

## **SUBCHAPTER IV. VENUE.**

### **Article 7.**

#### **Venue.**

#### **§ 1-76. Where subject of action situated.**

Actions for the following causes must be tried in the county in which the subject of the action, or some part thereof, is situated, subject to the power of the court to change the place of trial in the cases provided by law:

- (1) Recovery of real property, or of an estate or interest therein, or for the determination in any form of such right or interest, and for injuries to real property.
- (2) Partition of real property.
- (3) Foreclosure of a mortgage of real property.
- (4) Recovery of personal property when the recovery of the property itself is the sole or primary relief demanded. (C.C.P., s. 66; Code, s. 190; 1889, c. 219; Rev., s. 419; C.S., s. 463; 1951, c. 837, s. 4.)

#### **§ 1-76.1. Where deficiency debtor resides or where loan was negotiated.**

Subject to the power of the court to change the place of trial as provided by law, actions to recover a deficiency, which remains owing on a debt after secured personal property has been sold to partially satisfy the debt, must be brought in the county in which the debtor or debtor's agent resides or in the county where the loan was negotiated. (1977, c. 383, s. 1.)

#### **§ 1-77. Where cause of action arose.**

Actions for the following causes must be tried in the county where the cause, or some part thereof, arose, subject to the power of the court to change the place of trial, in the cases provided by law:

- (1) Recovery of a penalty or forfeiture, imposed by statute; except that, when it is imposed for an offense committed on a sound, bay, river, or other body of water, situated in two or more counties, the action may be brought in any county bordering on such body of water, and opposite to the place where the offense was committed.
- (2) Against a public officer or person especially appointed to execute his duties, for an act done by him by virtue of his office; or against a person who by his command or in his aid does anything touching the duties of such officer. (C.C.P., s. 67; Code, s. 191; Rev., s. 420; C.S., s. 464.)

#### **§ 1-78. Official bonds, executors and administrators.**

All actions against executors and administrators in their official capacity, except where otherwise provided by statute, and all actions upon official bonds must be instituted in the county where the bonds were given, if the principal or any surety on the bond is in the county; if not, then in the plaintiff's county. (1868-9, c. 258; Code, s. 193; Rev., s. 421; C.S., s. 465.)

#### **§ 1-79. Domestic corporations, limited partnerships, limited liability companies, and registered limited liability partnerships.**

(a) For the purpose of suing and being sued the residence of a domestic corporation, limited partnership, limited liability company, or registered limited liability partnership is as follows:

- (1) Where the registered or principal office of the corporation, limited partnership, limited liability company, or registered limited liability partnership is located, or
- (2) Where the corporation, limited partnership, limited liability company, or registered limited liability partnership maintains a place of business, or
- (3) If no registered or principal office is in existence, and no place of business is currently maintained or can reasonably be found, the term "residence" shall include any place where the corporation, limited partnership, limited liability company, or registered limited liability partnership is regularly engaged in carrying on business.

(b) For purposes of this section, the term "domestic" when applied to an entity means:

- (1) An entity formed under the laws of this State, or
- (2) An entity that (i) is formed under the laws of any jurisdiction other than this State, and (ii) maintains a registered office in this State pursuant to a certificate of authority from the Secretary of State. (1903, c. 806; Rev., s. 422; C.S., s. 466; 1951, c. 837, s. 5; 1957, c. 492; 1973, c. 885; 1975, c. 111; 1999-362, s. 1.)

#### **§ 1-80. Foreign corporations.**

An action against a corporation created by or under the law of any other state or government may be brought in the appropriate trial court division of any county in which the cause of action arose, or in which the corporation usually did business, or has property, or in which the plaintiffs, or either of them, reside, in the following cases:

- (1) By a resident of this State, for any cause of action.
- (2) By a nonresident of this State in any county where he or they are regularly engaged in carrying on business.
- (3) By a plaintiff, not a resident of this State, when the cause of action arose or the subject of the action is situated in this State. (C.C.P., s. 361; 1876-7, c. 170; Code, s. 194; Rev., s. 423; 1907, c. 460; C.S., s. 467; 1971, c. 268, s. 1.)

#### **§ 1-81. Actions against railroads.**

In all actions against railroads the action must be tried either in the county where the cause of action arose or where the plaintiff resided at that time or in some county adjoining that in which the cause of action arose, subject to the power of the court to change the place of trial as provided by statute. (Rev., s. 424; C.S., s. 468.)

#### **§ 1-81.1. Venue in apportionment or redistricting cases; certain injunctive relief actions.**

(a) Venue lies exclusively with the Wake County Superior Court in any action concerning any act of the General Assembly apportioning or redistricting State legislative or congressional districts.

(a1) Venue lies exclusively with the Wake County Superior Court with regard to any claim seeking an order or judgment of a court, either final or interlocutory, to restrain the enforcement, operation, or execution of an act of the General Assembly, in whole or in part, based upon an allegation that the act of the General Assembly is facially invalid on the basis that the act violates

the North Carolina Constitution or federal law. Pursuant to G.S. 1-267.1(a1) and G.S. 1-1A, Rule 42(b)(4), claims described in this subsection that are filed or raised in courts other than Wake County Superior Court or that are filed in Wake County Superior Court shall be transferred to a three-judge panel of the Wake County Superior Court if, after all other questions of law in the action have been resolved, a determination as to the facial validity of an act of the General Assembly must be made in order to completely resolve any issues in the case.

(b) Any action brought concerning an act of the General Assembly apportioning or redistricting the State legislative or congressional districts shall be filed in the Superior Court of Wake County. (2003-434, 1st Ex. Sess., s. 11(a); 2014-100, s. 18B.16(b).)

**§ 1-81.2. (Effective once contingency met – see note) Venue in complex business cases.**

(a) To facilitate the effective administration in the State's statewide electronic filing system of mandatory complex business cases and those cases assigned to a business court judge, and subject to subsection (e) of this section, venue shall lie exclusively in Wake County in any action designated by the Chief Justice of the Supreme Court of North Carolina as a mandatory complex business case pursuant to G.S. 7A-45.4 or otherwise assigned to a business court judge by the Chief Justice pursuant to the General Rules of Practice for the Superior and District Courts.

(b) When a Notice of Designation filed pursuant to G.S. 7A-45.4(c) is filed contemporaneously with the initiation of an action, the action shall be brought in Wake County. If the Chief Justice or the Chief Business Court Judge enters an order declining to designate an action filed pursuant to this subsection as a mandatory complex business case, that order shall direct the clerk of superior court to transfer the action to the county of origin identified in the Notice of Designation.

(c) When a Notice of Designation filed pursuant to G.S. 7A-45.4(c) is filed in an action instituted outside of Wake County, the clerk of superior court in the county of origin shall transfer the action to Wake County after the issuance of summons in accordance with G.S. 1A-1, Rule 4. If the Chief Justice or the Chief Business Court Judge subsequently enters an order declining to designate an action filed pursuant to this subsection as a mandatory complex business case or declines to otherwise assign the matter to a business court judge pursuant to the General Rules of Practice for the Superior and District Courts, the order shall direct the clerk of superior court to transfer the action to the county of origin identified in the Notice of Designation.

(d) No later than five days after an action is transferred to or from Wake County pursuant to subsection (b) or (c) of this section, the Wake County Clerk of Superior Court shall serve the party that filed the Notice of Designation with a notice of transfer. The notice shall be on a form promulgated by the Administrative Office of the Courts. No later than five days after being served with the notice of transfer, the party that filed the Notice of Designation shall serve a copy of the notice of transfer on all parties in the action not served by the Wake County Clerk of Superior Court.

(e) Notwithstanding the provisions of this Article or any other General Statute concerning venue, trials in mandatory complex business cases and cases assigned to a business court judge pursuant to the General Rules of Practice for Superior and District Courts shall be held in the county of origin identified in the Notice of Designation. The presiding business court judge may conduct trials outside the county of origin in any superior court or business court facility with the consent of the parties, or upon the motion of a party or the judge and an order finding that the convenience of witnesses and the ends of justice would be promoted by the change. The presiding business court judge may conduct trials remotely pursuant to G.S. 7A-49.6. The presiding business

court judge may conduct pretrial proceedings outside the county of origin in any superior court or business court facility, or remotely pursuant to G.S. 7A-49.6, in the judge's discretion. (2024-33, s. 3(a).)

#### **§ 1-82. Venue in all other cases.**

In all other cases the action must be tried in the county in which the plaintiffs or the defendants, or any of them, reside at its commencement, or if none of the defendants reside in the State, then in the county in which the plaintiffs, or any of them, reside; and if none of the parties reside in the State, then the action may be tried in any county which the plaintiff designates in the plaintiff's summons and complaint, subject to the power of the court to change the place of trial, in the cases provided by statute; provided that any person who has resided on or been stationed in a United States Army, Navy, Marine Corps, Coast Guard, or Air Force installation or reservation within this State for a period of one (1) year or more next preceding the institution of an action shall be deemed a resident of the county within which such installation or reservation, or part thereof, is situated and of any county adjacent to such county where such person stationed at such installation or reservation lives in such adjacent county, for the purposes of this section. The term person shall include military personnel and the spouses and dependents of such personnel. (C.C.P., s. 68; 1868-9, cc. 59, 277; Code, s. 192; 1905, c. 367; Rev., s. 424; C.S., s. 469; 1957, c. 1082; 2011-183, s. 1.)

#### **§ 1-83. Change of venue.**

If the county designated for that purpose in the summons and complaint is not the proper one, the action may, however, be tried therein, unless the defendant, before the time of answering expires, demands in writing that the trial be conducted in the proper county, and the place of trial is thereupon changed by consent of parties, or by order of the court.

The court may change the place of trial in the following cases:

- (1) When the county designated for that purpose is not the proper one.
- (2) When the convenience of witnesses and the ends of justice would be promoted by the change.
- (3) When the judge has, at any time, been interested as party or counsel.
- (4) When motion is made by the plaintiff and the action is for divorce and the defendant has not been personally served with summons. (R.C., c. 31, ss. 115, 118; C.C.P., s. 69; 1870-1, c. 20; Code, s. 195; Rev., s. 425; C.S., s. 470; 1945, c. 141.)

#### **§ 1-84. Removal for fair trial.**

In all civil actions in the superior and district courts, when it is suggested on oath or affirmation on behalf of the plaintiff or defendant, that there are probable grounds to believe that a fair and impartial trial cannot be obtained in the county in which the action is pending, the judge may order a copy of the record of the action removed for trial to any adjacent county, if he is of the opinion that a fair trial cannot be had in said county, after hearing all the testimony offered on either side by oral evidence or affidavits. (1806, c. 693, s. 12, P.R.; 1879, s. 45; Code, s. 196; 1899, cc. 104, 508; Rev., s. 426; 1917, c. 44; C.S., s. 471; 1957, c. 601; 1969, c. 44, s. 1; 1971, c. 268, s. 2; 1977, c. 12.)

#### **§ 1-85. Affidavits on hearing for removal; when removal ordered.**

No action, civil or criminal, shall be removed, unless the affidavit sets forth particularly and in detail the ground of the application. It is competent for the other side to controvert the allegations of fact in the application, and to offer counter affidavits to that end. The judge shall order the removal of the action, if he is satisfied after thorough examination of the evidence as aforesaid that the ends of justice demand it. (1879, c. 45; Code, s. 197; 1899, c. 104, s. 2; Rev., s. 427; C.S., s. 472.)

**§ 1-86. Repealed by Session Laws 1967, c. 218, s. 4.**

**§ 1-87. Transcript of removal; subsequent proceedings; depositions.**

(a) When a cause is directed to be removed, the clerk shall transmit to the court to which it is removed a transcript of the record of the case, with the prosecution bond, bail bond, and the depositions, and all other written evidences filed therein; and all other proceedings shall be had in the county to which the place of trial is changed, unless otherwise provided by the consent of the parties in writing duly filed, or by order of court.

(b) After a cause has been directed to be removed, and prior to the time that the transcript is deposited with the court to which the cause is removed, depositions may be taken in the cause, and subpoenas for the attendance of witnesses and commissions to take depositions may issue from either of the said courts, under the same rules as if the cause had been originally commenced in the court from which the subpoenas or commissions issued. (1806, c. 694, s. 12, P.R.; 1810, c. 787, P.R.; R.C., c. 31, s. 118; C.C.P., s. 69; Code, ss. 195, 198; Rev., s. 428; C.S., c. 474; 1967, c. 954, s. 3.)

**§ 1-87.1. Repealed by Session Laws 1967, c. 954, s. 4.**

**§ 1-87.2: Reserved for future codification purposes.**

**§ 1-87.3: Reserved for future codification purposes.**

**§ 1-87.4: Reserved for future codification purposes.**

**§ 1-87.5: Reserved for future codification purposes.**

**§ 1-87.6: Reserved for future codification purposes.**

**§ 1-87.7: Reserved for future codification purposes.**

**§ 1-87.8: Reserved for future codification purposes.**

**§ 1-87.9: Reserved for future codification purposes.**

**§ 1-87.10: Reserved for future codification purposes.**

**§ 1-87.11: Reserved for future codification purposes.**