

## Probate Law For Personal Injury Lawyers: Part I

by John P. Huggard



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All attorneys need to understand that they cannot practice their specialties in a vacuum. If they are to serve their clients properly, personal injury lawyers, like other legal specialists, must possess some knowledge of domestic relations law, criminal law, property law, and other areas. In this same regard, personal injury lawyers who occasionally find themselves faced with a deceased tortfeasor must have a basic knowledge of how North Carolina probate law might affect their practice. This article provides a discussion of those areas of North Carolina's probate law that should be understood by attorneys who practice personal injury law.

### Statutes of Limitation Under Probate Law

North Carolina's probate law has its major impact on the practice of personal injury law by significantly altering the standard statutes of limitation normally applied in personal injury cases.<sup>1</sup> There are two basic statutes of limitation in our probate code that alter standard tort statutes of limitation for personal injury and wrongful death:

1. Where a tort action arises *before* the death of a tortfeasor, notice of the injured party's claim must be presented to the tortfeasor's personal representative (e.g., executor, administrator, etc.) by the deadline date specified in the notice to creditors. This date is usually *three months* following the personal representative's initial publishing of a notice to creditors for the deceased tortfeasor;<sup>2</sup> and
2. Where a tort action arises *at or after* the death of a tortfeasor, notice of the plaintiff's claim must be given to the tortfeasor's personal representative within *six months* from the time the tort action arises.<sup>3</sup>

The above probate statutes of limitation replace standard tort statutes of limitation. If an injured party does not comply with these probate statutes of limitation, he may lose his ability to recover damages from a deceased tortfeasor's estate. The applicability of our probate statutes of limitation revolves around whether an injured party's tort action arose *before*, *at* or *after* a tortfeasor's death.<sup>4</sup> For this reason, attorneys should determine when—in reference to a tortfeasor's death—a tort action arose as early as possible. This determination, as the following example demonstrates, can present some interesting problems.

### Example

Bob was driving drunk and crossed the centerline of a highway, hitting Donna head-on. Donna is injured at the scene and Bob died the next day in a local hospital. Based on these facts, it would be clear that Donna's tort claim arose *before* Bob's death.<sup>5</sup> If one assumed that Bob died upon impact, Donna's tort claims would have arisen *at* the death of the tortfeasor.<sup>6</sup> Assume further that Bob drove into a bridge on a rural road, killing himself, and later Donna is injured when she is forced off the road after hitting the debris from Bob's auto accident. A claim for Donna's injuries would, on these facts, have arisen *after* the death of the tortfeasor.<sup>7</sup>

Once it has been determined that an injured party's tort claim arose *before*, *at* or *after* a tortfeasor's death, the plaintiff will know whether the three-month or six-month probate statute of limitations applies to his claim. These two basic probate statutes of limitation are discussed in detail below.

### Three-Month Statute of Limitations

As a general rule, a tort claim arising *before* a tortfeasor's death must be properly

presented in a timely manner following the publication of a notice to creditors by the tortfeasor's personal representative.<sup>8</sup> Notices to creditors are commonly run in local newspapers and must contain a specific deadline date after which the presentation of tort claims arising *before* a tortfeasor's

to creditors that was longer than three months, but this would be rare.<sup>11</sup> In keeping with common practice, this article will assume the deadline date set out in the notice to creditors is exactly three months after the initial publication of the notice unless stated differently.

decedent, thus allowing the decedent's estate to be closed in a timely manner.<sup>16</sup> Although filing a timely lawsuit would be a proper method of presenting a claim to a tortfeasor's personal representative, it is not mandatory.<sup>17</sup> A tort claim may be presented to a tortfeasor's personal representative just as any other claim.<sup>18</sup> A non-suit claim based on an injury that arose *before* a tortfeasor's death, in order to be valid, must be *written* and, at a *minimum*, contain:<sup>19</sup>

- A statement of the amount claimed or remedy sought.
- A statement of the basis of the claim.
- The name of the injured party-claimant.
- The address of the injured party-claimant.

An injured party's tort claim for a personal injury that arose *before* a tortfeasor's death that meets all of the above content requirements *must* also be *timely presented* by one of the following six methods:<sup>20</sup>

1. Delivering the claim in person to the tortfeasor's personal representative (presentation is deemed to have occurred upon delivery);<sup>21</sup>

2. Delivering the claim in person to the Clerk of Superior Court for the county of administration (presentation is deemed to have occurred upon delivery);<sup>22</sup>

3. Mailing the claim to the tortfeasor's personal representative (presentation is deemed to have occurred upon receipt);<sup>23</sup>

4. Mailing the claim to the clerk of superior court (presentation is deemed to have occurred upon receipt);<sup>24</sup>

5. Mailing the claim by registered or certified mail, return receipt requested, to the personal representative at the address set out in the notice to creditors (the claim is deemed presented from the time the receipt is signed by the personal representative or his agent, or from the time the claim is refused by the personal representative or his agent); or<sup>25</sup>

6. Delivering the claim to the clerk of superior court of the county where the estate is filed—delivery is *not* complete unless time-stamped and filed in the

*The applicability of our probate statutes of limitation revolves around whether an injured party's tort action arose before, at or after a tortfeasor's death.*

death will be barred.<sup>9</sup> The deadline date set out in the notice to creditors must be at least *three months* after the first date the notice to creditors is published.<sup>10</sup> See Figure 1 for a sample notice to creditors.

As a matter of practice, probate attorneys set the deadline date in the notice to creditors to expire exactly three months after its first publication. For this reason, the general rule has arisen that tort claims arising *before* a tortfeasor's death must be presented to the tortfeasor's personal representative within three months after the first publication of the notice to creditors.

Technically, a personal representative could set out a deadline date in the notice

The basic three-month probate statute of limitations mentioned above has an important variation. Where an injured party or claimant is known to the personal representative or is reasonably ascertainable by the personal representative within 75 days of his appointment, the personal representative must send or deliver a copy of the notice to creditors to the injured party or claimant before he files his proof of publication with the clerk.<sup>12</sup> The claimant must present his claim within 90 days if receipt of the notice to creditors or the deadline date set out in the notice to creditors, whichever is later.<sup>13</sup> The personal representative must include a statement with the notice informing the claimant of the statutory deadline date that would apply to the claimant.<sup>14</sup> The following is an example of this variation.

**Example**

Alice was injured in an automobile accident on January 18, 2001. Ben, the tortfeasor who caused the accident, died a week later of his injuries. Ben's personal representative published a notice to creditors on February 10, 2001, giving all claimants until May 11, 2001, to present their claims. Because he knew of Alice and her potential claim, the personal representative sent a copy of the notice to creditors to Alice on March 18, 2001, with a statement that she would have 90 days from the mailing of the notice (i.e., June 19, 2001) to present her tort claim to the personal representative.<sup>15</sup>

The purpose for giving a notice to creditors is to enable the personal representative to receive and pay any valid claims of a

**Executor's Notice  
To Creditors**

All persons, firms or corporations having claims against Mike L. Kennedy, deceased, late of Wake County, North Carolina, are notified to exhibit the same to the undersigned on or before April 7, 2001, or this notice will be pleaded in bar of recovery. All persons indebted to the said estate will please make immediate payment to the undersigned.

This 6th Day of January, 2001.

James K. Edwards  
(919) 832-9650  
Executor for the Estate of  
Mike L. Kennedy  
Post Office Box 1501  
Raleigh, North Carolina 27602

Figure 1

estate file *and* a copy is mailed by the clerk via first class mail to the personal representative or his agent (delivery is deemed presented from the time the claim is first delivered to the clerk).<sup>26</sup>

In addition to the six methods of presenting a tort claim in the non-suit forms described above, tort claims arising *before* a tortfeasor's death may be presented to a personal representative by the initial filing of a suit or by the amending of an existing suit.<sup>27</sup> The four methods of giving notice of a tort claim by filing or amending a suit are:

1. Filing a suit against the tortfeasor's duly qualified personal representative in the court where the personal representative was appointed (the plaintiff's claim is deemed presented on the date the suit is filed.);<sup>28</sup>

2. Filing a suit against the tortfeasor's duly qualified personal representative in any court *other than* where the personal representative was appointed (the plain-

tiff's claim is deemed presented on the date the personal representative is properly served with the suit);<sup>29</sup>

3. Substituting a tortfeasor's duly qualified personal representative for the tortfeasor in a pending suit against the tortfeasor (the plaintiff's claim is deemed to be presented from the time the substitution is made);<sup>30</sup>

*Although probate law usually reduces standard tort statutes of limitation, there are some unusual cases where probate law can actually enlarge these statutes of limitation.*

4. Filing a motion to substitute a tortfeasor's duly qualified personal representative for the tortfeasor in a pending lawsuit against a tortfeasor (the plaintiff's claim is deemed to be presented from the time the motion is made.).<sup>31</sup>

Once a notice to creditors is published, creditors or claimants must present their claims by the deadline date set out in the notice.<sup>32</sup> As mentioned, this date is usually three months after the first day the notice to creditors is published.<sup>33</sup> Because injured parties are considered claimants, this rule applies to any person injured by a tortfeasor prior to the tortfeasor's death.<sup>34</sup> If a timely claim is not presented by an injured

party by complying with one of the ten claim presentation methods mentioned above, the injured party's action against his tortfeasor's estate will be barred.<sup>35</sup>

In short, North Carolina's probate statutes of limitation can reduce the stan-

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standard three-year statute of limitations for personal injury or the two-year statute of limitations for wrongful death to as little as three months for injuries caused by a tortfeasor prior to his death.

**Example**

Larry was injured in a hiking accident in Asheville on January 15, 2001. Jane, who caused the accident, died in Raleigh three days later of causes unrelated to the hiking accident. Jane's personal representative, who was unaware of Larry's injuries, filed a notice to creditors on February 1, 2001. The notice set out a deadline date of May 2, 2001, for creditors to present their claims. On April 2, 2001, Larry consulted an attorney about filing suit against Jane's estate. Larry will have only one month left to present his tort claim to Jane's estate. If Larry's attorney does not present Larry's tort claim in this one-month period by using one of the ten claim presentation methods mentioned above, Larry will lose his cause of action against Jane's estate.

Although probate law usually reduces standard tort statutes of limitation, there are some unusual cases where probate law can actually enlarge these statutes of limitation. Personal injury lawyers should be aware of these situations. North Carolina's probate code currently provides that if the standard tort statute of limitations for an injury arising *before* a tortfeasor's death has not run at the time of a tortfeasor's death, the standard tort statute of limitations becomes ineffective and is replaced with the three-month probate statute of limitations discussed above.<sup>36</sup> This can actually result in the enlargement of the standard tort statute of limitations, as shown in the following example.

**Example**

Mary was injured in an auto accident. A month before Mary's standard three-year personal injury statute of limitations ran out, the person responsible for the accident died. Two months later, and a month *beyond* her standard three-year tort statute of limitations, Mary consulted a lawyer about suing for her in-

juries. Although Mary's standard three-year tort statute of limitations had run by the time she saw an attorney, this statute of limitations will be *enlarged* due to the fact that her tortfeasor recently died. Because Mary's standard three-year tort statute of limitations had not expired by the time her tortfeasor died, Mary may still present her claim to the tortfeasor's personal representative by the three-month deadline date set out in the notice to creditors. As long as this deadline is met, Mary's personal injury claim will not be barred even though presentation of her claim might be made *after* her standard three-year tort statute of limitations had run. This same rule would apply to the two-year statute of limitations for wrongful death, or any other tort statute of limitations where the tort action arose *before* the tortfeasor's death.<sup>37</sup>

For various reasons, a notice to creditors may not be filed for several months or several years after a tortfeasor dies. Such a delay may also result in an enlargement of



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standard tort statutes of limitation for an injured party. North Carolina probate law provides that an injured party, whose statute of limitations has not run at the time of the tortfeasor's death, has three years following the tortfeasor's death to file a claim against the tortfeasor's estate if no

*As harsh as it seems, North Carolina's probate law does not recognize discovery statutes of limitation.*

notice to creditors has been published in this three-year period.<sup>38</sup>

**Example**

Mike was severely injured in an auto accident on November 15, 1997. His tortfeasor died of cancer on October 15, 2000, one month short of Mike's three-year statute of limitations. The tortfeasor's personal representative never published a notice to creditors. Mike would be allowed to file his claim for personal injury up to October 16, 2003.<sup>39</sup> In effect, Mike's standard statute of limitations was enlarged to nearly six years. If the personal representative filed the notice to creditors in September of 2003, Mike would receive an additional extension of his standard tort statute of limitations to the deadline date set out in the notice to creditors.<sup>40</sup>

The basic probate statutes of limitation discussed above apply to tort claims where the injured party knows he was injured. In such cases, the probate statutes of limitation start on the date of injury. Under standard tort law, some injuries are not discovered immediately and therefore the statute of limitation does not begin to run until *discovery* of the injury occurs. Such statutes of limitation are referred to as discovery statutes of limitation.<sup>41</sup> As harsh as it seems, North Carolina's probate law does not recognize discovery statutes of limitation.<sup>42</sup> As the next example demonstrates, this can present a seemingly unfair result in some cases.

**Example**

In 1999, Dave committed fraud against Ellen. On January 1, 2001, Dave died and his personal representative published a

notice to creditors on January 15, 2001. The *three-month* deadline date set out for filing claims against the estate was April 16, 2001. The personal representative was unaware of any fraud committed by Dave. On August 1, 2001, seven months after Dave's death, Ellen found

out about the fraud and immediately gave notice of her claim to Dave's personal representative. Under standard tort law, Ellen's claim for fraud would *accrue* upon discovery of the fraud on August 1, 2001. This would be the starting date for the standard three-year statute of limitations for fraud. However, if Dave was involved in fraud, such fraud could have only occurred while he was alive. For this reason, Ellen's fraud action would have *arisen* before Dave's death on January 1, 2001. Because Ellen's tort claim *arose before* Dave's death, she had *three months* after the notice to creditors was published (i.e., April 16, 2001) to file her claim. Because Ellen did not meet this deadline, her claim for fraud against Dave's estate would not be timely and would therefore be barred.

**Six-Month Statute of Limitations**

As mentioned above, a tort claim arising *at* or *after* a tortfeasor's death must be properly presented to a tortfeasor's personal representative in a timely manner within *six months* from the date on which the claim arose.<sup>43</sup> Failure to meet this six-month probate statute of limitations will result in the injured party's claim against the tortfeasor's estate being barred.<sup>44</sup> Just as the three-month statute of limitations generally reduces standard tort statutes of limitation, the six-month statute of limitations can cause a significant reduction of standard tort statutes of limitation.<sup>45</sup>

**Example**

Frank was injured in an auto accident in which the tortfeasor died. Because Frank's injury arose *at* or *after* the tortfeasor's death, he will have six months,

not three years, from the date of the accident to present his tort claim to the personal representative of the tortfeasor.<sup>46</sup>

As with the three-month statute of limitations discussed above, the six-month statute of limitations is designed to require that those with claims against a decedent's estate present them in a timely fashion. This, in turn, allows the personal representative to close out the decedent's estate in an expeditious manner.<sup>47</sup>

Just like claims arising *before* a tortfeasor's death, claims arising *at* or *after* a tortfeasor's death may take the form of a non-suit claim or the actual filing of an initial suit or the amending of an existing suit.<sup>48</sup> The contents of a non-suit tort claim under the six-month statute of limitations (for claims arising *at* or *after* a tortfeasor's death) are the same as they would be for the three-month statute of limitations (for tort claims arising *before* the tortfeasor's death).<sup>49</sup> The four items of information required to constitute a proper written claim were discussed above. The methods of presenting a tort claim under the six-month statute of limitations are the same as they are for the three-month statute of limitations *except* that a non-suit claim presented to the clerk of superior court *alone* is not a proper presentation.<sup>50</sup>

In short, under the six-month statute of limitations, a non-suit claim must always be presented to the personal representative, and any suit filed against a tortfeasor's estate must name the personal representative as the defendant.<sup>51</sup> Under the six-month probate statute of limitations, unlike the three-month statute of limitations, there is no requirement for the personal representative to notify known or reasonably ascertainable injured parties to present their tort claims by a certain date.<sup>52</sup>

The intent of North Carolina's probate law is to *reduce* standard tort statutes of limitation in order to allow a decedent's estate to be quickly settled and closed.<sup>53</sup> However, in some instances, standard tort statutes of limitation may actually be *enlarged* by North Carolina probate law. For example, the North Carolina Supreme Court has held that the six-month probate statute of limitations applicable to tort claims arising *at* or *after* a tortfeasor's death does not begin to run until a personal

representative is appointed for the deceased tortfeasor.<sup>54</sup>

**Example**

Ron was injured in a head-on auto accident caused by Helen, who died at the scene of the accident. Two and one-half years later, a personal representative was appointed for Helen's estate. A week later, Ron sued the estate, naming Helen's personal representative as the defendant. Because Ron's case arose at Helen's death, Ron would normally be required to present his tort claim to the personal representative within six months of the date he was injured. However, by case law, the six-month probate statute of limitations in this case would not begin to run until a personal representative is appointed for the estate. Thus, Ron's suit was timely filed even though it was not filed until two and one-half years after he was injured.<sup>55</sup>

**Bifurcated Statute of Limitations**

It is possible that part of a plaintiff's claim may be governed by the three-month pro-

bate statute of limitations while part is governed by the six-month probate statute of limitations.

**Example**

On December 13, 2000, Ben negligently shot Donna while on a hunting trip. Two months later, Ben died of a heart attack. A month after Ben died, Donna died as a result of the hunting accident. Paul, Donna's husband, consulted a personal injury attorney about suing Tom's estate. Paul wanted to know about the statutes of limitation. Paul's attorney correctly informed Paul that both the three-month and six-month statutes of limitation would be applicable to different parts of Paul's potential suit. The claim for Donna's lost wages, pain and suffering, injuries, etc., which arose *before* Ben's death, would be governed by the three-month statute of limitations discussed above.<sup>56</sup> The claim for Donna's wrongful death, which arose *after* Ben's death, would be governed by the six-month statute of limitations discussed above.<sup>57</sup>

**Non-Claim Statutes vs. Statutes of Limitation**

The three-month time limitation for presenting tort claims arising *before* a tortfeasor's death and the six-month time limitation for presenting tort claims arising *at* or *after* a tortfeasor's death under our probate code are commonly called statutes of limitation. Technically, this is incorrect—they are actually non-claim statutes.<sup>58</sup>

It is important for personal injury attorneys to understand the difference between a non-claim statute and a true statute of limitations. A non-claim statute merely bars injured parties from recovering damages from the tortfeasor's estate.<sup>59</sup> Non-claim statutes do *not* bar the initiation or continuation of a suit to recover damages from sources other than the deceased tortfeasor's estate.<sup>60</sup> A true statute of limitations would completely bar the maintenance of a lawsuit—which, in effect, would bar all possible recovery of damages from any source.

In summary, non-claim statutes govern whether an injured party can recover against the deceased tortfeasor's estate while the standard tort statute of limitations would govern whether an injured party can recover some or all of his damages from some source other than the tortfeasor's estate. The clearest example of this distinction arises where a deceased tortfeasor carried liability insurance covering his negligence.

**Example**

Ruth was injured in an automobile accident caused by Victor, who died several months after the accident. Victor's estate was worth \$500,000. He carried \$100,000 in auto insurance. Ruth had \$200,000 in underinsured coverage. Ruth received a copy of the notice to creditors from the personal representative because she was a known claimant. The personal representative gave Ruth 90 days from the mailing of the notice to creditors to file her claim against the estate. Ruth did not file a timely claim against Victor's estate, but she did file a suit against Victor's estate within the standard three-year tort statute of limitations. Ruth received a jury verdict of \$250,000. Because of the timing of Ruth's suit, she would be entitled to the

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\$100,000 in liability insurance held by Victor at the time of the accident, plus an additional \$100,000 from her underinsured carrier.<sup>61</sup> Ruth would not be entitled to recover any part of her judgment from the assets in Victor's estate because she did not comply with North Carolina's three-month non-claim statute.<sup>62</sup> ■

Look for Part II of "Probate Law for Personal Injury Lawyers" in an upcoming issue of **Trial Briefs**.

<sup>1</sup> Tort statutes of limitation are codified in Articles 3 and 5 of the North Carolina General Statutes.

<sup>2</sup> N.C.G.S. §28A-19-3(a) and §28A-14-1(a).

<sup>3</sup> N.C.G.S. §28A-19-3(b).

<sup>4</sup> N.C.G.S. §28A-19-3(a) and (b)(2). Ragan v. Hill, 337 N.C. 667, (1994).

<sup>5</sup> N.C.G.S. §28A-19-3(a).

<sup>6</sup> N.C.G.S. §28A-19-3(b).

<sup>7</sup> *Id.*

<sup>8</sup> N.C.G.S. §28A-19-3(a) and §28A-14-1(a) and Anderson v. Gooding, 300 N.C. 170, (1980).

<sup>9</sup> N.C.G.S. §28A-14-1 and Anderson v. Gooding, 300 N.C. 170 (1980).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> N.C.G.S. §28A-19-3(a) and §28A-14-1(b). N.C.G.S. §28A-14-2 requires an affidavit by the personal representative stating that he complied with the notice requirement of N.C.G.S. §28A-14-1. The affidavit must be filed with the clerk of court by the due date of the 90-day inventory required under N.C.G.S. §28A-20-1. Failure to comply with this requirement can pose problems. See Anderson v. Gooding, 300 N.C. 170 (1980). The 90-day period is more commonly used because the notice to creditors usually has a three-month deadline date set out in it. It would be possible for a personal representative to set out a deadline date that would not expire until 90 days after the notice to creditors was sent to a reasonably ascertainable claimant. In such a case, the deadline date required by N.C.G.S. §28A-19-3(a) would control the claimant's time to present his claim. The personal representative must provide a statement to known or reasonably ascertainable claimants clearly setting out the deadline date that applies to the claimant.

<sup>13</sup> Ninety days means ninety days, not three months.

<sup>14</sup> N.C.G.S. §28A-19-3(a).

<sup>15</sup> N.C.G.S. §28A-19-3(a) and N.C.G.S. §28A-14-1(b).

<sup>16</sup> Estate of English, 83 N.C. App. 359 (1986).

<sup>17</sup> Ragan v. Hill, 337 N.C. 667, (1984).

<sup>18</sup> N.C.G.S. §28A-19-3(a) and N.C.G.S. §28A-14-1(a) and (b).

<sup>19</sup> N.C.G.S. §28A-19-1(a) Ashley Horne Corporation v. Creech, 205 N.C. 55 (1933), although not required, probate attorneys usually include the following items of information in the notice to creditors: (1) the name of the personal representative; (2) the name of the decedent; (3) the phone number of the personal representative; and (4) the date of the notice. If the personal representative admits the validity of a claim, it tolls any statute of limitations and eliminates the requirement for an injured party to present a claim to the personal representative. Ashley Horne Corp. v. Creech, 205 N.C. 55 (1933).

<sup>20</sup> N.C.G.S. §28A-19-3(a) and §28A-19-1 (2) and (3). Not presenting a claim due to a mistake of fact or law is no excuse for an untimely presentation. Anderson v. Gooding, 300 N.C. 170 (1980).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> N.C.G.S. §28A-19-1(b).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> N.C.G.S. §28A-19-1(c).

<sup>31</sup> *Id.*

<sup>32</sup> N.C.G.S. §28A-19-3(a) and N.C.G.S. §28A-14-1(a).

<sup>33</sup> *Id.*

<sup>34</sup> N.C.G.S. §28A-19-3(a).

<sup>35</sup> *Id.*

<sup>36</sup> N.C.G.S. §28A-19-3(c).

<sup>37</sup> *Id.* This example assumes Mary was not known or reasonably ascertainable by the personal representative.

<sup>38</sup> N.C.G.S. §28A-19-3(f).

<sup>39</sup> N.C.G.S. §28A-19-3(f) and Rule 6(a) of the North Carolina Rules of Civil Procedure.

<sup>40</sup> N.C.G.S. §28A-19-3(c) and N.C.G.S. §28A-19-3(f).

<sup>41</sup> Rule 1-15(c) of the North Carolina Rules of Civil Procedure.

<sup>42</sup> Liner v. DiCresce, 905 F. Supp. 280 (1994)

<sup>43</sup> N.C.G.S. §28A-19-3(b).

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> Estate of English, 83 N.C. App. 359 (1986).

<sup>48</sup> N.C.G.S. §28A-19-3(b) and N.C.G.S. §28A-19-1(a)-(c).

<sup>49</sup> N.C.G.S. §28A-19-1(a) and Ashley Horne Corp. v. Creech, 205 N.C. 55 (1933). If the personal representative admits the validity of a claim, it tolls any statute of limitations and eliminates the requirement for an injured party to present a claim to the personal representative. Ashley Horne Corp. v. Creech, 205 N.C. 55 (1933).

<sup>50</sup> N.C.G.S. §28A-19-1(a)(1)-(3) and N.C.G.S. §28A-19-3(b)(2).

<sup>51</sup> *Id.*

<sup>52</sup> N.C.G.S. §28A-14-1(b).

<sup>53</sup> Estate of English, 83 N.C. App. 359 (1986).

<sup>54</sup> Ragan v. Hill, 337 N.C. 667 (1994) and Lassiter v. Faison, 111 N.C. App. 206 (1993).

<sup>55</sup> Ragan v. Hill, 337 N.C. 667 (1994) and Lassiter v. Faison, 111 N.C. App. 206 (1993) and N.C.G.S. §1-53(4).

<sup>56</sup> A notice sent under N.C.G.S. 28A-19-3(a) which does not contain a specific deadline date applicable to the claimant renders such notice void. Anderson v. Gooding, 300 N.C. 170 (1980).

<sup>57</sup> N.C.G.S. §28A-19-3(b)(2) and Baer v. Davis, 47 N.C. App. 581 (1980).

<sup>58</sup> Ragan v. Hill, 337 N.C. 667 (1994).

<sup>59</sup> *Id.*


<sup>60</sup> *Id.*

<sup>61</sup> Thorpe v. Wilson, 58 N.V. App. 292 (1982) and Force v. Sanderson, 56 N.C. App. 425 (1982).

<sup>62</sup> N.C.G.S. §28A-19-1(a) and N.C.G.S. §28A-14-1(a).

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