

Chapter 4 — Venue

§ 4.01 Introduction

The *venue* of an action is the county in which the case is brought. The Code of Civil Procedure sets forth rules regarding the proper venue for the various kinds of civil actions. The rules regarding the venue of civil actions exist to promote public policy, not to define the authority of the court. Therefore, the decision of a court to proceed with the case despite the absence of proper venue is an error, which the defendant forfeits unless he makes a timely objection.¹ Except in the few cases in which the California Constitution makes the place of trial jurisdictional or a statute makes a local place of trial part of the grant of [subject matter jurisdiction](#), the court's election to proceed in the face of a valid objection may constitute reversible error but does not render the court's judgment void for lack of jurisdiction.²

➔ Challenging the Plaintiff's Choice of Forum

§ 4.02 General Rules of Venue

Venue is determined based on the complaint³ on file at the time the motion to change venue is made.⁴ The venue rules apply to actions as a whole and not to

¹ Brock v. Superior Court, 29 Cal. 2d 629, 633, 177 P.2d 273, 275 (1947). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 3:453–:454 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 545–547 (3d ed. 1985).

² Newman v. County of Sonoma, 56 Cal. 2d 625, 627, 364 P.2d 850, 851, 15 Cal. Rptr. 914, 915 (1961); Barquis v. Merchants Collection Ass'n, 7 Cal. 3d 94, 122, 496 P.2d 817, 837, 101 Cal. Rptr. 745, 765 (1972).

individual causes of action.⁵ Once proper venue is established, it is not lost through subsequent amendment to the complaint.⁶ Except in one limited case, whether the complaint states a cause of action has no bearing on whether the plaintiff filed his action in a proper venue.⁷

➔ Actions to Which the General Rule Applies

In general, the county in which the defendant resides at the commencement of the action is the proper county for the trial of the action,⁸ though the steady accretion of special venue statutes has left a diminished set of causes of action subject to the absolute rule that venue lies in the county of the defendant's residence. For venue

³ The plaintiff may not employ extraneous materials, such as affidavits, to augment his claim to venue, as established by the theory of his action set forth in the complaint. *Sloan v. Court Hotel*, 72 Cal. App. 2d 308, 313–14, 164 P.2d 516, 519 (1945). The defendant, however, may utilize affidavits to attack the plaintiff's chosen venue, and the plaintiff may employ affidavits to counter the defendant's showing.

➔ Challenging the Plaintiff's Choice of Forum

⁴ *Brown v. Superior Court*, 37 Cal. 3d 477, 482, 691 P.2d 272, 274, 208 Cal. Rptr. 724, 726 (1984). The court, however, must take cognizance of the residence of a defendant originally sued under a fictitious name but served with the complaint after the filing of the motion to change venue. *Gutierrez v. Superior Court*, 243 Cal. App. 2d 710, 724–25, 52 Cal. Rptr. 592, 602 (1966). See generally ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 3:464–466, :480–485 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 556, 558, 576–579, 606–607 (3d ed. 1985).

⁵ *Monogram Co. v. Kingsley*, 38 Cal. 2d 28, 33, 237 P.2d 265, 268 (1951).

⁶ *Armstrong Petroleum Corp. v. Superior Court*, 114 Cal. App. 3d 732, 738, 170 Cal. Rptr. 767, 769 (1981).

⁷ *Clary v. Basalt Rock Co.*, 99 Cal. App. 2d 458, 463, 222 P.2d 24, 26–27 (1950) (fact that the defendant did not incur an obligation in the forum and that venue was therefore improper also established that the plaintiff did not have a cause of action against the defendant).

⁸ CODE CIV. PROC. § 395(a).

purposes, a residence is established by personal presence in a fixed and permanent abode with the intent of remaining there.⁹

If none of the defendants resides in California or if the plaintiff does not know in which county they reside, the plaintiff may bring his action in any county.¹⁰ If the defendant is about to leave California, the plaintiff may bring the action in any county in which either party resides or in which the plaintiff serves the summons and complaint on the defendant.¹¹

[A] Actions to Which the General Rule Applies

➔ Contract Cases

➔ Personal Injury,
Damage to Personal
Property, and Wrongful
Death Cases

Although the alternative venue rules applicable to contract actions and actions for personal injury or damage to personal property have expanded the available venues in a great many cases, there remains a substantial collection of causes of action subject to the general rule that venue lies exclusively in the county of the defendant's residence,¹² including:

- false imprisonment¹³

⁹ Enter v. Crutcher, 159 Cal. App. 2d Supp. 841, 845, 323 P.2d 586, 589 (1958).

¹⁰ CODE CIV. PROC. § 395(a). The plaintiff, however, must plead facts showing that he exercised reasonable diligence to discover the defendant's residence. Thurber v. Thurber, 113 Cal. 607, 611, 45 P. 852, 853 (1896).

¹¹ CODE CIV. PROC. § 395(a). This provision applies only when the departing defendant does not intend to return to California or there is no reasonable likelihood of his early return. Polk v. Bradbury, 127 Cal. App. 383, 385, 15 P.2d 865, 866 (1932).

¹² See generally ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶ 3:460--463, :498 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 580-581, 583-585, 587-589 (3d ed. 1985).

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- defamation¹⁴
- intentional infliction of emotional distress¹⁵
- fraud¹⁶
- malicious prosecution¹⁷
- abuse of process¹⁸
- conversion¹⁹
- replevin²⁰
- interference with contract.²¹

Most actions seeking equitable remedies must be tried in the county of the defendant's residence, including actions seeking:

¹³ Monk v. Ehret, 192 Cal. 186, 192–93, 219 P.2d 452, 454–55 (1923).

¹⁴ Graham v. Mixon, 177 Cal. 88, 93, 169 P. 1003, 1005 (1917).

¹⁵ Cubic Corp. v. Superior Court, 186 Cal. App. 3d 622, 625, 231 Cal. Rptr. 18, 19 (1986).

¹⁶ Kaluzok v. Brisson, 27 Cal. 2d 760, 764, 167 P.2d 481, 482–83 (1946). If the main relief sought through an action for fraud would affect title to real property (*e.g.*, an action to quiet title to real property acquired by fraud), the action is local. If the main relief sought through the action is rescission of a contract, then the contract venue rules would apply.

¹⁷ Carruth v. Superior Court, 80 Cal. App. 3d 215, 220, 145 Cal. Rptr. 344, 346 (1978).

¹⁸ Cacciaguidi v. Superior Court, 226 Cal. App. 3d 181, 186–87, 276 Cal. Rptr. 465, 468–69 (1990).

¹⁹ Haurat v. Superior Court, 241 Cal. App. 3d 330, 333, 50 Cal. Rptr. 520, 522 (1966).

²⁰ Sims v. Mains, 131 Cal. App. 307, 311, 21 P.2d 447, 448 (1933). Note, however, that an action against an executor or trustee to recover personal property must be brought in the county that has jurisdiction over the estate or trust in question.

²¹ Johnson v. Superior Court, 232 Cal. App. 2d 212, 219–20, 42 Cal. Rptr. 645, 650–51 (1965).

➡ Real Property Cases

➡ Contract Cases

➡ Trusts and Estates

§ 4.03 Additional Venues

- injunctions²²
- accounting²³
- enforcement of judgments against the defendant's debtors²⁴
- cancellation of instruments²⁵
- equitable relief against judgments.²⁶

§ 4.03 Additional Venues

In certain cases, the plaintiff has a choice of alternative venues, in addition to the county of the defendant's residence, in which to file his lawsuit.

[A] Personal Injury, Damage to Personal Property, and Wrongful Death Cases

In actions for personal injury, damage to personal property, and wrongful death, the plaintiff may bring his lawsuit in the county where the injury or damage

²² Sloan v. Court Hotel, 72 Cal. App. 2d 308, 313–14, 164 P.2d 516, 519–20 (1945).

²³ Rudnick v. Delfino, 140 Cal. App. 2d 260, 263, 294 P.2d 983, 986 (1956).

²⁴ Holstein v. Superior Court, 275 Cal. App. 2d 708, 710, 80 Cal. Rptr. 301, 302 (1969).

²⁵ Cade v. Superior Court, 191 Cal. App. 2d 554, 558, 12 Cal. Rptr. 847, 849 (1961). Note, however, that if the main relief sought by the action to cancel an instrument is to affect an interest in real property, the court might treat the action as local.

²⁶ Deas v. Lido Lumber Co., 132 Cal. App. 2d 402, 407, 282 P.2d 90, 93 (1955).

occurred.²⁷ Emotional distress is not “injury to person,”²⁸ and conversion is not “injury to personal property”²⁹ for venue purposes.

[B] Contract Cases

Code of Civil Procedure section 395(a) provides:

[W]hen a defendant has contracted to perform an obligation in a particular county, either the county where the obligation is to be performed or in which the contract in fact was entered into or the county in which the defendant or any such defendant resides at the commencement of the action shall be a proper county for the trial of an action founded on such obligation . . .³⁰

A contract is made in the county in which the offeree accepts the offer.³¹ If the offeree accepts by telephone, the acceptance occurs where the offeree is located.³² If the offeree accepts by mail, the acceptance occurs where the offeree places the acceptance in the mail.³³ A unilateral contract is accepted in the county where the offeree renders his performance.³⁴ A recital in a contract that the contract was

²⁷ CODE CIV. PROC. § 395(a). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 3:496–:499 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 591–592 (3d ed. 1985).

²⁸ *Cubic Corp. v. Superior Court*, 186 Cal. App. 3d 622, 625, 231 Cal. Rptr. 18, 19 (1986).

²⁹ *Haurat v. Superior Court*, 241 Cal. App. 2d 330, 337, 50 Cal. Rptr. 520, 525 (1966).

³⁰ *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 3:501–:506 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 593–603 (3d ed. 1985).

³¹ *Braunstein v. Superior Court*, 225 Cal. App. 2d 691, 696, 37 Cal. Rptr. 666, 669 (1964).

³² *Wilson v. Scannavino*, 159 Cal. App. 2d 369, 371, 324 P.2d 350, 351 (1958).

³³ *Di Giorgio Fruit Corp. v. Zachary*, 60 Cal. App. 2d 560, 562, 141 P.2d 8, 9 (1943).

³⁴ *Richardson v. Rose*, 197 Cal. App. 2d 318, 322–23, 17 Cal. Rptr. 84, 87 (1961).

executed in a particular county does not establish venue in that county if, in fact, the parties made the contract in a different county.³⁵ Execution of a written confirmation of an oral contract does not alter the place where the contract was entered into, even though the statute of frauds rendered the oral contract unenforceable standing alone.³⁶ Execution of an integrated written agreement, however, supersedes a prior oral contract, and the place of execution becomes the place the contract was entered into.³⁷ A contract modification made in a different county does not alter the place where the contract itself was made.³⁸ A contract made through the exercise of an earlier option is deemed to have been made in the county in which the option contract was made.³⁹

Section 395(a)'s reference to "the county where the obligation is to be performed" as a proper venue suggests that venue lies in the place of contract performance. The statute, however, undercuts this impression by providing, "[T]he county in which the obligation was incurred is deemed to be the county in which it is to be performed unless there is a special contract in writing to the contrary."⁴⁰ The county in which "the obligation was incurred" is the county where the contract was made, not the county where the contract was breached.⁴¹ A "special contract" is one whose provisions are express and not dependent on implication.⁴² The contract must "specifically state the place of performance of such obligation."⁴³ The omission of

³⁵ Taylor v. Lundblade, 43 Cal. App. 2d 638, 640, 111 P.2d 344, 345 (1941).

³⁶ Taylor v. J.B. Hill Co., 67 Cal. App. 2d 581, 582–83, 154 P.2d 926, 927 (1945).

³⁷ Hale v. Bohannon, 38 Cal. 2d 458, 465, 241 P.2d 4, 7 (1952).

³⁸ Standard Mach. Co. v. Coleman, 140 Cal. App. 2d 748, 750, 296 P.2d 89, 90–91 (1956).

³⁹ Dawson v. Goff, 43 Cal. 2d 310, 318, 273 P.2d 1, 5 (1954).

such a provision cannot be remedied by extrinsic evidence.⁴⁴ Promises to pay money or deliver goods at a particular location have been held to satisfy the “special contract” requirement.⁴⁵

An action for rescission of a contract and restitution of benefits conferred on the defendant is subject to the contract venue rules, based on the quasi contract arising where the plaintiff gave the defendant notice of the rescission.⁴⁶ But an action for fraud in a land sale contract must be tried in the county of the defendant’s residence

⁴⁰ See *Limited Mut. Compensation Ins. Co. v. Curtis*, 45 Cal. App. 2d 507, 509, 114 P.2d 404, 405 (1941) (county where an insured paid its premium and thereby satisfied a condition precedent to the policy’s effectiveness was the county where the defendant’s obligation was “incurred”).

No retail installment contract or motor vehicle conditional sale contract may contain a provision that the seller or holder of the contract may commence an action in a county other than the county in which the buyer signed the contract, the county in which the buyer resides at the commencement of the action, the county in which the buyer resided when the contract was entered into, or in the county in which the purchased goods have been so affixed to real property as to become a part of the real property or the purchased vehicle is permanently garaged. Civ. CODE §§ 1804.1(i), 2983.7(f).

⁴¹ *Armstrong v. Smith*, 49 Cal. App. 2d 528, 532–34, 122 P.2d 115, 117–18 (1942).

⁴² *Caffrey v. Tilton*, 38 Cal. 2d 371, 374, 240 P.2d 273, 274 (1952).

⁴³ *Armstrong v. Smith*, 49 Cal. App. 2d 528, 536, 122 P.2d 115, 119 (1942).

⁴⁴ *Fidelity Thrift & Loan Ass’n v. Hall*, 186 Cal. App. 2d Supp. 895, 9 Cal. Rptr. 596 (1960).

⁴⁵ *Causley v. Superior Court*, 267 Cal. App. 2d 757, 757–58, 73 Cal. Rptr. 585, 586 (1968) (promise to make payments on promissory note “at Santa Rosa, California”); *La Lumia v. Northern Cal. Packing Co.*, 75 Cal. App. 2d 917, 922, 172 P.2d 94, 96–97 (1946) (promise to deliver grapes to a particular winery). A provision obligating a buyer to make installment payments to the seller’s assignee does not qualify as a “special contract” unless the contract designates a geographic location for payment. *Fidelity Thrift & Loan Ass’n v. Hall*, 186 Cal. App. 2d Supp. 895, 899–900, 9 Cal. Rptr. 596, 599–600 (1960).

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➔ Personal Injury,
Damage to Personal
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➔ Retail Installment
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Sale Contract Cases

if the plaintiff elects to affirm the contract and seek fraud damages.⁴⁷ An action seeking damages for personal injury is subject to the personal injury venue rules, not the contract venue rules, even if the plaintiff frames the action as a claim for breach of a contractual duty to use due care.⁴⁸ A statutory liability constitutes “an obligation under a contract” if the statute characterizes the liability as contractual.⁴⁹

These rules regarding venue in contract cases generally are subject to the specific venue rules applicable in certain consumer contract cases.

[C] Corporations and Associations

Code of Civil Procedure section 395.5 provides:

A corporation or association may be sued in the county where the contract is made or is to be performed, or where the obligation or liability arises, or the breach occurs, or in the county where the principal place of business of such corporation is situated⁵⁰

If an unincorporated association has filed a statement with the secretary of state pursuant to section 24003 of the Corporations Code listing its principal office in

⁴⁶ *Fitzhugh v. University Realty Co.*, 46 Cal. App. 198, 201, 188 P. 1023, 1024–25 (1920). *But see* *Sausen v. Anderton*, 129 Cal. App. 2d 324, 325, 276 P.2d 814, 815 (1954) (an action for restitution following rescission of a contract for fraud sounds in tort and may only be tried in the county of the defendant’s residence); *Postin v. Griggs*, 66 Cal. App. 2d 147, 149–50, 151 P.2d 887, 888–89 (1944) (same).

⁴⁷ *Claycomb v. Caronna*, 113 Cal. App. 2d 561, 564–65, 248 P.2d 779, 781 (1952).

⁴⁸ *Williamson v. Pacific Greyhound Lines*, 67 Cal. App. 2d 250, 256, 153 P.2d 990, 993 (1944).

⁴⁹ *People v. Zegras*, 29 Cal. 2d 67, 68–69, 172 P.2d 883, 884 (1946).

⁵⁰ CODE CIV. PROC. § 395.5. Federal law provides that venue for an action against a national bank under FDIC receivership lies in the county in which the bank is located. 12 U.S.C. § 94. *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 3:519–:526 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 608–619 (3d ed. 1985).

California, the proper county for the trial of an action against the association is the same as it would be if the association were a corporation. The association's principal office listed in its statement is deemed to be its principal place of business.⁵¹ If the association has not filed its statement, the plaintiff may file suit in any county in which any member or partner of the association resides.⁵² The defendant association, however, can file its statement even after the plaintiff has filed suit.⁵³

A domestic corporation's designation of the location of its "principal business office" in its annual domestic stock corporation statement filed with the secretary of state conclusively fixes the corporation's "principal place of business" for purposes of venue under section 395.5.⁵⁴ A foreign corporation doing business in California must also designate its principal office in California,⁵⁵ and this constitutes its principal place of business for purposes of section 395.5.⁵⁶ If a foreign corporation fails to qualify to do business in California, the plaintiff may file suit in any county.⁵⁷

When venue is based on the place of performance in an action against a corporation, the plaintiff need not prove a "special contract in writing" in order to

⁵¹ CODE CIV. PROC. § 395.2.

⁵² *Juneau Spruce Corp. v. International Longshoremen's Union*, 37 Cal. 2d 760, 763, 235 P.2d 607, 608 (1951).

⁵³ *San Francisco Foundation v. Superior Court*, 37 Cal. 3d 285, 297, 208 Cal. Rptr. 31, 36 (1984).

⁵⁴ *Rosas v. Superior Court*, 25 Cal. App. 4th 671, 677, 30 Cal. Rptr. 2d 609, 613 (1994).

⁵⁵ CORP. CODE § 2105(a)(3).

⁵⁶ *Hale v. Bohannon*, 38 Cal. 2d 458, 474, 241 P.2d 4, 13 (1952).

⁵⁷ *Easton v. Superior Court*, 12 Cal. App. 3d 243, 246-47, 90 Cal. Rptr. 642, 644 (1970).

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➔ Contract Cases

establish the place of performance.⁵⁸ (A “special contract in writing” is required when the plaintiff bases venue on the general ground that venue in a contract case lies where the contract was to be performed.) In the case of a contract calling for the payment of money but not designating a place for payment, the plaintiff may commence the action in the county of his own residence, for, in the absence of an express provision to the contrary,⁵⁹ a debtor may offer to pay his debt wherever the creditor can be found or at his residence or place of business.⁶⁰ If a promisor repudiates his promise, the anticipatory breach of contract occurs where the promisor committed his repudiation, not where the promisee elects to treat the repudiation as a breach.⁶¹ An action for restitution following rescission of a contract may be filed where the notice of rescission was delivered, for the notice of rescission instantly gives rise to a quasi contract upon service of the notice.⁶²

In tort cases, the plaintiff may sue a corporate defendant in the county where the wrong occurred, for that is where the defendant’s liability arises.⁶³

An individual sued for breach of contract as the alter ego of a corporation is treated as a corporation for venue purposes.⁶⁴

⁵⁸ *Hale v. Bohannon*, 38 Cal. 2d 458, 478, 241 P.2d 4, 15 (1952).

⁵⁹ *Nakanishi v. Policy Holders Life Ins. Ass’n*, 129 Cal. App. 747, 750–51, 19 P.2d 287, 288 (1933).

⁶⁰ CIV. CODE § 1489(2), (3).

⁶¹ *Karson Indus., Inc. v. Superior Court*, 273 Cal. App. 2d 7, 10, 77 Cal. Rptr. 714, 716 (1969).

⁶² *Fitzhugh v. University Realty Co.*, 46 Cal. App. 198, 201, 188 P. 1023, 1024–25 (1920).

⁶³ *Mission Imports v. Superior Court*, 31 Cal. 3d 921, 930, 647 P.2d 1075, 1080, 184 Cal. Rptr. 296, 301 (1982).

⁶⁴ *Lebastchi v. Superior Court*, 33 Cal. App. 4th 1465, 1470–71, 39 Cal. Rptr. 2d 787, 790 (1995).

Only the last of section 395.5's venue provisions exists for the benefit of defendant corporations. If a complaint against a corporation is filed in a county that lacks venue, the defendant can insist only that the action be transferred to the county in which it has its principal place of business, not to some other venue specified in section 395.5.⁶⁵

§ 4.04 Alternative Venues for Local Actions

The Code of Civil Procedure contains hundreds of special venue provisions mandating a particular county, or set of counties, in which the plaintiff may bring a particular action. In these cases, referred to as "local" actions, the subject matter of the suit, the relationship of the parties, or the character of one of the parties is deemed to justify a departure from the normal rule requiring venue in the county of the defendant's residence. Set forth below are the important special venue rules for local actions.

[A] Real Property Cases

The county in which the real property that is the subject of the action is located is the proper county for the trial of actions:

- for the recovery of real property or of an estate or interest in real property
- for the determination of such right or interest⁶⁶
- for injuries to real property⁶⁷
- for the foreclosure of liens and mortgages on real property.⁶⁸

⁶⁵ Beutke v. American Sec. Co., 132 Cal. App. 2d 354, 361, 282 P.2d 201, 206 (1955).

The Code of Civil Procedure contains a separate section⁶⁹ providing that actions to partition real estate are likewise to be tried in the county in which the property is located, as are eminent domain proceedings.⁷⁰

If the property in question spans more than one county, then venue lies in any of the counties in which the property is located.⁷¹

Whether an action is *local* (i.e., relates to real property) or *transitory* (i.e., relates to personal rights) depends on the “main relief” sought; when the main relief relates

⁶⁶ This category includes actions to modify or cancel deeds for whatever reason, e.g., *Rice v. Schubert*, 101 Cal. App. 2d 638, 642, 226 P.2d 50, 52 (1951) (action to set aside fraudulent conveyance), actions to enforce real estate contracts, e.g., *Santa Barbara Lodge No. 605, Loyal Order of Moose v. Penzner*, 104 Cal. App. 2d 494, 231 P.2d 595 (1951), actions to adjudicate ownership, e.g., *Franco Western Oil Co. v. Cameron*, 200 Cal. App. 2d 37, 40, 19 Cal. Rptr. 304, 306 (1962), actions to reform deeds of trust, e.g., *Massae v. Superior Court*, 118 Cal. App. 3d 527, 536, 173 Cal. Rptr. 527, 532 (1981).

⁶⁷ Injuries to real property include damage to growing crops. *Stauffer Chem. Co. v. Superior Court*, 265 Cal. App. 2d 1, 3, 71 Cal. Rptr. 202, 204 (1968).

⁶⁸ CODE CIV. PROC. § 392(1). See generally ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 3:472–:473.3 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 559–570 (3d ed. 1985).

⁶⁹ CODE CIV. PROC. § 872.110(b)(1).

⁷⁰ CODE CIV. PROC. § 1250.020(a). Actions for inverse condemnation come within CODE CIV. PROC. § 392(1)(a). *Williams v. Merced Irrigation Dist.*, 4 Cal. 2d 238, 241, 48 P.2d 664, 665–66 (1935). But see *Gallup v. Sacramento & San Joaquin Drainage Dist.*, 171 Cal. 71, 77, 151 P. 1142, 1144–45 (1915) (action based on agency’s agreement with landowner to take property is a contract action and is therefore transitory). The venue for all actions against the state for the taking or damaging of private property for public use is the county in which the property is situated. GOV. CODE § 955.

⁷¹ CODE CIV. PROC. § 392(1).

to rights in real property, the action is local, and venue lies where the property is located,⁷² but if the main relief sought is personal, then the venue rules relating to transitory actions apply.⁷³

[B] Divorce Cases

In a proceeding for dissolution of marriage, the petitioner must bring the action in the county in which either the petitioner or the respondent has resided for the three months before the commencement of divorce proceedings. In a proceeding for nullity of marriage or legal separation, the county in which either the petitioner or the respondent resides at the commencement of the proceeding is the proper county for the trial of the proceeding.⁷⁴

⁷² *Brown v. Superior Court*, 37 Cal. 3d 477, 482 n.5, 691 P.2d 272, 274 n.5, 208 Cal. Rptr. 724, 726 n.5 (1984); *see Massae v. Superior Court*, 118 Cal. App. 3d 527, 539, 173 Cal. Rptr. 527, 534 (1981) (a declaratory judgment action seeking to reform a deed of trust to delete the lender's power of sale is local). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 3:457–463 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 555 (3d ed. 1985).

⁷³ *Central Bank, Nat'l Ass'n v. Superior Court*, 30 Cal. App. 3d 913, 917, 106 Cal. Rptr. 696, 698–99 (1973) (action to foreclose mechanic's lien was transitory because the main relief sought was payment for labor and materials); *Cade v. Superior Court*, 191 Cal. App. 2d 554, 557–58, 12 Cal. Rptr. 847, 849 (1961) (action to cancel promissory notes secured by deeds of trust was transitory).

⁷⁴ CODE CIV. PROC. § 395(a). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 3:475–:475.1 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 573 (3d ed. 1985).

[C] Child Support Cases

In child support cases, the petitioner must bring the proceeding in the county in which the child resides.⁷⁵ The same is true of actions to enforce a foreign judgment or court order for child support.⁷⁶

[D] Adoptions

A person desiring to adopt a child must file the petition for adoption in the county in which the petitioner resides.⁷⁷ If the child has been adjudged a dependent of the juvenile court and has been freed for adoption by the juvenile court, the petition may also be filed in the county where the child was freed for adoption.⁷⁸ A petition for the adoption of an adult may be filed in the county in which either person resides.⁷⁹

[E] Proceedings to Establish Parentage

An action to establish paternity⁸⁰ may be brought in the county in which the child resides or is found or, if the father is deceased, in the county in which proceedings for probate of his estate have been or could be commenced.

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⁷⁵ CODE CIV. PROC. § 395(a). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶ 3:476 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 574 (3d ed. 1985).

⁷⁶ CODE CIV. PROC. § 395(a).

⁷⁷ FAM. CODE §§ 8714(a), 8912(a), 9000(a). *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 574 (3d ed. 1985).

⁷⁸ FAM. CODE § 8714(a).

⁷⁹ FAM. CODE § 9321(a).

⁸⁰ FAM. CODE § 7620(b).

[F] Retail Installment Contract and Automobile Conditional Sale Contract Cases

In an action on a retail installment contract or account or on an automobile conditional sale contract or purchase order, the plaintiff may bring a lawsuit in the county in which the buyer signed the contract, the county in which the buyer resided at the time the contract was entered into, the county in which the buyer resides at the commencement of the action, or the county in which the purchased goods have been so affixed to real property as to become a part of such real property or in which the purchased automobile is permanently garaged.⁸¹ The plaintiff must either file an affidavit setting forth the facts establishing his compliance with these venue rules or include those facts in a verified complaint.⁸²

➡ Drafting the Complaint
— Venue

[G] Other Consumer Contract Cases

In an action on a contract for the provision of consumer goods, services, or credit, or arising from a transaction consummated as a result of an unsolicited telephone call, the plaintiff may file his suit in the county in which the buyer or lessee signed the contract, the county in which the buyer or lessee resided when he entered into the contract, or the county in which the buyer or lessee resides at the commencement of the action.⁸³ Any contractual provision purporting to waive these venue rules is void.⁸⁴ After suit is filed, a defendant can waive the venue rules only if he is represented by counsel.⁸⁵

⁸¹ CIV. CODE §§ 1812.10, 2984.4. *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 3:507–:511 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 604 (3d ed. 1985).

⁸² CIV. CODE §§ 1812.10, 2984.4; CODE CIV. PROC. § 396a.

[H] Unlawful Detainer

➔ Drafting the Complaint
—Venue

➔ The Summons and
Service of Process—
Service of the
Summons and
Complaint

In unlawful detainer actions, venue lies in the county in which the real property that is the subject of the action is located.⁸⁶ The plaintiff must state facts in a verified complaint, or in an affidavit of the plaintiff or of his attorney filed with the complaint, showing that the action has been commenced in the proper court. If an affidavit is used, the plaintiff must serve a copy of the affidavit with the complaint. If the plaintiff fails to comply with these requirements, the court must dismiss the case unless the court permits the plaintiff to file the affidavit after the complaint, in which case the plaintiff must serve the affidavit on the defendant. The defendant cannot consent to trial of the action in the wrong court unless the consent is in writing or in open court and the defendant is represented by counsel at the time the consent is given.⁸⁷

⁸³ CODE CIV. PROC. § 395(b). Medical services are “services . . . intended primarily for personal . . . use” within the meaning of the statute. *Leonard v. Slade*, 55 Cal. App. 3d Supp. 1, 4, 127 Cal. Rptr. 309, 310 (1975). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶ 3:512 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 605 (3d ed. 1985).

⁸⁴ CODE CIV. PROC. § 395(d).

⁸⁵ CODE CIV. PROC. § 396a.

⁸⁶ CODE CIV. PROC. § 392(1)(a).

⁸⁷ CODE CIV. PROC. § 396a. *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 562 (3d ed. 1985).

[I] Actions Seeking Penalties

In actions for the recovery of a penalty or forfeiture imposed by statute, the plaintiff must bring his case in the county in which the cause of action arose.⁸⁸

[J] Actions Involving the State and State Agencies

Except in eminent domain cases, personal injury and property damage cases, and cases brought by local governments and agencies, actions against the state are subject to the general venue rules. The proper venue for the trial of an action against the state for the taking or damaging of private property for public use is the county in which the property is located.⁸⁹ In actions against the state for death, personal injury, or property damage, venue lies in the county in which the injury or damage occurred.⁹⁰ Local governments and agencies may bring suits against the state in the county where the local government or agency is located.⁹¹

Except in the three special cases just mentioned, the attorney general may demand that a case filed against the state be transferred to Sacramento County.⁹²

⁸⁸ CODE CIV. PROC. § 393(1)(a). When the penalty or forfeiture is imposed for an offense committed on a lake, river, or other stream of water, situated in two or more counties, the action may be tried in any county bordering on such body of water and opposite the place where the offense was committed. *Id.* See generally 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 571 (3d ed. 1985).

⁸⁹ GOV. CODE § 955. See generally ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 3:535–:541 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 620–626 (3d ed. 1985).

⁹⁰ GOV. CODE § 955.2.

⁹¹ GOV. CODE § 955.3.

⁹² GOV. CODE § 955.

This removal rule affects original venue because Code of Civil Procedure section 401(1) provides that whenever the law provides that an action against the state, a state agency, or a public officer may be brought in Sacramento County, the plaintiff may also bring the case in any city in which the attorney general has an office (*i.e.*, San Francisco or Los Angeles).⁹³ Section 401(1) applies regardless of whether a venue statute specifically identifies Sacramento County as a proper venue or whether Sacramento County is deemed a proper venue by operation of the general venue provisions.⁹⁴ Section 401(1) also applies when state agencies have their own counsel and are not represented by the attorney general⁹⁵ and when the state sues a state agency.⁹⁶

Example: The Alcoholic Beverage Control Appeals Board denies the motion of the Department of Alcoholic Beverage Control to dismiss the appeal of an applicant whom the Department has denied a liquor license. The Department seeks a writ of mandate or prohibition against the Board in San Francisco and the Board files a motion to change venue to Sacramento. The trial court denies the motion.

The court ruled correctly. Venue lay in San Francisco.⁹⁷

⁹³ CODE CIV. PROC. § 401(1).

⁹⁴ *Harris v. Alcoholic Beverage Control Appeals Bd.*, 197 Cal. App. 2d 759, 766, 18 Cal. Rptr. 151, 156 (1961).

⁹⁵ *Harris v. Alcoholic Beverage Control Appeals Bd.*, 197 Cal. App. 2d 759, 767, 18 Cal. Rptr. 151, 156 (1961).

⁹⁶ *Harris v. Alcoholic Beverage Control Appeals Bd.*, 197 Cal. App. 2d 759, 767, 18 Cal. Rptr. 151, 156 (1961).

The normal venue rules govern actions brought by the state or state agencies, except when the law allows the plaintiff to sue in Sacramento, in which case section 401(2) provides that the defendant may insist that the case be tried in that county in which the attorney general has an office that is nearest the county in which any of the defendants reside or have their principal offices.⁹⁸

The general venue rules apply to actions against state agencies except in those few cases in which a statute applies a specific venue rule. If the applicable venue provision establishes venue in Sacramento County, then the plaintiff may also file suit in San Francisco or Los Angeles.⁹⁹ Public corporations are not subject to the corporation venue rules.¹⁰⁰

[K] Actions Involving Public Officials

The plaintiff must bring his case in the county in which the cause of action arose in actions:

- (1) against a public officer or person specially appointed to execute his duties, for an act he performed “in virtue of his office”;¹⁰¹ and
- (2) against a person who, “by his command or in his aid,” does anything relating to the duties of a public officer.¹⁰²

⁹⁷ Harris v. Alcoholic Beverage Control Appeals Bd., 197 Cal. App. 2d 759, 18 Cal. Rptr. 151 (1961).

⁹⁸ CODE CIV. PROC. § 401(2).

⁹⁹ CODE CIV. PROC. § 401(1).

¹⁰⁰ Yedor v. Ocean Accident & Guar. Corp., 85 Cal. App. 2d 698, 702–03, 194 P.2d 95, 98 (1948).

¹⁰¹ CODE CIV. PROC. § 393(1)(b); *see* Tharp v. Superior Court, 32 Cal. 3d 496, 502, 651 P.2d 1141, 1144, 186 Cal. Rptr. 335, 338 (1982) (section 393(1)(b) prevails over section 395(a)). *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 627 (3d ed. 1985).

This venue rule applies only to actions based on official actions and not to official inaction or future acts.¹⁰³ A cause of action against a public official for making an illegal order arises where the order is to be enforced, not where the order was made.¹⁰⁴ If an entity lacks a designated administrator, the entity itself is a “public officer.”¹⁰⁵

[L] Actions Involving Local Governments and Agencies

An action against a city, county, or local governmental agency may be brought in the county in which the defendant is located.¹⁰⁶

Example: *P* files suit against the City of Oakland. The Alameda Superior Court is the proper venue.

If, however, the plaintiff is itself a local government or agency, the case may be brought in any county (1) which is not a party to the lawsuit and (2) in which the defendant local government or agency is not located.¹⁰⁷

¹⁰² CODE CIV. PROC. § 393(1)(b).

¹⁰³ Bonestell, Richardson & Co. v. Curry, 153 Cal. 418, 420, 95 P. 887, 887–88 (1908).

¹⁰⁴ Cecil v. Superior Court, 59 Cal. App. 2d 793, 799, 140 P.2d 125, 129 (1943).

¹⁰⁵ Regents of the Univ. v. Superior Court, 3 Cal. 3d 529, 537, 476 P.2d 457, 462, 91 Cal. Rptr. 57, 62 (1970).

¹⁰⁶ CODE CIV. PROC. § 394(a); see Delgado v. Superior Court, 74 Cal. App. 3d 560, 564, 141 Cal. Rptr. 528, 530–31 (1977) (section 394 prevails over section 395). ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 3:542–:545 (1996).

¹⁰⁷ CODE CIV. PROC. § 394(a). When a district attorney brings a red light abatement action, he acts on behalf of the state, not on behalf of his county, and section 394(a) does not prohibit venue in the county. Nguyen v. Superior Court, 49 Cal. App. 4th 1781, 1790–91, 57 Cal. Rptr. 2d 611, 616–17 (1996).

Example: The City of Berkeley files suit against the City of Oakland. Any superior court other than the Alameda Superior Court is a proper venue.

These rules do not apply to an action against a city, county, city and county, or local agency for personal injury or property damage occurring within the city, county, or city and county, or within the county in which the local agency is located, caused by the defendant's negligence. Venue for these cases lies in the county where the defendant is located.¹⁰⁸

[M] Trusts and Estates

The proper venue for actions relating to trusts and trustees is the county in which the principal place of administration of the trust is located.¹⁰⁹ In the case of testamentary trusts, venue also lies in the county in which the decedent's estate is administered.¹¹⁰ If a living trust has no trustee, the proper county for the commencement of proceedings for the appointment of a trustee is the county in which the trust property is located.¹¹¹ The proper venue for actions against representatives of estates on claims for the payment of money or for the recovery of

¹⁰⁸ CODE CIV. PROC. § 394(a). There is a split of authority on the issue whether this venue rule applies when the local government or agency is brought into the case on a cross-claim. *Compagnie City of Chico v. Superior Court*, 89 Cal. App. 3d 187, 191, 152 Cal. Rptr. 380, 382 (1979) (section 394 only applies when the local government or agency is named as a defendant) *with* *Ohio Casualty Ins. Group v. Superior Court*, 30 Cal. App. 4th 444, 450, 35 Cal. Rptr. 2d 771, 776 (1994) (statute also applies when the local government or agency is named as a cross-defendant).

¹⁰⁹ PROB. CODE § 17005(a)(1). *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 572 (3d ed. 1985).

¹¹⁰ PROB. CODE § 17005(a)(2).

¹¹¹ PROB. CODE § 17005(b).

personal property is the county that has jurisdiction of the estate that the defendant represents.¹¹²

[N] Guardianship and Conservatorship Proceedings

The proper county for the commencement of a guardianship or conservatorship proceeding for a California resident is either the county in which the proposed ward or proposed conservatee resides.¹¹³ In cases involving nonresident wards and conservatees, venue lies in the county in which the proposed ward or conservatee is temporarily living.¹¹⁴ In proceedings for the guardianship or conservatorship of the estate of a nonresident, venue also lies in any county in which the proposed ward or conservatee has property.¹¹⁵ In all cases, the plaintiff may alternatively bring the proceedings in “[s]uch other county as may be in the best interests of the proposed ward or conservatee.”¹¹⁶

¹¹² CODE CIV. PROC. § 395.1. This section applies both to obligations incurred by the decedent before his death and to obligations incurred by the executor, *Metzger v. Silverman*, 62 Cal. App. 3d Supp. 30, 37, 133 Cal. Rptr. 355, 360 (1976), but does not apply to actions seeking declaratory relief against an executor, *Ramos v. Cypher*, 137 Cal. App. 2d 648, 651, 290 P.2d 585, 587 (1955).

¹¹³ PROB. CODE § 2201(a). *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 574–575 (3d ed. 1985).

¹¹⁴ PROB. CODE § 2202(a)(1), (b)(1).

¹¹⁵ PROB. CODE § 2202(b)(2).

¹¹⁶ PROB. CODE §§ 2201(b), 2202(a)(2), (b)(3).

§ 4.05 Declaratory Judgment Actions

[O] Corporate Dissolutions

Venue for an action to dissolve a corporation lies in the county in which the corporation has its principal office; if it has none, then venue lies in Sacramento County.¹¹⁷

§ 4.05 Declaratory Judgment Actions

It was once the rule that in declaratory judgment actions venue was determined by inverting the parties and asking where venue would lie if the defendant were suing on the underlying obligation.¹¹⁸ More recently, however, the court in *Massae v. Superior Court*¹¹⁹ reasoned that venue in declaratory relief actions should be determined “in terms of its substance rather than in terms of its declaratory relief form.”¹²⁰

§ 4.06 Mixed Actions

If a plaintiff seeks different remedies for a single cause of action, or if the plaintiff pursues different legal theories in separate counts for a single cause of action, for venue purposes the character of the claim is determined according to the [main relief](#) that the plaintiff seeks.¹²¹

¹¹⁷ CORP. CODE §§ 170, 1800, 1904. *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 575 (3d ed. 1985).

¹¹⁸ *E.g.*, *Shores v. Chip Steak Co.*, 130 Cal. App. 2d 620, 624, 279 P.2d 591, 594 (1955). *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 586 (3d ed. 1985).

¹¹⁹ 118 Cal. App. 3d 527, 173 Cal. Rptr. 527 (1981).

¹²⁰ *Massae v. Superior Court*, 118 Cal. App. 3d 527, 535, 173 Cal. Rptr. 527, 531–32 (1981).

If the plaintiff joins a local action with a transitory action, the venue rules for transitory actions prevail.¹²² Otherwise, the plaintiff could defeat the defendant's right to have the action tried in the defendant's county of residence by adding a frivolous local action to his complaint. Similarly, if a complaint contains a transitory cause of action subject to exclusive venue in the county of the defendant's residence, that cause of action prevails, for venue purposes, over other transitory causes of action subject to venue in other counties.¹²³ If, however, a specific venue provision expands the available venues in which the plaintiff may bring his action in order to promote some strong public policy, the specific venue provision may prevail over the general venue provision requiring trial in the county of the defendant's residence.¹²⁴

When venue is proper in the county in which one of the defendants resides, as to one cause of action, venue is proper in that county as to all properly joined causes of action and defendants; the plaintiff's selection of venue may not be defeated even if all the defendants concur in a motion to change venue to a county in which another

¹²¹ Peiser v. Mettler, 50 Cal. 2d 594, 604, 328 P.2d 953, 958 (1958). See generally ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 3:457–:463, :487–:489.2, :490–:492.1, :493–:494 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 636–640, 641–656 (3d ed. 1985).

These “mixed actions” do not include actions in which a plaintiff seeks the same damages from two defendants for the same breach of contract. Lebastchi v. Superior Court, 33 Cal. App. 4th 1465, 1470, 39 Cal. Rptr. 2d 787, 790 (1995).

¹²² Central Bank, Nat'l Ass'n v. Superior Court, 30 Cal. App. 3d 913, 918, 106 Cal. Rptr. 696, 699 (1973).

¹²³ Johnson v. Superior Court, 232 Cal. App. 2d 212, 219–20, 42 Cal. Rptr. 645, 650 (1965).

defendant resides and even if some of the causes of action name only nonresidents, as long as a resident defendant is named in others.¹²⁵ If there is more than one defendant, the case may be tried in any county in which one of them resides,¹²⁶ even if the defendant in whose county the action is pending joins in a motion to transfer the case to a different defendant's county.¹²⁷ If, however, the complaint fails to state a cause of action against the resident defendant, a nonresident defendant against whom the complaint does state a cause of action may insist that the case be tried in the county where he resides, even if the plaintiff subsequently amends the complaint to state a cause of action against the resident defendant.¹²⁸

If the plaintiff improperly joins a defendant in the action for the purpose of trying the case in the county where that defendant resides, that defendant's residence is not to be considered in determining venue.¹²⁹ The resident defendant is improperly

¹²⁴ *Brown v. Superior Court*, 37 Cal. 3d 477, 487, 691 P.2d 272, 278, 208 Cal. Rptr. 724, 730 (1984) (Fair Employment and Housing Act venue provision, Gov. Code § 12965(b), allowing a case to be brought in any county in which an unlawful practice was committed, promotes the public policy of facilitating actions for employment discrimination and prevails over the general venue rules in transitory actions). *But see Gallin v. Superior Court*, 230 Cal. App. 3d 541, 545-46, 281 Cal. Rptr. 304, 306 (1991) (the venue provision of the Consumer Legal Remedies Act, Civ. Code § 1780(c), does not prevail over the general venue rules in transitory actions).

¹²⁵ *Tutor-Saliba-Perini Joint Venture v. Superior Court*, 233 Cal. App. 3d 736, 742, 285 Cal. Rptr. 1, 4 (1991).

¹²⁶ CODE CIV. PROC. § 395(a).

¹²⁷ *Monogram Co. v. Kingsley*, 38 Cal. 2d 28, 29, 237 P.2d 265, 266 (1951).

¹²⁸ *Gutierrez v. Superior Court*, 243 Cal. App. 2d 710, 718, 52 Cal. Rptr. 592, 598 (1966).

¹²⁹ CODE CIV. PROC. § 395(a).

➔ The Complaint—
Joinder of Causes of
Action

joined as a party if the plaintiff had no reasonable grounds for a good faith belief that the plaintiff had a cause of action against him.¹³⁰ The plaintiff may not base venue on the residence of an unwilling plaintiff joined as a defendant because of his interest in the outcome of the case.¹³¹ Nor may the plaintiff base venue on the residence of a defendant joined as a party because of his status as a disinterested stakeholder.¹³² Fictitious defendants do not count, unless by the time of the motion to change venue the plaintiff has amended the complaint to state the defendant's true name.¹³³ If the plaintiff joins a cause of action against a resident defendant with an independent, unrelated cause of action against a nonresident defendant, the joinder is improper, and the nonresident defendant may have the action transferred to the county of his residence.¹³⁴

When a plaintiff brings an action against several defendants, both individual and corporate, in a county in which none of the defendants resides, the individual defendants have the right to change venue to the county of their residence¹³⁵ or that of a codefendant.¹³⁶ When a plaintiff brings an action against the state and a

¹³⁰ California Collection Agency, Inc. v. Fontana, 61 Cal. App. 2d 648, 653–54, 143 P.2d 507, 510 (1943) .

¹³¹ Sanders v. Fuller, 45 Cal. App. 3d 994, 998, 119 Cal. Rptr. 902, 904 (1975).

¹³² Hays v. Cowles, 60 Cal. App. 2d 514, 518–19, 141 P.2d 26, 29 (1943).

¹³³ Gutierrez v. Superior Court, 243 Cal. App. 2d 710, 721–22, 52 Cal. Rptr. 592, 600 (1966).

¹³⁴ San Francisco Milling Co. v. Mordecai, 134 Cal. App. 755, 759, 26 P.2d 669, 670 (1933).

¹³⁵ Brown v. Superior Court, 37 Cal. 3d 477, 482 n.6, 691 P.2d 272, 274 n.6, 208 Cal. Rptr. 724, 726 n.6 (1984).

¹³⁶ J.C. Millett Co. v. Latchford-Marble Glass Co., 144 Cal. App. 2d 838, 840, 301 P.2d 914, 916 (1956).

corporation in a case governed by a special venue provision applicable to actions against the state (*e.g.*, Government Code 955.2, fixing venue in a personal injury or property damage case against the state in the county where the injury occurred), the special venue provision prevails over the alternative corporation venue rules.¹³⁷ Similarly, the special local government venue rules prevail over the general venue rules applicable to transitory action.¹³⁸

§ 4.07 Municipal Court

The venue rules set forth above apply equally to municipal court cases, so far as identifying the proper county for trial is concerned.¹³⁹ The same venue rules determine the judicial district in which a municipal court action may be brought in counties containing multiple judicial districts.¹⁴⁰

Example: Defendant *D* lives in Vista, San Diego County. The contract between *D* and plaintiff *P* was made in Los Angeles County and was to be performed in Oceanside, San Diego County. *P* files suit in municipal court in Los Angeles County. In response to *D*'s motion to change venue, the Los Angeles court transfers the case to San Diego.

¹³⁷ State v. Superior Court, 252 Cal. App. 2d 637, 643, 60 Cal. Rptr. 653, 656–57 (1967).

¹³⁸ Delgado v. Superior Court, 74 Cal. App. 3d 560, 564, 141 Cal. Rptr. 528, 530–31 (1977).

¹³⁹ Shulzmer Watch & Jewelry Co. v. Cortat, 130 Cal. App. 2d Supp. 901, 280 P.2d 228 (1955). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 3:595–:597 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 548–550 (3d ed. 1985).

¹⁴⁰ CIV. CODE §§ 1812.10, 2984.4; CODE CIV. PROC. §§ 392(2), 393(2), 395(c).

§ 4.07 Municipal Court

The trial court erred. Venue is proper in either county. If *P* chooses to file suit in San Diego County, the municipal court in Vista is the proper court for trial. But since the municipal court in Los Angeles County is also a proper venue, it was error for the Los Angeles court to transfer the case to San Diego County.¹⁴¹ The municipal court presiding judge may, however, transfer the case to a contiguous judicial district in the same county “for the convenience of the court.”¹⁴²

Venue in small claims actions is the same as in other civil actions.¹⁴³

¹⁴¹ *Shulzmer Watch & Jewelry Co. v. Cortat*, 130 Cal. App. 2d Supp. 901, 902–03, 280 P.2d 228, 229 (1955).

¹⁴² CODE CIV. PROC. § 402.

¹⁴³ CODE CIV. PROC. § 116.370(a).