

Change of Venue in Civil Cases in Ohio

Rule 3 (C)(4) of the Ohio Rules of Civil Procedure governs change of venue for lack of ability to obtain a fair and impartial jury where the action is properly venued¹. The transfer may be granted upon the motion of any party. The Court may also grant a change of venue on its own motion without hearing. State ex. rel. Dunbar v. Ham (1976) 45 Ohio St. 2d 112, 341 NE2d 594. The decision to grant or deny a change of venue will not be reversed absent an abuse of discretion. Dunbar v. Ham supra. When a change of venue is granted, however, an appeal is not an adequate remedy at law and the aggrieved party may challenge the transfer by an action in mandamus. State ex. rel. Smith v. Cuyahoga County Court of Common Pleas (2005) 106 Ohio St. 3d 6 23, 665 NE2d 212.

The complaining party must show prejudice and that the jury panel is actually biased, which is usually done by voir dire. Burns v. Prudential Secs. Inc. (2006) 167 Ohio App 3d 809, 857 NE2d 621. As a practical matter if there really is a legitimate concern about finding impartial jurors the parties are well advised to agree to change venue rather than exhaust dozens of jurors over a voir dire of several days to find 8 impartial jurors.

Oddly enough, unlike criminal cases, change of venue in a civil case is limited to an adjoining county, which means contiguous. Smith v. Cuyahoga County supra. This seems peculiar since jury prejudice often arises from television coverage and television viewing areas especially in the larger counties tend to broadcast to all adjourning counties. Of course if the jury is biased in the adjourning counties the Court can keep moving the case one county at a time until a county with an impartial jury pool can be found.

Change of venue does not disqualify the Judge. The local Judge still presides over the case in the adjacent county. The Judge may only be disqualified by the filing of an affidavit pursuant to R.C. 2701.03 Butler County Voc. School District Board of Education v. Andrews (2007) Ohio App Lexis 5184.

The case does become a case under the transferee county. A new case member is assigned and the local rules of the transferee county apply. If the transferee county is in a different appellate district than the original county, an appeal is heard in the appellate district of the transferee county.

¹ This article presupposes proper venue under Civ. R. 3. If the action is filed in an improper county it may be transferred to the proper county. Likewise forum non conveniens does not apply in Ohio to an intrastate transfer State ex. rel. Lynn v. Zaleski (1996) 75 Ohio St. 3d 623, 665 NE 2d 212.