

PROBATE 101:
SUBJECT MATTER JURISDICTION
by Deirdre W. Edmonds
Horry County Judge of Probate

When discussing the court or judicial system of a particular state or area, subject matter jurisdiction is that essential element that says what kind of case a particular court handles. A court must have jurisdiction or authority over a particular type of case in order for the matter to be handled or heard by that court. In terms of our judicial system in South Carolina, criminal matters are generally handled in criminal courts and civil matters such as contract disputes, personal injury matters, and other matters between private citizens are usually handled in civil or circuit court. Matters such as divorces, child custody issues, and juvenile criminal and abuse cases are handled in our family courts. We also have a magistrate's court system in our state, often referred to as small claims court, traffic courts, and several other types of courts.

Included in South Carolina's court system is the Probate Court. Like most other courts, the Probate Court has limited jurisdiction or authority and can only handle or hear certain, specific types of cases. In addition to handling only certain types of cases, South Carolina law also provides that certain types of cases must be initiated or commenced in the Probate Court and nowhere else. You cannot go to another court such as family, civil, or magistrate's court to file your lawsuit or case. The following types of cases **must** be initiated or commenced in the Probate Court:

1. Matters involving estates of deceased persons. – These matters include cases to contest a person's last will and testament, cases to construe or determine what a person's last will and testament means, cases to determine who a person's heirs are, what the deceased person owned at his or her death, how a deceased person's assets and property are to be divided among heirs, and who has authority to handle a deceased person's affairs and estate. Also included are matters involving the probate administration of estates of deceased persons.

2. Matters involving incapacitated persons. – These matters deal with adults who are unable to handle their financial and/or personal affairs or make decisions for themselves because of mental illness or mental deficiency, physical illness or disability, advanced age, chronic use of drugs, including alcohol, or other debilitating causes. Such persons need the appointment of a guardian or conservator to handle their affairs or the Court's approval for certain things to be done for these persons or with their property.

3. Matters involving estates of minors. – These matters deal with minors who receive money or property as a result of inheritance, injury or through other means. If the money or property generally exceeds \$10,000, a family member or adult must be appointed by the Court to handle the money or property until the minor reaches the age of 18.

4. Matters involving trusts. – These matters include trusts set up during a person's lifetime or at death and include determining what the trust means, who is entitled to the trust, what property is included in the trust and who is to manage the trust.

5. Matters involving involuntary commitment of persons. – These matters involve persons who are suffering from mental illness, mental retardation, drug and alcohol addiction, and pulmonary tuberculosis and must be committed against their will for involuntary inpatient or outpatient treatment.

In addition to the foregoing matters of exclusive original jurisdiction, the Probate Court also has concurrent jurisdiction with the circuit courts over certain matters involving wrongful death settlements, personal injury settlements for minors, and matters involving powers of attorney. These matters can be brought before or commenced in either the Probate Court or the circuit court.

Another matter, although primarily administrative, handled exclusively by the Probate Courts in South Carolina is the issuance of marriage licenses for persons to be married in South Carolina. The Court also is charged with recording and indexing marriages.

Like many other areas of our country, Horry County has exploded in growth over the last fifteen to twenty years in terms of population and also as a vacation destination. Given the jurisdiction or types of matters dealt with in the Probate Court, the Court has experienced this county's tremendous growth in the number of estates probated each year, the number of cases filed in our Court each year and in the number of

marriage licenses issued each year. We can only surmise that as this County continues to grow by residents and visitors, so will the caseload in the Probate Court. *(The Horry County Probate Court is located in the Horry County Government and Judicial Center, 1301 2nd Avenue, Conway, South Carolina. The telephone number for Judge Edmonds and the Court is (843) 915-5370. Office Hours are 8:00 A.M. to 5:00 P.M. The Horry County Probate Court also has a satellite office located in Little River at the Ralph Ellis Building, 107 Highway 57 North, Little River, South Carolina 29566. The telephone number is (843) 399-5533. Hours are 8:00 A.M. to 12:30; 1:30 P.M. to 5:00 P.M.; Monday until 4:00 P.M.)*