

Creditors Claims

S. C. Code of Laws §62-3-801 et seq



Hon. Debora A. Faulkner
Probate Judge
1200 Greenville County Square
301 University Ridge
Greenville, SC 29601
(864) 467-7170

Forms and Brochures available at
www.greenvillecounty.org

During the creditors claim period, creditors shall file valid claims (§62-3-803) with the Probate Court by using Form 371. A copy shall also be sent to the Personal Representative by the creditor (submit Form 120 to Probate Court). If a claim is not filed within 1 year from date of death or 8 months from first creditors advertisement publication date (whichever is earlier), it is barred.

Claims Resolution

The Personal Representative shall resolve the claim prior to the closing of the estate file. Options include:

- Negotiate or compromise the claim
- Pay the claim
- Disallow the claim

Negotiate or Compromise the Claim

Discuss the balance due with the creditor to see if a lesser amount will be acceptable. Upon paying the creditor, obtain a release of the claim (Form 403 claimant).

Pay the Claim

Pay the claim from the estate account and obtain a release of claim from the creditor.

If there are not sufficient liquid assets to pay the claims, the other estate assets may need to be liquidated. If the Personal Representative does not have authority to sell estate assets, permission will need to be obtained from the Probate Judge (see "Selling Real Estate While in Probate").

Once the assets are liquidated, if there is still not enough funds to pay all claims, the claims will be paid in the order of priority as outlined by §62-3-805. For exceptionally limited funds, the funds may need to be prorated among the creditors.

Disallow the Claim

For invalid claims, the Personal Representative will send a Notice of Disallowance (Form 372) to the creditor advising what portion is being disallowed. Submit also a Proof of Delivery (Form 120) to the Probate Court. The creditor will then have 30 days to proceed with a lawsuit if they wish to pursue the claim. If the creditor does nothing within the 30-day time, the claim is forever barred.

Pursue a Claim

Within 30 days from receiving the Notice of Disallowance, the creditor will

- Submit Summons, Petition for Allowance of Claim (Form 373), \$150 filing fee:
- Serve pleadings upon Personal Representative
- Personal Representative will have 30 days to file an Answer
- If issues are not resolved, a hearing will be held thereafter.

NOTE: For legal advice, seek the counsel of an attorney. The Probate Court staff cannot give legal advice.