

**CV2015 Survival claim.**

If you decide that [name of defendant]'s fault was a cause of [name of decedent]'s harm, you must award economic and non-economic damages for the period of time that [name of decedent] lived after the injuries, regardless of whether [name of defendant]'s fault caused the death.

**References**

Utah Code Section 78B-3-107.

In re Behm's Estate, 117 Utah 151, 213 657 (1950).

Allen v. United States, 588 F. Supp. 247 (D. Utah 1984).

Platis v. United States, 288 F. Supp 254 (D. Utah 1968), aff'd, 409 F.2d 1009 (10th Cir. 1969).

**Committee Notes**

There was no Utah law at the time this was drafted regarding the meaning of "survival," and whether the decedent must be conscious to bring a survival action.

~~The statute limits the amount of non-economic (general) damages to \$100,000; if the non-economic damages awarded are greater than allowed, the judge can reduce the amount.~~

Under Utah's comparative negligence statute, any negligence of decedent is, in effect, imputed to the plaintiff: thus, if decedent is found to be more than 50% negligent all recovery is denied. Kelson v. Salt Lake County, 784 P.2d 1152 (Utah 1989)

**Committee Amended**

Amended September 8, 2014.