

ACTION FOR SERVICES RENDERED A DECEDENT--ISSUE OF RECOVERY--STATUTE OF LIMITATIONS.¹

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.

¹NOTE 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.

