

Don't Let This Happen To You:

Fatal Mistakes In Preserving Error And Prosecuting Appeals

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Part One:

Expansion Of The Supreme Court Of North Carolina's Appellate Jurisdiction And Caseload

I. Expansion Of The Supreme Court Of North Carolina's Appellate Jurisdiction And Caseload

General Assembly Passed Two New Statutes In The Fall Of 2014 Expanding The Supreme Court's Direct Appeal Jurisdiction

I. Select Orders Invalidating Certain State Laws On Constitutional Or Federal Law Grounds – N.C. Gen. Stat. § 7A-27(a1)

- Effective Immediately
- New Three-Judge Trial Court Panel

I. Expansion Of The Supreme Court Of North Carolina's Appellate Jurisdiction And Caseload

2. Appeals From The N.C. Business Court: N.C. Gen. Stat. § 7A-27(A)(2), (3)

- Appeals From The N.C. Business Court, Including Interlocutory Orders Subject To Immediate Appellate Review, Are Now Appealed Directly To The Supreme Court.
- Applies To Both Interlocutory And Final Judgment Appeals

I. Expansion Of The Supreme Court Of North Carolina's Appellate Jurisdiction And Caseload

Warning: Effective Date Of New Business Court Statute Is A Potential Trap

Neither General Assembly Nor Westlaw's Reprint Of The Statute Clearly Explains The Effective Date Of The New Business Court Jurisdiction Statute.

I. Expansion Of The Supreme Court Of North Carolina's Appellate Jurisdiction And Caseload

Must Look To Session Law To Determine Whether You Business Court Appeal Is To The North Carolina Court Of Appeals Or The Supreme Court (2014-102, § 1)

- New Business Court Appellate Jurisdiction Statute Applies “To Actions Designated As Mandatory Complex Business Cases On Or After” October 1, 2014

I. Expansion Of The Supreme Court Of North Carolina's Appellate Jurisdiction And Caseload

- If Your Business Court Case Was Designated To The Business Court Before October 1, 2014, Your Right Of Direct Appeal Is To The North Carolina Court Of Appeals, And NOT The Supreme Court.
- Remember To Include Designation Documents In The Appellate Record To Demonstrate Which Appellate Court Has Jurisdiction.

I. Expansion Of The Supreme Court Of North Carolina's Appellate Jurisdiction And Caseload

Policy Shift Of More Cases Being Decided By The Supreme Court Of North Carolina

- More Direct Docketing Of Appeals In North Carolina Supreme Court
- More Discretionary Review Of Cases By Supreme Court
 - Chief Justice Martin's Administration Of Justice Plan
 - More Civil PDRs Being Granted?
 - Bypass Petition And Supreme Court's *Sua Sponte* Review Of Important Legal Issues

I. Expansion Of The Supreme Court Of North Carolina's Appellate Jurisdiction And Caseload

Think About the Differences Between The Two Courts When Determining How to Present Case

- Composition Of Court: Seven Or Fifteen/Three
- Precedential Value
- Copies Of Appellate Record
- E-Filing Preferences
- Automatic Oral Argument
- Length Limitations On Briefs

Part Two:

Timing Requirements For Appeals From The Business Court

II. Timing Requirements For Appeals From The Business Court

Civil Appeals 101:

“[A] party must file and serve a notice of appeal: (1) within thirty days after entry of judgment” N.C. R. App. P. 3(c)(1).

II. Timing Requirements For Appeals From The Business Court

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When is a notice of appeal considered “filed”?

II. Timing Requirements For Appeals From The Business Court

When is a notice of appeal considered “filed”?

Just look at the filed-stamp!

FILED

NORTH CAROLINA 2010 MAR 25 7:10 IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

WAKE COUNTY WAKE COUNTY, C.S.C. 09 CvS 000623

BY _____

WRI-WAKE UNION, LLC,
Petitioner,

v.

NOTICE OF APPEAL

II. Timing Requirements For Appeals From The Business Court

When is a notice of appeal considered “filed”?

What about electronic filing?

II. Timing Requirements For Appeals From The Business Court

When is a notice of appeal considered “filed”?

What about electronic filing?

From: NC Business Court [<mailto:info@ncbusinesscourt.net>]
Sent: Tuesday, March 08, 2011 1:35 PM
To: Matt Leerberg
Subject: Notice of Filing RE: Case Number 09CVS25270

***** IMPORTANT NOTICE - READ THIS INFORMATION ***** This is a notice from the Business Courts information system DO NOT reply to it. Information on contacting the court is located at the end of this message.

A filing has been submitted to the court RE: 09CVS25270 Date of Notice: Tuesday, March 08, 2011 Filing Received: Tuesday, March 08, 2011

State of North Carolina
In the General Court of Justice
Superior Court Division

XXXXXX
Plaintiff
v.
YYYYYYY
Defendant

This document is filed titled as NOTICE OF APPEAL
Filed by : Matthew Nis Leerberg.

II. Timing Requirements For Appeals From The Business Court

When is a notice of appeal considered “filed”?

What about electronic filing?

Rule 3. Appeal in Civil Cases—How and When Taken

(a) Filing the Notice of Appeal. Any party entitled by law to appeal from a judgment or order ... may take appeal by filing notice of appeal *with the clerk of superior court*”

II. Timing Requirements For Appeals From The Business Court

When is a notice of appeal considered “filed”?

What about electronic filing?

Ehrenhaus v. Baker, 2014 NCBC 30

- The act of submitting a notice of appeal to the Business Court’s website is not the same as “filing notice of appeal with the clerk of superior court.”
- The Business Court is merely “an administrative division of the General Court of Justice,” not a separate court.
- The requirement that papers be filed in the “home county” is no surprise—it is codified in BCR 8.1.

II. Timing Requirements For Appeals From The Business Court

When is a notice of appeal considered “filed”?

What about electronic filing?

Ehrenhaus v. Baker, Nos. COA14-1201, COA14-1083
(N.C. Ct. App. September 15, 2015)

- Affirmed Business Court’s dismissal of appeal

II. Timing Requirements For Appeals From The Business Court

Is filing of a notice of appeal in the “home county” sufficient to properly appeal, or merely necessary?

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Is filing of a notice of appeal in the “home county” sufficient to properly appeal, or merely necessary?

Carter v. Clements Walker PLLC, 2014 NCBC 12

- Notice of Appeal must be timely submitted through the Business Court’s website as well

II. Timing Requirements For Appeals From The Business Court

Carter v. Clements Walker PLLC, 2014 NCBC 12

- BCR 6.7. “If the submission of the filing began after normal business hours of the Business Court ,the filing is deemed to have occurred on the next day the Business Court is open for business.”
- BCR 6.13. Deadline may be tolled for one day in the event of technical failure, but only if “a declaration or affidavit attesting to the filing person’s failed attempts to file electronically at least two times after 12:00 noon separated by at least one hour on each day of delay due to such technical failure.”

II. Timing Requirements For Appeals From The Business Court

Carter v. Clements Walker PLLC, 2014 NCBC 12

- Combining BCR 6.7 and 6.13, *Carter* court held that the rules “require[] that parties avoid attempting last-minute filings and then relying on technical difficulties to excuse an unsuccessful filing.”

II. Timing Requirements For Appeals From The Business Court

Bottom Line: To properly appeal from a Business Court order or judgment:

1. Identify the proper court to which to appeal
2. Attempt to submit your notice of appeal through the Business Court website on the day it is due *sometime before 4:00 p.m.*
3. File your notice of appeal in the “home county” of the case *on the day it is due.*

Part Three:

Other Timing Traps With Notices Of Appeal

III. Other Timing Traps With Notices Of Appeal

Notice of Appeal Basics

- File and Serve Written Notice of Appeal Within 30-Days Of The File-Stamp Date On Judgment. See N.C.R. App. P. 3(c)
- Service By Email Is Not Proper Under The Appellate Rules. *MNC Holdings, LLC v. Town of Matthews*, 223 N.C. App. 442, 735 S.E.2d 364 (2012)

III. Other Timing Traps With Notices Of Appeal

- You Have 30 Days to File Your Notice of Appeal, not 33.
 - The “provision for additional time after service by mail in Rule 27(b)” does not apply to notice of appeal deadlines. N.C. R. App. R. 3(c)(3)

III. Other Timing Traps With Notices Of Appeal

No Really! You Only Have 30 Days To Appeal!

- Why you should avoid reliance on N.C.R. App. P. (3)(c)(2), and always plan to file notice of appeal within 30 days of the entry (*i.e.*, filed-stamp date) of the judgment.

III. Other Timing Traps With Notices Of Appeal

- *N.C.R. App. P. 3(c)* requires that the notice of appeal be filed (1) within thirty days after entry of judgment if the party has been served with a copy of the judgment within the three-day period prescribed by Rule 58 of the Rules of Civil Procedure, or (2) within thirty days after service upon the party of a copy of the judgment.
- *N.C.R. Civ. P. 58*, “the party designated by the judge or, if the judge does not otherwise designate, the party who prepares the judgment, shall serve a copy of the judgment upon all other parties within three days after the judgment is entered.”

III. Other Timing Traps With Notices Of Appeal

What If?

- Opposing counsel does not properly serve the judgment within the three-day period provided by Rule 3(c) and Civil Procedure Rule 58
- However, within those 3 days you retrieve a copy of the judgment from the courthouse or otherwise receive notice that the judgment has been entered/filed?

III. Other Timing Traps With Notices Of Appeal

Manone v. Coffee, 217 N.C. App. 619, 720 S.E.2d 781 (N.C. Ct. App. 2011)

- Appellate Rule 3(c)(2) does not apply if an attorney has actual notice of the entry of the judgment.
- The thirty-day deadline starts to run if the attorney receives “actual” notice of the judgment within three days—irrespective of whether the judgment was properly served under Rule 58.

III. Other Timing Traps With Notices Of Appeal

Manone Problem: “Actual” Notice Is Construed Very Broadly

- In *Manone*, a law firm’s staff member picked up a copy of the order from the courthouse on August 19 (three days after entry of judgment).
- Attorney did not receive a copy of the order until August 20.

III. Other Timing Traps With Notices Of Appeal

- *Manone*: “[N]otice is effective when the attorney’s office, not the individual attorney, receives an order or judgment.”
- Particularly problematic for multi-office firms
- Always plan to file notice of appeal within 30 days of the entry (*i.e.*, filed-stamp date) of the judgment.

III. Other Timing Traps With Notices Of Appeal

For Whom the Appellate Rules Toll: Post-Judgment Motions

- Only *timely* Rule 50(b), 52(b), or 59 motions toll the deadline for filing your notice of appeal.
- Notice of appeal deadline is tolled until the entry of an order that decides these post-judgment motions. See N.C. R. App. P. 3(c)(3)

III. Other Timing Traps With Notices Of Appeal

Types of Post-Judgment Motions That Do Not Toll The Notice of Appeal Deadline

- In state court, Rule 60 motions
 - *Compare* Fed. R. Civ. P. 60 motions filed no later than 28 days after entry of judgment. Generally will toll the deadline for filing a notice of appeal. Fed. R. App. P. 4(a)(4)(A)(vi)
- Attorney Fees Motions: Federal (Sometimes) v. State (No—at least not yet!)

III. Other Timing Traps With Notices Of Appeal

“Barebones” And Improper Post-Judgment Motions Will Not Toll The Thirty-Day Period For Filing A Notice Of Appeal

- Motions that do not contain any real arguments or which merely cite the rule.
 - “Pursuant to Rule 59, grant us a new trial.”
- Motions that contain argument, but are not based on any of the grounds enumerated in Rule 59.

III. Other Timing Traps With Notices Of Appeal

- Motions for reconsideration

See generally North Carolina Alliance for Transp. Reform, Inc. v. North Carolina Dep't of Transp., 183 N.C. App. 466, 645 S.E.2d 105 (2007); *Smith v. Johnson*, 125 N.C. App. 603, 481 S.E.2d 415 (1997); *Diversified Financial*, No. COA 11-292 (N.C. Ct. App. 2011) (unpublished)

III. Other Timing Traps With Notices Of Appeal

Post-Judgment Motions And The Estate Of Hurst Dilemma

What If?

- One party files a timely and proper Rule 50(b), 52(b), or 59 motion
- The remaining parties do not file post-trial motions
- Is the deadline for filing a notice of appeal also tolled for the remaining parties?

III. Other Timing Traps With Notices Of Appeal

- N.C.R. App. P. 3(c)(3)
 - A timely motion under Rule 50(b), 52(b), or 59 of the North Carolina Rules of Civil Procedure tolls the time for filing a notice of appeal “*as to all parties*” until the entry of an order that decides these motions “*and then runs as to each party from the date of the entry of the order.*”

III. Other Timing Traps With Notices Of Appeal

- *But see footnote 2: Estate of Hurst v. Moorehead I, LLC, 748 S.E.2d 568 (N.C. Ct. App. 2013)*
 - “Here, [Defendant I] filed a timely motion for judgment notwithstanding the verdict pursuant to Rule 50. However, this motion was filed by [Defendant I] alone, and not by the remaining defendants. Therefore, although the notice of appeal given on 9 November 2011 was on behalf of all defendants, *the time for filing notice of appeal in this case was tolled during the pendency of the motion as to [Defendant I] only.* The remaining defendants failed to file notice of appeal within 30 days from entry of the trial court’s judgment. Because timely notice of appeal is jurisdictional, . . . we dismiss the present appeal as to [the remaining defendants].”

III. Other Timing Traps With Notices Of Appeal

- “*Hurst Problems*” arise when post-trial motions are filed by one party, but other parties who have not filed post-trial motions want to appeal.
 - *Hurst* appears to conflict with plain language of Appellate Rule 3(c)(3)
 - Do subsequent Court of Appeals’ panels have the authority to ignore *Hurst*?
 - *In re Civil Penalty*, 324 N.C. 373, 379 S.E.2d 30 (1989) (“Where a panel of the Court of Appeals has decided the same issue, albeit in a different case, a subsequent panel of the same court is bound by that precedent, unless it has been overturned by a higher court.”)

III. Other Timing Traps With Notices Of Appeal

- *Hurst* does not address Appellate Rule 3(c)(3)'s ten day cross-appeal provision.
 - If “timely notice of appeal is filed and served by a party, any other party may file and serve a notice of appeal within 10 days after the first notice of appeal was served on such party.”

III. Other Timing Traps With Notices Of Appeal

- *Hurst* may force parties not filing post-trial motions to file premature notices of appeal.
 - Different notice of appeal deadlines create different record deadlines.
 - Even if there are multiple appellants there should only be one record. N.C.R. App. P. 11(d).
- Filing premature notices of appeal could divest the trial court of jurisdiction to rule on pending post-trial motions. See N.C. Gen. Stat. § 1-294; *Lovallo v. Sabato*, 216 N.C. App. 281, 715 S.E.2d 909 (2011).

III. Other Timing Traps With Notices Of Appeal

- If one party files a tolling motion, should every other party who wants to appeal file one as well—whether they really want to or not?
 - Parties have only 10 days from the judgment to file post-trial motions
 - Likely cannot wait to see what your opponent does

Part Four:

Orders That *Must* Be Appealed Immediately

IV. Orders That *Must* Be Appealed Immediately

Final judgments, of course, must be appealed within 30 days, or not at all.

But are there other judgments or orders that must be appealed immediately?

IV. Orders That *Must* Be Appealed Immediately

- I. Orders that decide all substantive claims
 - Key example: attorneys’ fees unresolved
 - *Duncan v. Duncan*, 366 N.C. 544 (2013)
 - “Because attorney’s fees and costs are collateral to a final judgment on the merits, an unresolved request for attorney’s fees and costs does not render interlocutory an appeal from the trial court’s order.”

IV. Orders That *Must* Be Appealed Immediately

2. Orders that finally decide a collateral issue alongside or after a final judgment

If an open issue as to attorneys' fees does not toll the appeal time (Duncan), then when can the fees issue be appealed?

IV. Orders That *Must* Be Appealed Immediately

2. Orders that finally decide a collateral issue alongside or after a final judgment

Collateral issues, like the award of attorneys' fees, may be the subject of a subsequent, post-final-judgment appeal

- *Triad Women's Center, P.A. v. Rogers*, 207 N.C. App. 353 (2010)

IV. Orders That *Must* Be Appealed Immediately

2. Orders that finally decide a collateral issue alongside or after a final judgment

But: the entitlement to fees *and* the amount of fees must **both** be fixed before the right to appeal accrues

- *Sanders v. State Personnel Comm’n*, 762 S.E.2d 850, 854 & n.1 (N.C. Ct. App. 2014)

IV. Orders That *Must* Be Appealed Immediately

3. Certain orders entered in condemnation cases

Appeal of an interlocutory order affecting title to land and area taken is mandatory in the context of certain condemnation cases.

Dep't of Transp. v. Rowe, 351 N.C. 172 (1999).

IV. Orders That *Must* Be Appealed Immediately

4. “Proper” Rule 54(b) orders?

North Carolina Rule of Civil Procedure 54(b) allows a trial court to “enter a final judgment as to one or more but fewer than all of the claims or parties only if there is no just reason for delay and it is so determined in the judgment.”

IV. Orders That *Must* Be Appealed Immediately

4. “Proper” Rule 54(b) orders?

Once such a Rule 54(b) order / judgment is entered, must it be appealed within 30 days, or can the party seeking the certification indulge a change of heart, forego immediate appeal, and appeal from the issues in the Rule 54(b) order upon entry of the ultimate final judgment pursuant to N.C. Gen. Stat. § 1-278?

IV. Orders That *Must* Be Appealed Immediately

4. “Proper” Rule 54(b) orders?

What constitutes a proper Rule 54(b) order anyway?

IV. Orders That *Must* Be Appealed Immediately

4. “Proper” Rule 54(b) orders?

What constitutes a proper Rule 54(b) order anyway?

- Judgment must actually *be* final as to a claim or party (trial court’s analysis of the question of “finality” is not controlling). *Sharpe*, 351 N.C. at 162.
- Trial court must certify that there is no just reason for delay (trial court’s statement on this question is binding on the appellate courts). *Id.*

IV. Orders That *Must* Be Appealed Immediately

4. “Proper” Rule 54(b) orders?

What constitutes a proper Rule 54(b) order anyway?

- Is it proper to obtain a Rule 54(b) certification *after* the order is entered, by way of an amended order or subsequent order?

IV. Orders That *Must* Be Appealed Immediately

4. “Proper” Rule 54(b) orders?

Answer: Maybe.

Branch Banking & Trust v. Peacock Farm, 772 S.E.2d 495 (2015)

- “Rule 54(b) cannot be used to create appellate jurisdiction based on certification language that is not contained in the body of the judgment itself from which appeal is being sought.”
- On appeal to the Supreme court based on dissent

IV. Orders That *Must* Be Appealed Immediately

5. Other Orders?

- What about an order *granting* a new trial?
- What about orders involving injunctions or other acts that cannot be “undone” upon a later appeal, raising mootness concerns?

Part Five:

Some Highlights On Preserving Error For Appellate Review

V. Some Highlights On Preserving Error For Appellate Review

Generally To Preserve An Issue For Appellate Review, A Party Must

- Present to the trial court a *timely* request, objection or motion
- State the *specific* grounds for the ruling the party desired the court to make if the specific grounds were not apparent from the context
- *Obtain a ruling* upon the party's specific request, objection or motion
- N.C.R. App. P. 10(a)

V. Some Highlights On Preserving Error For Appellate Review

Is A Trial Court Ruling On A Motion *In Limine* Sufficient To Preserve For Appellate Review Issues Regarding The Admissibility Of Evidence?

- N.C.R. Evid. 103(a):
 - “Once the court makes a definitive ruling on the record admitting or excluding evidence, either at or before trial, *a party need not renew an objection or offer of proof to preserve a claim of error for appeal.*”

V. Some Highlights On Preserving Error For Appellate Review

- “Although Rule 103(a)(2) is contained in the Rules of Evidence, it is manifestly an attempt to govern the procedure and practice of the Appellate Division as it purports to determine which issues are preserved for appellate review. . . . [T]o the extent it conflicts with Rule of Appellate Procedure 10,” the Supreme Court has declared it unconstitutional. *State v. Oglesby*, 361 N.C. 550, 648 S.E.2d 819 (2007).

V. Some Highlights On Preserving Error For Appellate Review

- A motion in limine is insufficient to preserve for appellate review the issues regarding admissibility of evidence. Therefore, a party must object to that evidence *at the time it is offered at trial* or make an *offer of proof as to the excluded evidence*. See, e.g., *Kor Xiong v. Marks*, 193 N.C. App 644, 668 S.E.2d 594 (2008)
- Strike N.C.R. Evid. 103(a) from your Rules of Court book!!!

V. Some Highlights On Preserving Error For Appellate Review

General Purpose of Error Preservation Is To Demonstrate On Appeal That You Gave The Trial Court Judge The Opportunity To Get The Issue Right.

- Can trial court briefs and transcripts ever be necessary to your appeal?
- *Foot Locker v. Best*, No. COA 13-248 (N.C. Ct. App. 2013) (unpublished)
 - “The record on appeal does not include a transcript of the summary judgment hearing. . . . [T]his Court will not engage in speculation as to what arguments may have been presented”

V. Some Highlights On Preserving Error For Appellate Review

General Guidelines For Error Preservation With Rule 50 (Directed Verdict And JNOV) Motion

- A motion for judgment notwithstanding the verdict may only be based on issues raised in a directed verdict motion. N.C. R. Civ. P. 50(b)(1); *Compton v. Kirby*, 157 N.C. App. 1, 577 S.E.2d 905 (2003)

V. Some Highlights On Preserving Error For Appellate Review

- To challenge the legal sufficiency of the evidence to support the jury’s verdict on appeal, you must have made both an earlier directed verdict and a later JNOV motion. *Britt v. Allen*, 291 N.C. 630, 231 S.E.2d 607 (1977)
 - Adverse party must be provided opportunity to address any defects in his case with further proof during the trial.
 - JNOV motions provide the trial court the opportunity to enter judgment as a matter of law after the jury’s verdict.
 - JNOV motions provide the opposing party an opportunity to argue for new trial instead.

V. Some Highlights On Preserving Error For Appellate Review

General Guidelines For Rule 59 (New Trial) Motions

- Generally, new trial motions made in the trial court are not constrained by the same directed verdict or prior objections prerequisites. *Garrison v. Garrison*, 87 N.C. App. 591, 361 S.E.2d 921 (1987)
- Rule 59(a)(8) exception: “Error in law occurring at the trial *and objected to by the party making the motion*”

V. Some Highlights On Preserving Error For Appellate Review

- Rule 59(a)(9): “Any other reason heretofore recognized as grounds for a new trial”
 - A trial court’s best friend when granting a new trial.
- New trial motions are usually reviewed under extremely deferential manifest abuse of discretion standard of review. *Worthington v. Bynum*, 305 N.C. 478, 290 S.E.2d 599 (1982)
 - Exception: New trial orders granted on the basis of legal error. *Chiltoski v. Drum*, 121 N.C. App. 161, 464 S.E.2d 701 (1995)

Part Six:

Losing Your Right To Appeal In The *Post-Dogwood* World

VI. Losing Your Right To Appeal In The Post-*Dogwood* World

1. Jurisdictional mistakes can still be fatal
 - *See supra*, Part III.

2. Failure to show that an issue was raised in the trial court
 - *Foot Locker, Inc. v. Best*, 752 S.E.2d 260 (N.C. Ct. App. 2013) (unpublished)

VI. Losing Your Right To Appeal In The Post-Dogwood World

3. Failure to include transcripts in the record, when necessary to an understanding of an issue on appeal

Smith v. N. Carolina Dep't of Pub. Safety, 773 S.E.2d 574 (N.C. Ct. App. 2015) (unpublished)

- The trial court specifically stated in its order that it carefully considered the sworn testimony of the witnesses in making its determinations. Because plaintiff has failed to supply this Court with a transcript of witness testimony, it is impossible for us to assess the evidentiary basis for the trial court's findings or conclusions.

VI. Losing Your Right To Appeal In The Post-Dogwood World

4. Failure to challenge key findings of fact

Basmas v. Wells Fargo Bank Nat. Ass'n, 763 S.E.2d 536, 539 (N.C. Ct. App. 2014)

- Where FOF 1 and FOF 2 both independently supported judgment, and appellant challenged only FOF 1 on appeal, appellant cannot prevail because failed to challenge FOF 2 and alternative basis supporting trial court's judgment

VI. Losing Your Right To Appeal In The Post-Dogwood World

5. Failure to show the appellate court that it has jurisdiction

MDT Pers., LLC v. APH Contractors, Inc., 758 S.E.2d 481 (N.C. Ct. App. 2014) (unpublished)

- Must show the appellate court that order is final (or some other basis for jurisdiction exists)

Larsen v. Black Diamond French Truffles, Inc., 772 S.E.2d 93 (N.C. Ct. App. 2015)

- Must set forth basis for appellate jurisdiction in “statement of the grounds for appellate review” under Rule 28(b)(4)

Part Seven: New Procedures To Come?

VII. New Procedures To Come?

House Bill 79 (enacted 21 May 2015):

§ 1-294. Scope of stay; security limited for fiduciaries.

When an appeal is perfected as provided by this Article it stays all further proceedings in the court below upon the judgment appealed from, or upon the matter embraced therein, unless otherwise provided by the Rules of Appellate Procedure; but the court below may proceed upon any other matter included in the action and not affected by the judgment appealed from.

Questions?



Thank You!

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