

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. **Venue Generally (28 U.S.C. § 1391).**

(a) Applicability of section.--Except as otherwise provided by law--

(1) this section shall govern the venue of all civil actions brought in district courts of the United States; and

(2) the proper venue for a civil action shall be determined without regard to whether the action is local or transitory in nature.

(b) Venue in general.--A civil action may be brought in--

(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;

(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) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

NOTE: If one or more of the defendants is a corporation, there is a special rule for determining where the corporation “resides.” See (3) at page 2.

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 (2) at page 2-3.

NOTE: Some statutes have specific venue provisions. See (4) - (13) below.

2. **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 (A) a defendant in the action resides,

(B) 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 © 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.

3. **Corporations.**

28 U.S.C. § 1391 provides that

©(2) an entity with the capacity to sue and be sued in its common name under applicable law, whether or not incorporated, shall be deemed to reside, if a defendant, in any judicial district in which such defendant is subject to the court's personal jurisdiction with respect to the civil action in question and, if a plaintiff, only in the judicial district in which it maintains its principal place of business; and

(d) Residency of corporations in States with multiple districts.-- For purposes of venue under this chapter, 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.

4. **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 wherein such person is in custody or in the district court 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.

5. **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.

6. **Action for Job Discrimination (Title VII and ADA).**

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.

7. **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.

8. **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."

9. **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.

10. **Privacy Act (5 U.S.C. § 552a).**

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”

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

5 U.S.C. § 552(a)(4)(B) provides that such an action may be brought 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”

12. **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.

13. **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.

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