

N.C.P.I.-Civil. 735.40  
ACTION FOR SERVICES RENDERED A DECEDENT - ISSUE OF RECOVERY-  
STATUTE OF LIMITATIONS.  
GENERAL CIVIL VOLUME  
MAY 1978  
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735.40 ACTION FOR SERVICES RENDERED A DECEDENT - ISSUE OF  
RECOVERY - STATUTE OF LIMITATIONS.<sup>1</sup>

The plaintiff has offered evidence tending to show that (*name decedent*) promised (*name plaintiff*) that *he* would (*describe alleged promise to compensate by will*) in return for service to be rendered by (*name plaintiff*) and that (*name plaintiff*) relied on such promise in rendering services.

If you find by the greater weight of the evidence that a promise to compensate by will was made, (*name plaintiff*) would be entitled to recover for services rendered by *him* from the time of that promise until (*name decedent*)'s death, and if you so find you will consider all of such services in answering this issue.

If you fail to find that (*name decedent*) made such a promise, but you do find by the greater weight of the evidence that there was an [express] [implied] agreement between (*name plaintiff*) and (*name decedent*) that plaintiff was to be compensated for such services as *he* rendered to (*name decedent*) and that plaintiff performed services of value in reliance on that agreement, then (*name plaintiff*) would only be entitled to recover for services rendered by *him* within three years of the date of decedent's death, and you will consider only the services rendered within that time in answering this issue.

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1. NOTE WELL: This instruction should be included in the instruction on the issue of recovery (N.C.P.I.-Civil 735.25) where there is evidence of a promise to compensate by will, and where such promise is denied and the 3-year statute of limitations is plead. The instruction assumes that services continued until the time of death and that the action was timely brought after death. Wiggins, § 12.