

VENUE CHANGE FOR PETITIONS FOR JUDICIAL REVIEW

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WHAT IS VENUE?

Venue means the proper or most convenient location for the trial of a case. Venue usually is determined by statute but the parties may agree upon a different venue for convenience or to avoid prejudice/bias.



WHAT IS SUBJECT MATTER JURISDICTION?

- Subject matter jurisdiction is the power of a court over the nature of a case and the type of remedy sought. Generally, state courts have subject matter jurisdiction over any claim arising under state or federal law, **UNLESS** otherwise limited by statute.



ARTICLE 3A HEARINGS

- Boards may conduct contested case hearings under Article 3A of Chapter 150B
- Boards may elect to submit contested case hearings to the Office of Administrative Hearings, pursuant to GS 150B-40(e).



APPEALING ARTICLE 3A CASES

- Prior to October 1, 2013, petitions for judicial review were filed in Wake County Superior Court or the superior court where the person resided.



APPEALING ARTICLE 3A CASES

- Effective October 1, 2013, GS 150B-45(a)(1) was amended so that a petition for review involving occupational licensing must be filed...

“In the superior court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, in the county where the contested case which resulted in the final decision was filed.”

IMPACT OF STATUTORY CHANGES ON BOARDS

- Potential increase in costs of defense
 - Boards now must defend legal actions across the State.



- Defense of Board decisions before superior courts with less experience on
- petitions for judicial review



IMPACT OF STATUTORY CHANGES ON BOARDS

- Confusion over where to file the Record
 - Boards must file a certified copy of the official record with the reviewing court within 30 days after receipt of the copy of the petition for review. GS 150B-47.
 - Where should Boards send the record if Petitioner in the wrong court?
- Possible grounds for dismissal if
 - Petitioner files in wrong court
 - Subject matter jurisdiction v. venue



PROPOSED LEGISLATION

- MJN is working with Senator Hartsell
 - to propose a change to GS 150B-45(a)(2):
- Other final decisions. - A petition for review of any other final decision under this Article must be filed in the superior court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, in the county where the contested case which resulted in the final decision was filed. In the event that a Petitioner files a Petition in another county, the Superior Court may order a change of venue consistent with G.S. 1-83, but improper venue shall not be a grounds for dismissal of the Petition.

CONCLUSION

- Expect increased costs when defending Board actions
- Consult counsel when faced with tough decisions on filing records
- Pay attention to possible legislative changes in the near future.

