

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ADMINISTRATIVE ORDER
2006-03

In re: Amendment to Division
Business Guideline 50.1 (d) (2)

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The Judges of the Eastern District of New York having approved the proposed amendment to Division of Business Rule 50.1 (d) (2) recommended by the Court's Committee on Civil Litigation in the Committee's Report dated May 12, 2006 (copy attached), now therefore it is

ORDERED that Eastern District Division of Business Rule 50.1 (d) (2) is hereby amended as indicated in the Committee's annexed report; and it is further

ORDERED that Division of Business Rule 50.1 (d) (2), as amended, is effective pursuant to 28 U.S.C. § 2071(a) subject to public comment and judicial council review pursuant to 28 U.S.C. § 332 (d) (4). The effective date of the amendment will be thirty (30) days from the date of this Order or upon approval of the circuit judicial council, whichever date is later.

SO ORDERED.

Dated: June , 2006

Edward R. Korman
Chief Judge

-Att-

**REPORT AND RECOMMENDATION OF THE ADVISORY COMMITTEE ON
CIVIL LITIGATION OF THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK ON A PROPOSED AMENDMENT TO
THE GUIDELINES FOR THE DIVISION OF BUSINESS AMONG DISTRICT
JUDGES**

May 12, 2006

Summary

The proposed amendment to § 50-1(d)(2) of the Eastern District Guidelines for the Division of Business Among District Judges expands the categories of civil cases that will be designated as Long Island cases. The amendment recognizes that substantial connections with Nassau or Suffolk may exist even when the cause of action did not arise wholly or in substantial part in either county.

In order to make the rule more flexible while ensuring that cases that have their center of gravity in Nassau or Suffolk will be designated as Long Island cases, the Committee proposes that the Court amend Rule 50.1(d)(2) of the Guidelines for the Division of Business to read as follows:

(2) A civil case shall be designated a Long Island case if:

(a) the case has been removed to this Court from a New York State court located in Nassau or Suffolk County, or

(b) in any other case,

(i) a substantial part of the events or omissions giving rise to the claim or claims occurred in Nassau or Suffolk County, or

(ii) a substantial part of the events or omissions giving rise to the claim or

claims did not occur in the Eastern District of New York and the defendant (or a majority of the defendants if there is more than one) resides in Nassau or Suffolk County or, in an interpleader action, the claimant (or a majority of the claimants if there is more than one) resides in Nassau or Suffolk County.

For purposes of this rule, a corporation shall be considered a resident of the county in which it has the most significant contacts.

The Current Rule

The current Eastern District Guidelines for the Division of Business Among District Judges adopted pursuant to 28 U.S.C. § 137 provide in Rule 50.1(d)(2) that “a civil case shall be designated a Long Island case if the cause arose wholly or in substantial part in Nassau or Suffolk County.” The Guidelines also provide that a party may move the Court to transfer a case to or from Long Island “on the grounds that such action will serve the convenience of the parties and witnesses or is otherwise in the interests of justice.” Rule 50.1(d)(3).

The Proposed Rule

The proposed rule recognizes that there may be instances in which the cause of action did not arise wholly or substantially in Nassau or Suffolk but nevertheless some of the parties have a substantial connection to Long Island.

For instance, if the cause of action did not arise in this District, but the defendant is subject to personal jurisdiction in New York, venue would be proper in the Eastern District. See 28 U.S.C. § 1391(a), (b). Such a case should be heard in Nassau or Suffolk if that is where the defendant resides, rather than in Brooklyn. If there are multiple

defendants, the case should be designated a Long Island case if a majority of the defendants reside in Nassau and/or Suffolk.

A similar governing principle should apply to cases that are removed from state to federal court. 28 U.S.C. § 1441(a) provides that when a case is removed from state court it will be removed "to the district court of the United States for the district and division embracing the place where such action is pending." The case will therefore be removed to the Eastern District. The proposed rule would ensure that the case would be designated a Long Island case, thereby honoring plaintiff's choice of forum, if plaintiff originally instituted the action in a New York state court in Nassau or Suffolk.

If any party feels that the application of the foregoing rules is inappropriate in a particular case, that party may (as is true under the current rule) move the Court to transfer a case to or from Long Island "on the grounds that such action will serve the convenience of the parties and witnesses or is otherwise in the interests of justice." Rule 50.1(d)(3).

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