

DEFENDANT'S PERSONAL INJURY DAMAGES (COUNTERCLAIM)--IN GENERAL.

Actual damages are the fair compensation to be awarded to a person for any [past] [present] [future] injury proximately caused by the negligence of another.

In determining the amount, if any, you award the defendant, you will consider the evidence you have heard as to (each of the following types of damages):

[medical expenses]

[loss of earnings]

[pain and suffering]

[scars or disfigurement]

[(partial) loss (of use) of part of the body]

[permanent injury]

[state any other type of damage supported by the evidence].¹

The total of all damages are to be awarded in one lump sum.²

I will now explain the law of damages as it relates to each of these.

(Give the applicable component instruction as supported by the evidence. N.C.P.I.--Civil 106.04 through 106.18 may be adapted for this purpose.)

¹For example, the defendant can also claim damages for loss of consortium of his spouse--provided the defendant's spouse does not make that claim. See N.C.P.I.--Civil 102.97 ("Action for Loss of Consortium") and 106.30 ("Personal Injury Damages--Loss of Consortium").

²*King v. Britt*, 267 N.C. 594, 597, 148 S.E.2d 594, 597 (1966); see also *Smith v. Corsat*, 260 N.C. 92, 131 S.E.2d 894 (1963).

