

NORTH CAROLINA COURT OF APPEALS

APPEAL INFORMATION STATEMENT

North Carolina State Board of
Education,
 v.

From: Wake County (County/Agency)

Trial Docket No: 14 CVS 14791

COA Docket No: 15-1229

Trial Judge: The Honorable Paul G. Gessner

The State of North Carolina & The
North Carolina Rules Review Commission,

Party (ies) filing appeal:

The State of North Carolina

The North Carolina Rules Review Commission

1. Date judgment was entered: 2 July 2015
2. Date of Notice of Appeal: 27 July 2015
3. a). Is this a final judgment as to all claims and all parties? ☒ Yes ☐ No.
 b). If no, state the basis on which the judgment/order is immediately appealable.

4. a). Check the appropriate line(s) best describing the nature of the case:

- | | | |
|---|--|---|
| <input type="checkbox"/> Alimony | <input type="checkbox"/> Driver's license revocation | <input type="checkbox"/> Professional malpractice |
| <input type="checkbox"/> Attorneys' fees | <input type="checkbox"/> Education law | <input type="checkbox"/> Real property rights |
| <input type="checkbox"/> Child custody/support | <input type="checkbox"/> Employment and Labor | <input type="checkbox"/> Sanctions |
| <input type="checkbox"/> Construction law | <input type="checkbox"/> Environmental law | <input type="checkbox"/> Slip and fall |
| <input type="checkbox"/> Contempt | <input type="checkbox"/> Equitable distribution | <input type="checkbox"/> Taxation |
| <input type="checkbox"/> Contract law | <input type="checkbox"/> Health care | <input type="checkbox"/> Termination of parental rights |
| <input type="checkbox"/> Corporate law | <input type="checkbox"/> Insurance, auto | <input type="checkbox"/> Tort Claims Act |
| <input type="checkbox"/> Criminal law, DWI | <input type="checkbox"/> Insurance, other | <input type="checkbox"/> Unemployment compensation |
| <input type="checkbox"/> Criminal law, habitual felon | <input type="checkbox"/> Intentional torts | <input type="checkbox"/> Unfair and deceptive practices |
| <input type="checkbox"/> Criminal law, probation revocation | <input type="checkbox"/> Juvenile, delinquent | <input type="checkbox"/> Utilities |
| <input type="checkbox"/> Criminal law, other | <input type="checkbox"/> Juvenile, other | <input type="checkbox"/> Wills, trusts, estates |
| Specify: | | |
| <input type="checkbox"/> Debtor/creditor rights | <input type="checkbox"/> Landlord/tenant | <input type="checkbox"/> Wrongful death |
| <input type="checkbox"/> Negligence | <input type="checkbox"/> Workers' compensation | <input type="checkbox"/> Zoning/annexation |
| <input type="checkbox"/> Paternity | <input type="checkbox"/> Wrongful discharge | |
| <input type="checkbox"/> Products liability | | |

☒ Other (specify) Declaratory Judgment - Statutory Construction/
Constitutional Law

b). Check the appropriate line(s) to show the ruling being appealed:

- | | | |
|--|--|---|
| <input type="checkbox"/> Administrative ruling | <input type="checkbox"/> Injunction | <input type="checkbox"/> Judgment notwithstanding the verdict |
| <input type="checkbox"/> Declaratory judgment | <input type="checkbox"/> Judgment (bench trial) | <input type="checkbox"/> Judgment (probation revocation) |
| <input type="checkbox"/> Directed verdict | <input type="checkbox"/> Judgment (guilty plea) | <input checked="" type="checkbox"/> Summary judgment |
| <input type="checkbox"/> Dismissal | <input type="checkbox"/> Judgment (jury verdict) | |
| <input type="checkbox"/> Other (specify) | | |

5. State issues to be raised on the appeal (attach one additional page, if necessary):

See Attached

6. a). Has any prior appeal in this case been filed in either appellate court?

☐ Yes ☒ No.

If 'Yes', provide appellate court docket number(s): _____

b). Are any other appeals in this case pending before either state appellate court?

☐ Yes ☒ No.

If 'Yes', provide appellate court docket number(s): _____

c). To your knowledge, are there any other appeals raising substantially related issues pending before either appellate court?

☐ Yes ☒ No.

If 'Yes', provide case name(s) and docket number(s), if known, and explain the manner in which the appeals are related: _____

7. a). Are there essential questions raised by this appeal that cannot be adequately presented by the written briefs alone and therefore require oral arguments?

☒ Yes ☐ No

- b). Do you request oral arguments on this appeal?

☒ Yes ☐ No

8. Has this appeal, or the matters with which the appeal is concerned, been settled or rendered moot?

☐ Yes ☒ No.

If 'Yes', please explain:

If 'No', the undersigned hereby certifies that he/she will promptly notify the Court of Appeals if the appeal is hereafter settled or rendered moot. CGB (please initial).

9. Is there any reason why this appeal should be expedited?

☐ Yes ☒ No.

If 'Yes', please explain:

10. Has the execution or enforcement of the order, judgment or other determination from which the appeal has been taken been stayed pending disposition of the appeal?

☐ Yes ☒ No.

The undersigned attorney for the appellant(s), or the Pro Se appellant, hereby certifies that the information provided herein is the true to the best of his/her own knowledge.

Signed this the 9th day of December 2015.

Christopher D. Browning, Jr.
Signature Christopher G. Browning, Jr.
434 Fayetteville St. - Suite 1900
Raleigh, North Carolina 27601
(919) 835-4127

(Type name(s), address and telephone number under signature.)

(Attach certificate of service).

Instructions

1. These instructions govern the preparation and filing of the APPEAL INFORMATION STATEMENT adopted by the North Carolina Court of Appeals and required by Rule 41 of the North Carolina Rules of Appellate Procedure.
2. An APPEAL INFORMATION STATEMENT shall be completed and filed by the appellant(s) for each record on appeal filed with the Court of Appeals.
3. The Clerk of the Court of Appeal shall provide a copy of the APPEAL INFORMATION STATEMENT form to counsel or parties of record once the record on appeal has been docketed with the Court of Appeals.
4. Responses to inquiries on the APPEAL INFORMATION STATEMENT shall be typed, unless the form indicates otherwise.
5. In all appeals filed with the Court of Appeals, the appealing party or parties shall file the completed APPEAL INFORMATION STATEMENT with the Clerk of the North Carolina Court of Appeals, P. O. Box 2779, Raleigh, NC 27602-2779, at or before the time the appellant's brief is filed, with service upon all other parties.
6. The APPEAL INFORMATION STATEMENT is not a brief and should not contain argument or motions. The issues should be expressed thoroughly but without unnecessary detail. Counsel or pro se parties should make every effort to include in the APPEAL INFORMATION STATEMENT all of the issues that will be presented to the court.
7. The Court of Appeals may impose sanctions on counsel or pro se parties who fail to complete and file this form.

Issues to be Raised on Appeal

- I. Did the Superior Court err in granting summary judgment in favor of the State Board of Education and in failing to grant summary judgment in favor of Defendants-Appellants Rules Review Commission and State of North Carolina?
- II. In the alternative, is the decision of the Superior Court ambiguous and unclear as to whether it declares facially invalid N.C. Gen. Stat. §§ 115C-2, 115C-106.3(19), 115C-150.13 and 115C-218.1(c), such that remand is appropriate to require clarification by the Superior Court?

CERTIFICATE OF SERVICE

The undersigned attorney for Defendant-Appellant North Carolina Rules Review Commission hereby certifies that on this day the foregoing Appeal Information Statement was served upon counsel for all parties in this action by depositing a copy thereof in the United States mail, First Class, postage pre-paid, and addressed as follows:

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This the 9th day of December, 2015.


Christopher G. Browning, Jr.