

## CPLR ARTICLE 5: VENUE.

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VENUE of trial shall be where one party resides; or, if none reside within the State, such venue as designated by the PLAINTIFF, unless otherwise fixed by written agreement.

An Executor or Administrator of an ESTATE (or other such individual) sued or suing based upon such APPOINTMENT is deemed herein to be resident of the County of Appointment, in addition to actual residence.

A CORPORATION is deemed resident of the county where its PRINCIPAL OFFICE is located; **EXCEPT** a COMMON CARRIER (e.g. a railroad) may also be sued in the county where the CAUSE OF ACTION arose.

An ASSIGNEE'S residence deemed to be the same as that of the ASSIGNOR'S at the time of ASSIGNMENT.

Venue in a CONSUMER CREDIT TRANSACTION (against a purchaser/borrower/debtor) is the county of residence for the **DEFENDANT** (if within the State), else the county where the transaction occurred (if within the State); if no such county, any other as designated by the Plaintiff.

Venue in a case involving the New York City Transit Authority shall be in the county where the cause of action arose, or if that be outside NYC, in New York County.

SPECIAL PROCEEDINGS may be brought in any county of the JUDICIAL DISTRICT where the case is triable.

Venue in cases against Supreme or County Court JUSTICES shall be in the APPELLATE DIVISION of the JUDICIAL DISTRICT where the matter is triable; or if such not in session, in an adjoining district.

Venue in cases against the Regent of the State University of New York (SUNY); the Commissioner of Education (save certain exceptions); or a Tax Tribunal, is in Albany County Supreme Court [**New York City Tax Tribunal Case Venue is the Appellate Division of the 1<sup>st</sup> Judicial Department**].

Venue in a case regarding REAL PROPERTY or CHATTEL is in the county where any part thereof is located.

**NOT WITHSTANDING OTHER PROVISIONS, PLACE OF TRIAL IS IN COUNTY DESIGNATED BY PLAINTIFF.**

GROUNDS FOR VENUE CHANGE:

- 1) County designated is not a proper county;
- 2) County Court is not impartial;
- 3) Witnesses' convenience, or in the interests of justice..

A DEMAND for CHANGE OF VENUE - if based on improper county - shall be served with, or **before** the answer. Demand on any other basis shall be made within a "reasonable time" after commencement of action.

DEFENDANT serves DEMAND, PLAINTIFF may - within 5 days after service - consent in writing to change **OR** respond as to the validity of his own designated county of venue, or the impropriety of that of defendant's.

If plaintiff does not so consent or respond, Defendant may MOTION within 15 days after service of demand for change in place of trial. Defendant may notice such motion to be heard in the county of his choice, as if the action were actually pending there.

No STAY of proceedings shall be granted unless it is shown on papers that demand for change is made with "due diligence".

At the discretion of the Court, place of trial for **NON-JURY** cases may in any county of the Judicial District.

In a CONSUMER CREDIT TRANSACTION, no clerk shall file a summons that specifies the wrong venue, but shall mark the papers rejected. When the summons be thereafter filed in the proper county - together with a NOTICE to the Defendant of the proper venue - service is deemed completed 10 days after filing, notwithstanding personal delivery.