601 (available at http://www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl)

PATTERN JURY INSTRUCTIONS

North Carolina Pattern Jury Instructions, General Civil Volume; Institute of Government at the University of North Carolina School of Government, Chapel Hill, North Carolina: Part IV – Miscellaneous Torts, Chapter 12 – Damages.

APPENDIX

Number of years of Life Remaining (2002)

Age	North Carolina[1]	U.S. Total Pop[2]	U.S. white Male[3]	U.S. white Female[4]	U.S. black Male[5]	U.S. black Female[6]
0	75.8	77.3	75.1	80.3	68.8	75.6
5	71.6	72.9	70.7	75.8	65.0	71.7
10	66.6	67.9	65.7	70.8	60.1	66.8
15	61.7	63.0	60.8	65.9	55.2	61.8
20	56.9	58.2	56.1	61.0	50.5	57.0
25	52.2	53.5	51.4	56.1	46.0	52.1
30	47.5	48.7	46.7	51.2	41.6	47.4
35	42.9	44.0	42.0	46.4	37.1	42.7
40	38.3	39.3	37.4	41.6	32.8	38.1
45	33.8	34.8	32.9	36.9	28.5	33.7
50	29.3	30.3	28.5	32.4	24.6	29.5
55	25.1	26.1	24.3	27.9	21.0	25.4
60	21.1	22.0	20.3	23.6	17.6	21.6
65	17.5	18.2	16.6	19.5	14.6	18.0
70	14.2	14.7	13.3	15.8	11.8	14.7
75	11.2	11.5	10.3	12.3	9.5	11.7
80	8.5	8.8	7.7	9.3	7.5	9.2

[1]North Carolina General Statue 8-46
[2]National Vital Statistics Reports, Vol. 53, No. 6, November 10, 2004, Table 1
[3]National Vital Statistics Reports, Vol. 53, No. 6, November 10, 2004, Table 5
[4]National Vital Statistics Reports, Vol. 53, No. 6, November 10, 2004, Table 6
[5]National Vital Statistics Reports, Vol. 53, No. 6, November 10, 2004, Table 8
[6]National Vital Statistics Reports, Vol. 53, No. 6, November 10, 2004, Table 9