

1.12 GENERAL PROVISIONS FOR STANDARD CHARGE
(Approved 11/98)

O. Damages

I shall now instruct you on the law governing damages in the event you decide the liability issue in favor of plaintiff (____ name ____).

The fact that I instruct you on damages should not be considered as suggesting any view of mine about which party is entitled to prevail in this case. Instructions on damages are given for your guidance in the event you find that the plaintiff (____ name ____) is entitled to a verdict. I am required to provide instructions on damages in all cases where the trial includes a claim for damages.

The plaintiff (____ name ____) has the burden of establishing by a preponderance of the evidence each item of damages that he/she claims. The plaintiff must also prove that the damages were the natural and probable consequences of the defendant's negligence. The accident must have been a proximate cause of the damages. Damages may not be based on conjecture or speculation.

In this case the plaintiff (____ name ____) is seeking the following types of damages [select the appropriate categories]:

1. medical expenses [Model Civil Charge 8.11A];
2. past and future lost wages [Model Civil Charge 8.11C];

3. pain, suffering, disability, impairment and loss of enjoyment of life
[Model Civil Charge 8.11E];
4. aggravation of pre-existing disability [Model Civil Charge 8.11F].

In addition, the plaintiff's spouse (____ name ____) is seeking compensation in what we call a *per quod* claim [Model Civil Charge 8.30A].

I will now discuss each category of damages with you. [Be sure to include the life expectancy Model Civil Charge 8.11G whenever there is a claim of permanency.]