

July 1, 1987

## Probate Court Jury Policy

“A party is entitled to trial by jury in any proceeding involving an issue of fact in an action for the recovery of money only or real or personal property” (Section 21-1-306 of the South Carolina Probate Code). The court “in its discretion may call a jury to decide any issue of fact” in an advisory capacity.

After the approval to the initiating petition for jury trial, the Probate Court shall notify the Clerk of Court in writing of the need to schedule a jury trial, including the case name and other such information deemed necessary.

The Probate Court jury trial roster shall be set in priority based on the date that the petition for jury trial was filed. Any Probate Court jury trial not heard during its scheduled term shall be transferred to a subsequent term as currently practiced in the Circuit Court.

## CONCURRENT PROBATE COURT JURY TERM

If facilities permit, the Clerk of Court shall schedule the Probate Court jury trial(s) concurrent with the next regularly scheduled term of Circuit Court (GS and/or CP) and shall advise the Probate Court in writing of the date of the scheduled term within ten days of the Probate Court’s request for the scheduling of a jury trial.

The Jury Commissioners shall be responsible for drawing the jurors and the Clerk of Court shall be responsible for summoning, venire preparation, and compensation of jurors as currently practiced in Circuit Courts. If it is not necessary to increase the number of jurors summoned as result of the inclusion of a probate court jury case on the roster, the Jury Commissioners shall draw the number set by Chapter 7 of Title 14 based on the Circuit Court Terms(s). If additional jurors are deemed necessary by the Clerk of Court, the Clerk of Court shall request an order from the Chief Administrative Judge to draw a sufficient number of additional jurors.

The Probate Court shall share the juror pool as follows:

- a) If the Probate Court is to use the Circuit Court facilities and that use will not conflict with the scheduled Circuit Court term, the Clerk shall draw the jury panel as currently done for Circuit Court terms, e. g. twenty names, four strikes per party, to result in a 12-person jury.
- b) If the Probate Court is to use its own facilities, the Clerk shall draw the jury panel for the Probate Court. After selection, the Probate Court shall provide for all subsequent elements of jury management, such as physical

management, the giving of oaths, and other administration and clerical needs as appropriate.

Following completion of the Probate Court jury trial, jurors involved in the trial shall return to the jury pool room designated by the Clerk of Court.

SPECIAL PROBATE JURY TERM

If there are local facility limitations or other reasons to prohibit scheduling the Probate Court jury trial(s) concurrent with a Circuit Court term, the Probate Court Judge must present a request for a special probate court jury term, setting forth justification for the request, to the Chief Justice through Court Administration for approval. Should reasons given be deemed appropriate and approval granted, a special probate court jury term may be scheduled on such date as agreed upon by the Clerk of Court and the Probate Judge. The Jury Commissioners shall be responsible for drawing the jurors, and the Clerk of Court shall prepare a venire for the Probate Court and a representative from the Clerk's office shall be present in the courtroom during qualification. The Probate Court is responsible for all subsequent elements of jury management, such as physical management, drawing of individual jury panels, the giving of oaths, and other administrative and clerical needs as appropriate.

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O R D E R  
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Pursuant to the provisions of Section 4, Article V, South Carolina Constitution, IT IS ORDERED that the attached Probate Court Jury Policy dated July 1, 1987, is approved to be effective July 1, 1987.

\_\_\_\_\_/S/\_\_\_\_\_ C.J.  
\_\_\_\_\_/S/\_\_\_\_\_ A.J.  
\_\_\_\_\_/S/\_\_\_\_\_ A.J.  
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\_\_\_\_\_/S/\_\_\_\_\_ A.J.

Columbia, South Carolina  
June 12, 1987