

N.C.P.I.—Civil 810.42
 WRONGFUL DEATH DAMAGES—IN GENERAL
 GENERAL CIVIL VOLUME
 JUNE 2012

 WRONGFUL DEATH DAMAGES—IN GENERAL.¹

(For medical malpractice cases filed on or after 1 October 2011, use N.C.P.I.—Civil 809.142.)

Actual damages are the fair compensation to be awarded to the estate for the death of *(name deceased)* [proximately caused by the negligence] [caused by the wrongful conduct] of the defendant. Such damages may include:

[expenses for care, treatment and hospitalization incident to the injury resulting in death]²

[pain and suffering]³

[reasonable funeral expenses]⁴

[the present monetary value of *(name deceased)* to *his* next-of-kin].⁵

The total of all damages⁶ are to be awarded in one lump sum.⁷ I will now explain the law of damages as it relates to (each of) these.

1 Bifurcation Note: For actions commenced on or after 1 October 2011, N.C. R. Civ. P. 42(b)(3) specifies: "Upon motion of any party in an action in tort wherein the plaintiff seeks damages exceeding one hundred fifty thousand dollars (\$150,000), the court shall order *separate trials for the issue of liability and the issue of damages, unless the court for good cause shown orders a single trial. Evidence relating solely to compensatory damages shall not be admissible until the trier of fact has determined that the defendant is liable.* The same trier of fact that tries the issues relating to liability shall try the issues relating to damages."

2 N.C. Gen. Stat. § 28A-18-2(b)(1).

3 N.C. Gen. Stat. § 28A-18-2(b)(2).

4 N.C. Gen. Stat. § 28A-18-2(b)(3).

5 N.C. Gen. Stat. § 28A-18-2(b)(4).

6 In addition, punitive damages may be awarded for wrongful death of the deceased through the malice or willful or wanton conduct of the defendant as defined at N.C. Gen. Stat. § 10-5. N.C. Gen. Stat. § 28A-18-2(b)(5). Punitive damages issues should be

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submitted separately, however. *See Jones v. McCaskill*, 99 N.C. App. 764, 394 S.E.2d 254 (1990).

7 Kendrick v. Cain, 272 N.C. 719, 159 S.E.2d 33 (1968).