N.C.P.I.—Civil 810.41
WRONGFUL DEATH DAMAGES—SET OFF/DEDUCTION OF WORKERS'
COMPENSATION AWARD.
GENERAL CIVIL VOLUME
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810.41 WRONGFUL DEATH DAMAGES—SET OFF/DEDUCTION OF WORKERS'
COMPENSATION AWARD.

Evidence has been introduced that the estate received (*state dollar amount*) in workers' compensation benefits from (*name deceased's*) employer, (*state employer's name*). Under North Carolina law, the Court is required to deduct this amount from any amount of damages that you award the estate.[1]

I have advised you of the amount of the estate's workers' compensation award for the sole purpose of informing you that such amount will be deducted by the Court from any amount of damages you award the estate. You are not to consider the amount of the estate's workers' compensation recovery for any other purpose. Such awards are not calculated in accordance with the law of damages applicable to a civil trial. They are determined by statute, according to a fixed formula.

I therefore instruct you that you are not to be guided or influenced by the amount of the estate's workers' compensation award in determining the amount of damages, if any, that you award the estate. Your decision on the amount of the damages the estate is entitled to recover is to be governed exclusively by the evidence in this case and the rules of law I have given you with respect to the measure of damages.

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1. N.C. Gen. Stat. § 97-10.2(e)*; see also Murray v. Moody*, __ N.C. App. __, __, 797 S.E.2d 365, 369 (2017) ("It is well established that our Workers' Compensation Act was never intended to provide an employee with a windfall recovery from both the employer and a third party who is legally responsible for causing the employee's compensable injuries. (citing *Radzisz v. Harley Davidson of Metrolina, Inc.*, 346 N.C. 84, 89, 484 S.E.2d 566, 569 (1997)). Where '[t]here is one injury, [there is] still only one recovery.'" (quoting *Andrews v. Peters*, 55 N.C. App. 124, 131, 284 S.E.2d 748, 752 (1981), *disc. rev. denied*, 305 N.C. 395, 290 S.E.2d 364 (1982))).