

1768 PERSONAL INJURIES: PAST AND FUTURE PAIN, SUFFERING, AND DISABILITY (DISFIGUREMENT)

(Question _____) (Subdivision _____ of question _____) asks what sum of money will fairly and reasonably compensate (plaintiff) for any pain, suffering, (and) disability, (and disfigurement) (he) (she) sustained as a result of the accident.

Your answer to this question should be the amount of money that will fairly and reasonably compensate (plaintiff) for the pain, suffering, (and) disability, (and disfigurement) (he) (she) has suffered to date and is reasonably certain to suffer in the future as a result of the accident.

Pain, suffering, (and) disability, (and disfigurement) includes any physical pain, worry, distress, embarrassment, and humiliation which (plaintiff) has suffered in the past and is reasonably certain to suffer in the future.

You should also consider to what extent (his) (her) injuries have impaired and will impair (his) (her) ability to enjoy the normal activities, pleasures, and benefits of life. Finally, consider the nature of (plaintiff)'s injuries, the effect produced by (plaintiff)'s injuries in the past, and the effect the injuries are reasonably certain to produce in the future bearing in mind (plaintiff)'s age, prior mental and physical condition, and the probable duration of (his) (her) life.

COMMENT

This instruction and comment were approved in 1998. This instruction combines both past and future damages. If JI-1766 is given, then this instruction needs to be tailored to limit its coverage to future damages.

For future pain and suffering, see Coryell v. Conn, 88 Wis.2d 310, 276 N.W.2d 723 (1979); Lutz v. Shelby Mut. Ins. Co., 70 Wis.2d 743, 235 N.W.2d 426 (1975); Redepenning v. Dore, 56 Wis.2d 129, 201 N.W.2d 580 (1972); Diemel v. Weirich, 264 Wis. 265, 88 N.W.2d 651 (1953), and Comment to JI-Civil 1750A.

For future disability, see Hargrove v. Peterson, 65 Wis.2d 118, 221 N.W.2d 875 (1974); Bourassa v. Gateway Erectors, Inc., 54 Wis.2d 176, 194 N.W.2d 602 (1972); Kowalke v. Farmers Mut. Auto Ins. Co., 3 Wis.2d 389, 88 N.W.2d 747 (1958).