

PERSONAL INJURY DAMAGES—SCARRING OR DISFIGUREMENT.

Damages for personal injury also include fair compensation for [scarring] [disfigurement] of the plaintiff as a [proximate result of the negligence] [result of the wrongful conduct] of the defendant. There is no fixed formula for placing a value on [scarring] [disfigurement]. You must determine what is fair compensation by applying logic and common sense to the evidence.

You may consider:

[the extent of any [past] [present] [future]<sup>1</sup> alteration of the plaintiff's physical appearance<sup>2</sup> [proximately caused by the negligence] [caused by the wrongful conduct] of the defendant]

[the extent of any [past] [present] [future]<sup>3</sup> embarrassment and mental suffering [proximately caused by the negligence of the defendant] [caused by the wrongful conduct of the defendant]]

[(*specify any other factor supported by the evidence*)].

However, the plaintiff is not entitled to recover twice for the same element of damages. Therefore, you should not include any amount you have already allowed for loss of earnings or physical pain and mental suffering because of [scarring] [disfigurement].

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1. *Little v. Penn Ventilator Co.*, 317 N.C. 206, 219, 345 S.E.2d 204, 212 (1986) (holding that the Court of Appeals erred in striking down an award for future medical damages of a not-yet-manifest eye injury). If there is evidence of scarring or disfigurement which will become manifest or more manifest in the future, whether temporary or permanent, give N.C.P.I.—Civil 106.16 (“Personal Injury Damages—Future Worth in Present Value”). In addition, if there is evidence that the scarring or disfigurement will be permanent, give N.C.P.I.—Civil 810.14 (“Personal Injury Damages—Permanent Injury”).

2. Former N.C.P.I.—Civil 810.32 (“Personal Injury Damages—Parent’s Claim For Negligent Or Wrongful Injury To Minor Child”) previously instructed the jury that it could consider the extent to which the scarring or disfigurement could be removed or made less obvious by medical treatment. This aspect of the instruction is more properly the defendant’s burden pursuant to a mitigation defense. See N.C.P.I.—Civil 810.24 (“Personal Injury Damages—Defense Of Mitigation”).

3. See *supra* note 1 .

