

CIVIL COURT OF THE CITY OF NEW YORK

DIRECTIVES AND PROCEDURES

Subject: Filing in the Wrong County

Class: DRP-157

Category: LT-10, GP-10

Eff. Date: April 9, 2001

BACKGROUND

When papers are filed in the Court for the issuance of an index number, both the clerk and the filer should review them to verify that they are being filed correctly. This cannot always be done, as often many papers are filed at one time, and an error may occur.

We have usually taken the position that once a paper is filed in the court, it will not be returned. This position creates a great hardship on the party whose papers were filed in error, as they may contain original affidavits, exhibits, etc. While the party may correct the error by making a motion to transfer the case to the proper county, this is often a tedious and expensive procedure.

On the other hand, after we have initiated the case into the system, it becomes part of the county's case inventory, and may be accessed by the credit reporting services, etc. In order to avoid as much trouble as possible for the litigant and still be uniform citywide, I am directing the following procedures.

DIRECTIVE OF THE ADMINISTRATIVE JUDGE

When a summons and complaint or a notice of petition and petition are filed in the wrong county, the originals may be returned to the litigant under the following conditions.

1. The papers correctly state the County and address of the court where they should have been filed.
2. The case has not been initiated into the recording system.

If the above conditions are met, the clerk is to:

1. Cross out the index number, year and county stamp.
2. Make a photocopy of the papers, write on the photocopy "Papers filed in the wrong County. Original returned to the litigant. Case not initiated into system."
3. Return the original papers to the litigant.
4. File the photocopy of the papers in the correct place in the index number sequence.
5. Initiate the case. In place of the petitioner/plaintiff's name put:
Papers filed in the Wrong County.
In place of the respondent/defendant's name put:
Original Returned to Litigant.

The litigant may be entitled to the return of the filing fee. Such return is to be requested following the regular refund procedure. Under no circumstances is the cashier to return the money to the litigant after the index number has been issued.

Date: _____

Hon. Fern Fisher-Brandveen
Administrative Judge