WEST VIRGINIA CODE CHAPTER 56 ARTICLE 1

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§56-1-1. Venue generally.

(a) Any civil action or other proceeding, except where it is otherwise specially provided, may hereafter be brought in the circuit court of any county:

(1) Wherein any of the defendants may reside or the cause of action arose, except that an action of ejectment or unlawful detainer must be brought in the county wherein the land sought to be recovered, or some part thereof, is;

(2) If a corporation or other corporate entity is a defendant, wherein its principal office is or wherein its mayor, president or other chief officer resides; or if its principal office be not in this state, and its mayor, president or other chief officer do not reside therein, wherein it does business; or if it is a corporation or other corporate entity organized under the laws of this state which has its principal office located outside of this state and which has no office or place of business within the state, the circuit court of the county in which the plaintiff resides or the circuit court of the county in which the seat of state government is located has jurisdiction of all actions at law or suits in equity against the corporation or other corporate entity, where the cause of action arose in this state or grew out of the rights of stockholders with respect to corporate management;

(3) If it is to recover land or subject it to a debt, where the land or any part may be;

(4) If it is against one or more nonresidents of the state, where any one of them may be found and served with process or may have estate or debts due him, her, or them;

(5) If it is to recover a loss under any policy of insurance upon either property, life or health or against injury to a person, where the property insured was situated either at the date of the policy or at the time when the right of action accrued or the person insured had a legal residence at the date of his or her death or at the time when the right of action accrued;

(6) If it is on behalf of the state in the name of the Attorney General or otherwise, where the seat of government is; or

(7) If a judge of a circuit is interested in a case which, but for such interest, would be proper for the jurisdiction of his or her court, the action or suit may be brought in any county in an adjoining circuit.

(b) Whenever a civil action or proceeding is brought in the county where the cause of action arose under the provisions of subsection (a) of this section, if no defendant resides in the county, a defendant to the action or proceeding may move the court before which the action is pending for a change of venue to a county where one or more of the defendants resides and upon a showing by the moving defendant that the county to which the proposed change of venue would be made would better afford convenience to the parties litigant and the witnesses likely to be called, and if the ends of justice would be better served by the change of venue, the court may grant the motion.

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(c) For all civil actions filed on or after July 1, 2018, a nonresident of the state may not bring an action in a court of this state unless all or a substantial part of the acts or omissions giving rise to the claim asserted occurred in this state: Provided, That unless barred by the statute of limitations or otherwise time barred in the state where the action arose, a nonresident of this state may file an action in state court in this state if the nonresident cannot obtain jurisdiction in either federal or state court against the defendant in the state where the action arose. A nonresident bringing such an action in this state shall be required to establish, by filing an affidavit with the complaint for consideration by the court, that the action cannot be maintained in the state where the action arose due to lack of any legal basis to obtain personal jurisdiction over the defendant: Provided, however, that the provisions of this subsection do not apply to civil actions filed against West Virginia citizens, residents, corporations, or other corporate entities.

In a civil action where more than one plaintiff is joined, each plaintiff must independently establish proper venue. A person may not intervene or join in a pending civil action as a plaintiff unless the person independently establishes proper venue. If venue is not proper as to any such nonresident plaintiff in any court of this state, the court shall dismiss the claims of such plaintiff without prejudice to refile in a court in any other state or jurisdiction. When venue is proper as to one defendant, it is also proper as to any other defendant with respect to all actions arising out of the same transaction or occurrence.

For purposes of this subsection, “nonresident” means any person, whether a citizen of this state or another state, who was domiciled outside the State of West Virginia at the time of the acts or omissions giving rise to the claim asserted: Provided, That a member of the armed forces of the United States who is stationed beyond the territorial limits of this state, but who was a resident of this state at the time of his or her entry into such service, and any full-time student of any college or university of this state, even though he or she is paying nonresident tuition, is considered a resident under this subsection.

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§56-1-1a. Forum non conveniens.

(a) In any civil action if a court of this state, upon a timely written motion of a party, finds that in the interest of justice and for the convenience of the parties a claim or action would be more properly heard in a forum outside this state, the court shall decline to exercise jurisdiction under the doctrine of forum non conveniens and shall stay or dismiss the claim or action, or dismiss any plaintiff: Provided, That the plaintiff's choice of a forum is entitled to great deference, but this preference may be diminished when the plaintiff is a nonresident and the cause of action did not arise in this state. In determining whether to grant a motion to stay or dismiss an action, or dismiss any plaintiff under the doctrine of forum non conveniens, the court shall consider:

(1) Whether an alternate forum exists in which the claim or action may be tried;

(2) Whether maintenance of the claim or action in the courts of this state would work a substantial injustice to the moving party;

(3) Whether the alternate forum, as a result of the submission of the parties or otherwise, can exercise jurisdiction over all the defendants properly joined to the plaintiff's claim;

(4) The state in which the plaintiff(s) reside;

(5) The state in which the cause of action accrued;

(6) Whether the balance of the private interests of the parties and the public interest of the state predominate in favor of the claim or action being brought in an alternate forum, which shall include consideration of the extent to which an injury or death resulted from acts or omissions that occurred in this state. Factors relevant to the private interests of the parties include, but are not limited to, the relative ease of access to sources of proof; availability of compulsory process for attendance of unwilling witnesses; the cost of obtaining attendance of willing witnesses; possibility of a view of the premises, if a view would be appropriate to the action; and all other practical problems that make trial of a case easy, expeditious and inexpensive. Factors relevant to the public interest of the state include, but are not limited to, the administrative difficulties flowing from court congestion; the interest in having localized controversies decided within the state; the avoidance of unnecessary problems in conflict of laws, or in the application of foreign law; and the unfairness of burdening citizens in an unrelated forum with jury duty;

(7) Whether not granting the stay or dismissal would result in unreasonable duplication or proliferation of litigation; and

(8) Whether the alternate forum provides a remedy.

(b) A motion pursuant to subsection (a) of this section is timely if it is filed either concurrently or prior to the filing of either a motion pursuant to Rule twelve of the West Virginia Rules of Civil Procedure or a responsive pleading to the first complaint that gives

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rise to the grounds for such a motion: Provided, That a court may, for good cause shown, extend the period for the filing of such a motion.

(c) If the statute of limitations in the alternative forum expires while the claim is pending in a court of this state, the court shall grant a dismissal under this section only if each defendant waives the right to assert a statute of limitation defense in the alternative forum. The court may further condition a dismissal under this section to allow for the reinstatement of the same cause of action in the same forum in the event a suit on the same cause of action or on any cause of action arising out of the same transaction or occurrence is commenced in an appropriate alternative forum within sixty days after the dismissal under this section and such alternative forum declines jurisdiction.

(d) In actions filed pursuant to Rule twenty-three of the West Virginia Rules of Civil Procedure the provisions of this section shall apply only to the class representative(s).

(e) A court that grants a motion to stay or dismiss an action pursuant to this section shall set forth specific findings of fact and conclusions of law.

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§56-1-1b. Venue for bringing civil action under a construction contract.

(a) As used in this chapter, "construction contract" means a contract, subcontract, or agreement entered into or made by an owner, architect, engineer, contractor, construction manager, subcontractor, supplier, or material or equipment lessor for the design, construction, alteration, demolition, renovation, remodeling, or repair of, or for the furnishing of material or equipment for a building, structure, appurtenance, or other improvement to or on public or private real property, including moving, demolition, and excavation connected with the real property. The term "construction contract" includes an agreement to which an architect, engineer, or contractor and an owner's lender are parties regarding an assignment of the construction contract or other modifications.

(b) Where a party whose principal place of business is in the state of West Virginia enters into a construction contract on or after July 1, 2021, to design, manage construction of, construct, alter, repair, maintain, move, demolish, or excavate, or supply goods, equipment, or materials for the construction, alteration, repair, maintenance, movement, demolition, or excavation of a building, structure, appurtenance, road, bridge, or tunnel which is physically located in the state of West Virginia, such construction contract must provide that any civil action or arbitration called for or permitted by the contract must be commenced and heard in the state of West Virginia, in the jurisdiction where the construction project is located, or such other jurisdiction where the venue is proper under the provisions of §56-1-1 *et seq*. of this code. Any provision in a construction contract entered into on or after July 1, 2021, mandating that such action be brought in a location outside the state of West Virginia is unenforceable.

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§56-1-2.

Repealed.

Acts, 1986 Reg. Sess., Ch. 170.

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