

### **B31.08.01 Damages--Wrongful Death--Contributory Fault of Sole Beneficiary**

If you find that [beneficiary and/or decedent] contributed to cause the death of the decedent, then you must determine the percentage of the contributory fault of [beneficiary and/or decedent].

[If you find that the contributory (fault) (negligence) of the decedent was more than 50% of the total proximate cause of the death of the decedent, then you shall enter a verdict in favor of the defendant(s). If you find that the contributory fault of the decedent was 50% or less of the total proximate cause of the death of the decedent, then your verdict should be for the plaintiff and you will reduce damages in the manner stated in the instructions.]

[If you find that the contributory (fault) (negligence) of [beneficiary] was more than 50% of the total proximate cause of the death of the decedent, then your verdict should be for the defendant(s).

If you find that the (fault) (negligence) of [beneficiary] was 50% or less of the total proximate cause of the death of the decedent, then your verdict should be for the plaintiff and you will reduce plaintiff's damages in the manner stated in these instructions.]

#### **Notes on Use**

This instruction should be used whenever there is an issue of contributory fault by the sole beneficiary on whose behalf the suit is brought.

*\*Changes to heading only. No changes to existing instruction.\**