

§ 31-33. Cause transferred to trial docket.

(a) Upon the filing of a caveat, the clerk shall transfer the cause to the superior court for trial by jury. The caveat shall be served upon all interested parties in accordance with G.S. 1A-1, Rule 4 of the Rules of Civil Procedure.

(b) After service under subsection (a) of this section, the caveator shall cause notice of a hearing to align the parties to be served upon all parties in accordance with G.S. 1A-1, Rule 5 of the Rules of Civil Procedure. At the alignment hearing, all of the interested parties who wish to be aligned as parties shall appear and be aligned by the court as parties with the caveators or parties with the propounders of the will. If an interested party does not appear to be aligned or chooses not to be aligned, the judge shall dismiss that interested party from the proceeding, but that party shall be bound by the proceeding.

(c) Within 30 days following the entry of an order aligning the parties, any interested party who was aligned may file a responsive pleading to the caveat, provided, however, that failure to respond to any averment or claim of the caveat shall not be deemed an admission of that averment or claim. An extension of time to file a responsive pleading to the caveat may be granted as provided by G.S. 1A-1, Rule 6 of the Rules of Civil Procedure.

(d) Upon motion of an aligned party, the court may require a caveator to provide security in such sum as the court deems proper for the payment of such costs and damages as may be incurred or suffered by the estate if the estate is found to have been wrongfully enjoined or restrained. The court may consider relevant facts related to whether a bond should be required and the amount of any such bond, including, but not limited to, (i) whether the estate may suffer irreparable injury, loss, or damage as a result of the caveat and (ii) whether the caveat has substantial merit. Provisions for bringing suit in forma pauperis apply to the provisions of this subsection. (C.C.P., s. 447; Code, s. 2159; 1899, c. 13; 1901, c. 748; Rev., s. 3136; 1909, c. 74; C.S., s. 4159; 1947, c. 781; 1971, c. 528, s. 29; 1973, c. 458; 2011-284, s. 32; 2011-344, s. 8; 2014-115, s. 2.4.)