

### **30.08 Measure of Damages--Loss of Future Earnings--Future Medical Expenses--Minor Plaintiff**

The present cash value of (time) (earnings) (profits) (salaries) (benefits) [(medical) care, treatment, and services] (caretaking expense) reasonably certain to be lost (or incurred) in the future after the plaintiff has reached the age of eighteen.

#### **Notes on Use**

This element is to be inserted between the two paragraphs of IPI 30.01 when the evidence justifies its use.

The legal age of majority is 18 years. 755 ILCS 5/11-1 (1994). Before age 18, the parents are entitled to the earnings if the minor is unemancipated.

If the parents' right to recover medical expenses during the child's minority has been assigned to the child, then the child can recover all such expenses, not merely those commencing with his majority. In such cases, therefore, do not include the bracketed material concerning medical expenses in this instruction; use IPI 30.06 instead. If the assignment includes caretaking expenses, and there is evidence of such expenses, omit the bracketed reference to caretaking expenses and use IPI 30.09.

Similarly, if the parents have assigned to the child their right to recover for any earnings he may have during his minority, and there is evidence to support such earnings, use IPI 30.07 in lieu of this instruction.

#### **Comment**

In actions for damages arising out of an injury to an unemancipated minor, the loss of earnings, medical and caretaking expense during the child's minority are recoverable by the parents. The child, therefore, is limited to the loss of earnings, medical or caretaking expense he would have incurred after reaching his majority. *Wolczek v. Public Service Co. of N. Ill.*, 342 Ill. 482, 496; 174 N.E. 577, 583 (1930). The usual practice in Illinois, however, is to sue for all damages in the minor's action. This is accomplished by alleging an assignment, or waiver or relinquishment by the parents of their right to recover these damages. *Curtis v. Lowe*, 338 Ill.App. 463, 87 N.E.2d 865 (2d Dist.1949). See Comment to IPI B11.06.01.

On the issue of present cash value, see the 34.00 series.