

**45.04B Wrongful Death Act--Survival Act--Verdict
Form B--Contributory Fault of Decedent Only**

We, the jury, find for the Estate of _____, deceased, and against the following defendants:

_____	Defendant 1	Yes _____	No _____
_____	Defendant 2	Yes _____	No _____

We further find the following:

First: We find that the total amount of damages suffered by the Estate of _____, deceased, is \$ _____, itemized as follows:

[Loss of money, benefits, goods and services]:	\$ _____ \$
[Grief, sorrow and mental suffering]:	\$ _____
[Loss of society] and [loss of sexual relations]:	\$ _____
[(Other damages: insert from 30.04, 30.04.01, 30.05, 30.05.01, 30.06, 30.07, 30.09 or as applicable)]	\$ _____
PLAINTIFF'S TOTAL DAMAGES	\$ _____

Second: Assuming that 100% represents the total combined [negligence][fault][responsibility] of all [persons] [or entities] whose [negligence][fault][responsibility] proximately caused the death of [decedent], we find the percentage of [negligence][fault][responsibility] attributable to each as follows:

a)	_____	_____ %
	Decedent	
b)	_____	_____ %
	Defendant 1	
c)	_____	_____ %
	Defendant 2	

Third: After reducing the plaintiff's total damages from paragraph "First" by the percentage of [negligence] [[(other damage reducing defense)] if any, of [decedent] from line (a) in paragraph "Second," we award [plaintiff] recoverable damages in the amount of \$ _____.

Foreperson

Add additional lines for juror signatures.

Verdict Form, Notes and Comment revised May 2014.

Notes on Use

Use "other damages" if there is a Survival Act count. Use this verdict form in conjunction with IPI B31.08 when the contributory fault of only the decedent is an issue for the jury. If there is no issue as to contributory fault, use verdict form IPI 45.04A. If there is an issue of contributory fault of a beneficiary alone or a beneficiary and a decedent, use verdict form IPI 45.04C. Add additional lines on the damage itemization as appropriate if a Family Expense Act claim is part of the plaintiff's case.

Comment

The contributory fault of the decedent is a defense in a wrongful death action, which was created by statute in Illinois. 740 ILCS 180/2.

The Survival Act is not a statutory cause of action, but rather a statute that allows for the continued existence of a cause of action that arose during the lifetime of the decedent. *Myers v. Heritage Enters., Inc.*, 332 Ill.App.3d 514, 773 N.E.2d 787, 266 Ill. Dec. 32 (4th Dist. 2002). The decedent's contributory fault is a defense to a claim brought under the Survival Act.