

## **WHERE TO FILE YOUR ACTION**

The federal district courts have very strict rules on where you may file an action. If you do not comply with these rules, your action may be transferred to another court or may be dismissed. Therefore, you should read these rules carefully to determine where you should file your action. New York State comprises four federal districts. Northern, Southern, Eastern and Western. See 28 U.S.C. § 112. The districts are divided by counties. Therefore, you must know the county where you reside, where the defendant(s) reside, and/or where the claim arose.

**The Eastern District comprises the counties of Kings, Nassau, Queens, Richmond and Suffolk.**

The Northern District comprises the counties of Albany, Broome, Cayuga, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Jefferson, Lewis, Madison, Montgomery, Oneida, Onondaga, Oswego, Otsego, Rensselaer, Saint Lawrence, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Ulster, Warren and Washington.

The Southern District comprises the counties of Bronx, Dutchess, New York, Orange, Putnam, Rockland, Sullivan and Westchester.

The Western District comprises the counties of Allegany, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming and Yates.

The list of counties which comprise the districts of other states and the cities in which court is held may be found at 28 U.S.C. §§ 81-131.

Common venue provisions are listed below, according to the type of action you are filing. The word “venue” refers to the geographic area over which the court has authority. Again, if the court does not have authority over your action due to improper venue, your case could be dismissed or transferred. 28 U.S.C. § 1406(a).

1. **DIVERSITY ACTION (28 U.S.C. § 1332)**

28 U.S.C. § 1391(a) provides that

[a] civil action wherein jurisdiction is founded only on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant is subject to personal jurisdiction at the time the action is commenced, if there is no district in which the action may otherwise be brought.

**NOTE:** If your action is not based on diversity alone (e.g., it is based on diversity of citizenship and a federal statute), do not use this provision. See (2) below.

**NOTE:** If one or more of the defendants is a corporation, there is a special rule for determining where the corporation “resides.” See (4) at page 3.

**NOTE:** If the defendants do not all live in the same district but your lawsuit involves a dispute concerning land that is located in different districts in the same state, then you can bring your lawsuit in any federal judicial district in which some of the land is located. 28 U.S.C. § 1392.

2. **FEDERAL QUESTION - action arising under the Constitution or laws of the United States (28 U.S.C. § 1331).**

28 U.S.C. § 1391(b) provides that

[a] civil action wherein jurisdiction is not founded solely on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.

**NOTE:** If one or more of the defendants is a corporation, there is a special rule for determining where the corporation “resides.” See (4) at page 3.

**NOTE:** Do not use this rule if the United States or an officer or agency is a defendant; there is a different venue provision which should be used. See (3) at page 3.

**NOTE:** Some statutes have specific venue provisions. See (5) - (14) below.

3. **Federal Defendants.**

28 U.S.C. § 1391(e) provides that if the United States, any agency of the United States, or an officer or employee of the United States is a defendant, an action may, except as otherwise provided by law, be brought

in any judicial district in which (1) a defendant in the action resides, (2) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) the plaintiff resides if no real property is involved in the action. Additional persons may be joined as parties to any such action in accordance with the Federal Rules of Civil Procedure and with such other venue requirements as would be applicable if the United States or one of its officers, employees, or agencies were not a party.

4. **Corporations.**

28 U.S.C. § 1391(c) provides that

a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced. In a State which has more than one judicial district and in which a defendant that is a corporation is subject to personal jurisdiction at the time an action is commenced, such corporation shall be deemed to reside in any district in that State within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State, and, if there is no such district, the corporation shall be deemed to reside in the district within which it has the most significant contacts.

5. **Petition for a writ of habeas corpus brought by a state court prisoner challenging a state court conviction (28 U.S.C. § 2254).**

28 U.S.C. § 2241(d) provides that:

[w]here an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which contains two or more Federal judicial districts, the application may be filed in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

6. **Social Security Review.**

42 U.S.C. § 405(g) provides that such an action

shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the United States District Court for District of Columbia.

7. **Action for Job Discrimination (Title VII, A.D.A. and A.D.E.A).**

42 U.S.C. § 2000e-5(f)(3) provides that

[s]uch an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the aggrieved person would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office.

8. **Income Tax Refund (28 U.S.C. § 1346(a)(1)).**

28 U.S.C. § 1396 and 28 U.S.C. § 1402(a)(1) provide that you must bring your action in the judicial district in which you reside. If you are seeking a refund on behalf of a corporation, 28 U.S.C. § 1402(a)(2) provides that the action must be brought in the district which contains the corporation's principal place of business or principal office.

9. **Federal Tort Claims Act (28 U.S.C. §§ 2671-80).**

28 U.S.C. § 1346(b) and 28 U.S.C. § 1402(b) provide that such an action may be brought "only in the judicial district where the plaintiff resides or wherein the act or omission complained of occurred."

10. **A contract claim with the federal government for an amount in damages under \$10,000.**

28 U.S.C. § 1402(a)(1) provides that such an action must be brought in the judicial district in which plaintiff resides.

11. **Privacy Act (5 U.S.C. § 552).**

5 U.S.C. § 552a(g)(5) provides that “[a]n action to enforce any liability created under this section may be brought in the district court of the United States in the district in which complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia ... .”

12. **Freedom of Information Act (5 U.S.C. § 552(a)).**

5 U.S.C. § 552(a)(4)(B) provides that such an action may be brought in “the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia ... .”

13. **Copyright Action**

28 U.S.C. § 1400(a) provides that

[c]ivil actions, suits, or proceedings arising under any Act of Congress relating to copyrights or exclusive rights in mask works or designs may be instituted in the district in which the defendant or his agent resides or may be found.

14. **Patent Infringement Action.**

28 U.S.C. § 1400(b) provides that

[a]ny civil action for patent infringement may be brought in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business.