



**2018 Edition**

# Transfer of Action

A Guide to Resources in the Law Library

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# Introduction

A Guide to Resources in the Law Library

- **Transfer of action:** "Any action or the trial of any issue or issues therein may be transferred, by order of the court on its own motion or on the granting of a motion of any of the parties, or by agreement of the parties, from the superior court for one judicial district to the superior court in another court location within the same district or to a superior court location for any other judicial district, upon notice by the clerk to the parties after the order of the court, or upon the filing by the parties of a stipulation signed by them or their attorneys to that effect." Conn. Gen. Stat. § [51-347b\(a\)](#) (2017).
- **Transfer of cases to the regular docket:** "A case duly entered on the small claims docket of a small claims area or housing session court location shall be transferred to the regular docket of the superior court or to the regular housing docket, respectively, if the following conditions are met: . . . ." Connecticut Practice Book § [24-21\(a\)](#) (2018).
- **Transfer of Supreme and Appellate cases:** "The Supreme Court may transfer to itself a cause in the Appellate Court. Except for any matter brought pursuant to its original jurisdiction under section 2 of article sixteen of the amendments to the Constitution, the Supreme Court may transfer a cause or class of causes from itself, including any cause or class of causes pending on July 1, 1983, to the Appellate Court. The court to which a cause is transferred has jurisdiction." Conn. Gen. Stat. § [51-199\(c\)](#) (2017).

# Section 1: Transfer, Motion to

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic references relating to the motion to transfer actions.

## **DEFINITIONS:**

- **Transfer of action:** "Any action or the trial of any issue or issues therein may be transferred, by order of the court on its own motion or on the granting of a motion of any of the parties, or by agreement of the parties, from the superior court for one judicial district to the superior court in another court location within the same district or to a superior court location for any other judicial district, upon notice by the clerk to the parties after the order of the court, or upon the filing by the parties of a stipulation signed by them or their attorneys to that effect." Conn. Gen. Stat. § [51-347b\(a\)](#) (2017).
- **Procedure for transfer:** "Any cause, or the trial of any issue therein, may be transferred from a judicial district court location to any other judicial district court location or to any geographical area court location, or from a geographical area court location to any other geographical area court location or to any judicial district court location, by order of a judicial authority (1) upon its own motion or upon the granting of a motion of any of the parties, or (2) upon written agreement of the parties filed with the court. (See General Statutes § 51-347b and annotations.)" Conn. Practice Book § [12-1](#) (2018).
- **For Issues only:** "If only the trial of an issue or issues in the action has been transferred, the files, after the issues have been disposed of, shall be returned to the clerk of the court for the original judicial district or location, and judgment may be entered in such court." Conn. Gen. Stat. § [51-347b\(c\)](#) (2017).
- **Court fees:** "An entry fee shall not be required to be paid to the court to which any transfer pursuant to this section was made." Conn. Gen. Stat. § [51-347b\(d\)](#) (2017).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2017)  
Chapter [890](#). Judicial districts, geographical areas, civil and criminal venue, filing and designation of court locations  
§ [51-347b](#). Transfer of causes by court, motion or agreement. Transfer by Chief Court Administrator

## **COURT RULES:**

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2018)  
Chapter [12](#). Transfer of actions  
§ [12-1](#). Procedure for transfer  
§ [12-2](#). Transfer of action filed in wrong location of correct court  
§ [12-3](#). Transmission of files and papers

## **HISTORY & COMMENTARIES ON COURT RULES:**

- Commentary and history following § 12-3 in Conn. Practice Book (1999 ed.):  
"HISTORY: In 1999, the 'certificate of closed pleadings' was substituted twice for 'trial list claim' and 'inventory of ending cases' was substituted for 'trial list.'"  
"COMMENTARY: The amendments to this section make it consistent with Sections 14-4 through 14-10, which no longer use the terms 'trial list claim.'"

## **FORMS:**

- Mary Ellen Wynn and Ellen B. Lubell, [Handbook of Forms for the Connecticut Family Lawyer](#) (1991).  
Form No. XX-A-3, Motion for Transfer, p. 272  
*Includes order and certification*
- 2 Joel M. Kaye et al., Connecticut Practice Series, [Connecticut Civil Practice Forms](#) (4<sup>th</sup> ed. 2004).  
§ 106.13. Motion for change of venue  
§ 106.13-A. Motion to transfer  
§ 106.13-B. Stipulation for transfer  
§ 106.17. Transfer of actions
- Margaret Penny Mason, [Connecticut Civil Pretrial Practice](#) (2017).  
Chapter 5. Forum and Venue  
§ 5.18 FORM: Motion to Transfer for Improper Venue
- Robert M. Singer, [Library of Connecticut Collection Law Forms](#) (2016).  
9-012. Motion to change venue

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update

- [Heyward v. Judicial Department](#), 159 Conn App. 794, 805 (2015). "The court's transfer order did not dispose of the underlying action, and, therefore, was interlocutory in nature. As previously explained, interlocutory orders are immediately appealable only if the order or ruling (1) terminates a separate and distinct proceeding, or (2) so concludes the rights of the parties that further proceedings cannot affect them. *State v. Curcio*, supra, 191 Conn. 31. The court's order was rendered in the course of the continuing civil litigation and, accordingly, did not terminate a separate and distinct proceeding. Further, as this court recognized in *In re Justin F.*, supra, 116 Conn. App. 105, an order transferring a case from one court to another does not, in and of itself, conclude any recognized right of the

parties. The plaintiffs, who did not file a reply brief responding to the defendants' final judgment argument, have failed to identify any right irretrievably lost by the change of venue. Because the court's transfer order fails to satisfy either prong of the *Curcio* test, the order is not immediately appealable, and we lack jurisdiction to consider the merits of the plaintiffs' claim challenging the change of venue."

- [Adams v. Adams](#), 93 Conn. App. 423, 426, 890 A.2d 575, (2006). "Any cause, or the trial of any issue therein, may be transferred from a judicial district court location to any other judicial court location ... by order of a judicial authority ... upon its own motion or upon the granting of a motion of any of the parties ...' Practice Book § 12-1; see also General Statutes § 51-347a(a) (transfer of civil jury causes). In the context of criminal actions, a defendant requesting a change of venue bears the burden of showing that, absent a change of venue, he could not receive a fair and impartial trial. *State v. Reynolds*, 264 Conn. 1, 222, 836 A.2d 224 (2003), cert. denied, 541 U.S. 908, 124 S.Ct. 1614, 158 L.Ed.2d 254 (2004). A trial court exercises broad discretion in considering such a motion ... Those principles apply, with at least equal force, to the defendant's request for a change of venue in his divorce proceeding."
- [Mill Plains Homes, Inc. v. Great American Ins. Co.](#), 2 Conn. Cir. Ct. 124, 126, 196 A.2d 122 (1963). "It would be highly improper to transfer a cause from the comparatively current docket to the probably overloaded docket of another trial tribunal for no other reason than that the defendant might prefer that course to be taken."
- [Senk v. Danbury National Bank](#), 13 Conn. Supp. 234, 234 (1945). "The court is of the opinion that the reasons urged in support of the motion are more persuasive than the fact that the attorneys for the plaintiff are located in New Haven and the plaintiff himself has his headquarters in New York. This would seem to be a case which should be tried in Waterbury. No inconvenience appearing for plaintiff or his counsel, the motion for transfer is granted."

**WEST KEY NUMBERS:**

- *Courts*  
Transfer of causes  
#487(9). Proceedings
- Venue  
#44

**TEXTS & TREATISES:**

- 1 Wesley W. Horton and Kimberly A. Knox, [Connecticut Practice Book Annotated](#) (2017-2018 ed.).  
Authors' comments following §§ 12-1 to 12-3
- 2 Joel M. Kaye et al., Connecticut Practice Series, [Connecticut Civil Practice Forms](#) (4<sup>th</sup> ed. 2004).

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

Commentary following Forms 106.13, 106.13A, 106.13B and 106.17

- Margaret Penny Mason, [Connecticut Civil Pretrial Practice](#) (2017).  
Chapter 5. Forum and Venue  
§ 5.07 Grounds for Change of Venue By Motion
- 1 Ralph P. Dupont, [Dupont on Connecticut Civil Practice](#) (2017-2018 ed.).  
§ 12-1.1. Return to improper locations  
§ 12-1.2. Venue improper; Transfer to proper district  
§ 12-2.1. Clerk not to accept process; When  
§ 12-2.2. Dismissal for improper venue; When  
§ 12-3.1. Ministerial duties of clerk on transfer  
§ 12-3.2. Trial list; Transferred case place on
- [Family Law Practice in Connecticut](#) (1996)  
Chapter 5. Motion Practice Before Trial  
§ 5.19 Motion to transfer
- Jeanine M. Dumont, [Pleadings and Pretrial Practice: A Deskbook for Connecticut Litigators](#) (1998 ed.).  
§ II. Basic pleading and practice rules  
8. Venue, pp. 28-30.  
Procedure for effectuating transfer
  - a. Multiple plaintiffs
  - b. Timely motion to transfer/Dismiss
  - c. **Deference to plaintiff's selection of venue**
  - d. Transfer to a more crowded docket
  - e. Transfers for the convenience of lawyers not favored
  - f. Effect of improper venue§ IV. Service of process
  1. Serving the process
    - i. Defects in returns to court, p. 59

Figure 1: Motion for Change of Venue

Form 106.13

### **Motion for Change of Venue**

The defendant represents

1. This action has been claimed for trial by a jury.

2. The matters involved in the action have been given such wide publicity in this area in a manner so derogatory to the defendant and so prejudicial to his interests, that a fair trial by an impartial and unprejudiced jury cannot be had in this court.

Wherefore the defendant moves that the action be transferred to the Superior Court for the judicial district of \_\_\_\_\_ at \_\_\_\_\_ or to the Superior Court for some other judicial district (or geographical area) at such location as the court may direct.



Figure 2: Transfer of Actions

## **Transfer of Actions**

(Caption of Case)

Stipulation

The parties in the above entitled action hereby stipulate that this matter be transferred to the superior court within and for the judicial district of \_\_\_\_\_ at \_\_\_\_\_

Plaintiff

By \_\_\_\_\_  
Attorney

Defendant

By \_\_\_\_\_  
Attorney

If transfer is by stipulation, an order is required. Rules § 12-1; Gen. Stat., § 52-31

Motion

The \_\_\_\_\_ in the above entitled action moves that this matter be transferred to the superior court within and for the judicial district of \_\_\_\_\_ at \_\_\_\_\_ for the reason that (***state reason, such as pendency of a case in that court arising out of the same transaction or in which a common question of law or fact will arise***)

Order

The foregoing motion for transfer having been heard and it appearing that it should be granted, it is hereby

Ordered that the above entitled action be transferred to the superior court for the judicial district of \_\_\_\_\_ at \_\_\_\_\_

Dated at (***place and date***)

By the Court ( \_\_\_\_\_, J.)

\_\_\_\_\_  
Assistant Clerk

Transfer for Trial of Issues Only

***If transfer is for the trial of a particular issue, add to each of the preceding forms: for the determination of (state specific issues to be tried, such as issues raised by motion or otherwise).***

Table 1: Unreported Cases on Transfer of Actions

Unreported Cases	
<p><u>Walsh v. City of Torrington</u>, Superior Court, Judicial District of Hartford at Hartford, No. HHD-CV-16-6067494S (Aug. 10, 2016) (2016 WL 4745218)</p>	<p>“In the absence of a statute expressly requiring a fiduciary to bring an action in the judicial district where the decedent resided or where the probate court appointing him is located, the court concludes that executors and administrators may choose the venue for a wrongful death action pursuant to the general venue statute applicable to civil actions—that is, they may choose to bring the action in any judicial district where any plaintiff or any defendant resides. Because plaintiff Edward Walsh resides in the Hartford judicial district, venue is proper here.”</p>
<p><u>Budney v. Budney Industries, Inc.</u>, Superior Court, Judicial District of New Britain at New Britain, No. HHB-CV-13-6023734 (April 11, 2014) (2014 WL 2021998)</p>	<p>“(“ [M]ost civil actions for nonpayment of rent or breach of lease are commenced in housing courts. However, unlike subject matter jurisdiction, venue can be waived such that a non-housing court with jurisdiction over the parties may not necessarily be precluded from adjudicating a breach of lease action, or a nonpayment of rent action or any other civil action between a landlord and tenant or <b>owner and occupant</b>”).”</p>
<p><u>State of Connecticut v. McCarroll</u>, Superior Court, Judicial District of Litchfield at Litchfield, No. L18W-CR-11-0137936 (March 08, 2012), (2012 WL 1004337).</p>	<p>“In criminal cases, defendants do not have an inherent right to a <b>change in venue</b>. ‘In requesting a change of venue, a defendant bears the burden of showing that he could not otherwise receive a fair and impartial trial. The trial court exercises its discretion in deciding whether to grant such a change of venue ... The trial court’s discretion is governed by Practice Book [§ 41–23]...’ (Citations omitted; internal quotation marks omitted.) State v. Reynolds, 264 Conn. 1, 222, 836 A.2d 224 (2003), cert. denied, 541 U.S. 908, 124 S.Ct. 1614, 158 L.Ed.2d 254 (2004).”</p>
<p><u>Chief Disciplinary Counsel v. Zbigniew S. Rozbicki</u>, Superior Court, Judicial District of Litchfield at Litchfield, No. LLI-CV-11-6004519S (August 11, 2011), (2011 WL 3891671).</p>	<p>“<b>The respondent has expressed concerns that having the presentment heard in the judicial district where he practices will cause him embarrassment with his present and future clients and it will cause a negative effect on his relationship with opposing counsel who practice in the area....Although this issue may cause the respondent great concern, the respondent has been unable to demonstrate how any gossip and/or dissemination of news regarding his presentment has caused him any identifiable harm. Moreover the respondent has failed to demonstrate the existence of any prejudice that would warrant the transfers of his presentment to another jurisdiction.</b>”</p>

<p><u>Ashcraft v. Ashcraft</u>, Superior Court, Judicial District of Fairfield at Bridgeport, No. FA10-403-17-79 (June 30, 2010) (2010 WL 2927416).</p>	<p><b>"In the present matter, the defendant supports her motion to transfer by arguing that the judicial district of Fairfield is the incorrect venue. Issues regarding the venue of a family law case are governed by § 51-345(3)(E), which provides that the plaintiff had the option of filing this action either in the judicial district of Stamford-Norwalk or in the judicial district of Fairfield. The court has the discretion to transfer this case, sua sponte, if it deems that a transfer would be necessary in the interest of justice or judicial efficiency. The defendant does not argue, and there is no evidence indicating, that transferring the case to the judicial district of Stamford-Norwalk is necessary to promote justice or judicial efficiency. Therefore, the court sees no reason why this case should be transferred."</b></p>
<p><u>City of Bristol v. Town of Harwinton</u>, Superior Court, Judicial District of New Britain at New Britain, No. CV-09-4021684-S (October 30, 2009) (48 CLR 735).</p>	<p><b>"In <i>Manchester Tobacco v. Lahham</i>, Superior Court, judicial district of Tolland at Rockville, Docket No. CV 08 5003668 (March 17, 2009, Sferrazza, J.) [47 Conn. L. Rptr. 389], the court found that the defendants' claim of improper venue is correct but ruled that 'by virtue of General Statutes § 51-351, the appropriate remedy is transfer rather than dismissal.' The court apparently did not consider improper venue as a jurisdictional issue not subject to waiver."</b></p>
<p><u>Sutherland v. Hartford Roman Catholic Diocesan Corporation</u>, Superior Court, Judicial District of Hartford, Complex Litigation Docket at Hartford, No. HHD-X04-CV-02-4034736-S (February 13, 2008) (45 CLR 857).</p>	<p><b>"The plaintiff commenced this action in this judicial district. During the individual voir dire process, counsel for the parties will undoubtedly question potential jurors concerning their familiarity with and/or their relationships to the parties. As did the trial court in <i>State v. Reynolds</i>, supra, this court concludes that proper use of the individual voir dire process should be sufficient to assure the plaintiff of a fair and impartial jury."</b></p>
<p><u>Lasky v. Pivnick</u>, Superior Court, Judicial District of Hartford at Hartford, No. FA 00-0724898-S (Nov. 1, 2000) (2000 WL 1819365) (2000</p>	<p><b>"While the convenience of the parties is of central importance, the court can also take the convenience of witnesses into consideration when deciding whether to grant a motion to transfer venue based on forum inconueniens. However, when the witnesses are family members of a particular party, the court is not required to consider their convenience."</b></p>

<p>Conn. Super. LEXIS 3060).</p>	
<p><u>Joseph Simeone Architects, LLC vs. Beverly Enterprises Connecticut, Inc.</u>, Superior Court, Judicial District of New Haven at New Haven, No. CV 98-0417311 (Feb. 8, 1999) (1999 WL 73808) (1999 Conn. Super. LEXIS 307).</p>	<p><b>"On August 10, 1998, the defendant filed a motion to dismiss for lack of personal jurisdiction and for improper venue, along with a supporting memorandum of law. The plaintiff filed a motion to transfer (#105) on August 24, 1998, which was granted by the court (Flynn, J.) on September 9, 1998, rendering the venue issue moot."</b></p>
<p><u>Greater New York Mutual Ins. v. Schnabel</u>, Superior Court, Judicial District of Hartford-New Britain at New Britain, No. CV94-461174S (Jan. 29, 1996) (1996 WL 66255).</p>	<p><b>"The defendant's motion to transfer alleges that both cases raise the same issues of fact and that the determinations made in the personal injury action, in Hartford, will resolve the issues in the action before this court. Further, defendant alleges that judicial economy is served by consolidating these actions. However, the defendant does concede that the speed in which this case is resolved will be greatly lengthened if it is consolidated with the Hartford action, due to the backlog of cases in Hartford."</b> [Motion for Transfer was denied].</p>

## Section 2: Motion to Transfer to the Regular Docket from Small Claims

A Guide to Resources in the Law Library

**SCOPE:** Bibliographic references relating to the motion to transfer to the regular docket from small claims.

- DEFINITIONS:**
- **Transfer of cases to the regular docket:** "A case duly entered on the small claims docket of a small claims area or housing session court location shall be transferred to the regular docket of the superior court or to the regular housing docket, respectively, if the following conditions are met: ..." Connecticut Practice Book § [24-21\(a\)](#) (2018).
  - **Counterclaim:** "The motion to transfer must be accompanied by (A) a counterclaim in an amount greater than the jurisdiction of the **small claims court**; or...." Connecticut Practice Book § [24-21\(a\)\(2\)](#) (2018).
  - **Affidavit:** "The motion to transfer must be accompanied...or (B) an affidavit stating that a good defense exists to the claim and setting forth with specificity the nature of the defense, or stating that the case has been properly claimed for trial by jury." Connecticut Practice Book § [24-21\(a\)\(2\)](#) (2018).
  - **Without need for a hearing:** "When a defendant or plaintiff on a counterclaim has satisfied one of the conditions of subsection (a) (2) herein, the motion to transfer to the regular docket shall be granted by the judicial authority, **without the need for a hearing.**" Connecticut Practice Book § [24-21\(a\)\(3\)\(b\)](#) (2018).
  - **Time:** "...This motion must be filed on or before the answer date with certification of service pursuant to Sections 10-12 et seq. If a motion to open claiming lack of actual notice is granted, the motion to transfer with accompanying documents and fees must be filed within fifteen days after **the notice granting the motion to open was sent.**" Connecticut Practice Book § [24-21\(a\)\(1\)](#) (2018).
  - **Writ of Error:** "[W]e conclude that General Statutes 51-197a as amended by Public Acts, Spec. Sess., June, 1983, No. 83-29, 3 does not preclude us from entertaining a writ of error pursuant to General Statutes 52-272 from the Small Claims division of the Superior Court and that we therefore **have jurisdiction.**" [Cannavo Enterprises v. Burns](#), 194 Conn. 43, 48, 478 A.2d 601 (1984).

- STATUTES:**
- Conn. Gen. Stat. (2017)  
Chapter [870](#). Judicial Department  
§ [51-15](#). Rules of procedure in certain civil actions. Small

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- claims
- Chapter [901](#). Damages, costs and fees
- § [52-245](#). False statement concerning defense. Costs
- § [52-251a](#). Costs, **attorney's fees on small claims matter** transferred to regular docket
- § [52-259](#). Court fees ([2018 supplement](#))

### **COURT RULES:**

- Connecticut Practice Book (2018)  
§ [24-21](#). Transfer to regular docket.

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

### **COMMENTARY ON COURT RULES:**

- Commentary following § 24-21 in Connecticut Practice Book (2011 Edition)  
"The above revision clarifies the transfer process in light of the centralization of small claims matters and extends one of the **filing time limits.**"

### **FORMS:**

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- Small Claims Motion to Transfer to Regular Docket - [JD-CV-158](#) **New**
- Motion To Transfer To The Regular Docket  
-- State of Connecticut Judicial Branch, Superior Court, [How Small Claims Court Works](#) (JDP-CV-45), p. 39.
- Motion to Transfer to Regular Docket  
Form S-145, 3A Joel M. Kaye et al., Connecticut Practice Series [Connecticut Civil Practice Forms](#) (4<sup>th</sup> ed. 2004; supplement has revised form).
- Affidavit Accompanying Motion to Transfer  
Form S-146, 3A Joel M. Kaye et al., Connecticut Practice Series, [Connecticut Civil Practice Forms](#) (4th ed. 2004; supplement has revised form).
- Robert M. Singer, [Library of Connecticut Collection Law Forms](#) (2016).  
2-000 Commentary – Small Claims  
2-002. Motion to transfer

### **RECORDS & BRIEFS:**

- [Burns v. Bennet](#), 220 Conn. 162. Connecticut Supreme Court Records and Briefs (May 1991).  
Motion to Transfer. [Figure 3](#)  
[Section number updated and attorney name and firm omitted]  
Affidavit. [Figure 4](#)  
[Attorney name omitted]

### **CASES:**

- [Computer Reporting Serv., LLC v. Lovejoy & Associates, LLC](#), 167 Conn. App. 36, 59–60, 145 A.3d 266, 281–82 (2016).  
"The docket of the small claims session of the Superior Court is barred from hearing claims seeking money damages of more than \$5000 or any action alleging libel and slander.

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

General Statutes § 51-15(d). Accordingly, as correctly instructed by the clerk, the defendants could not file their counterclaims, which alleged slander and sought damages in excess of \$5000, with the small claims court. This left the defendants with a choice: leave the matter in the small claims session and forgo raising their counterclaims, which, on the basis of their lack of success at trial were, if not frivolous, dubious at best, or move to transfer the case to the regular docket and be subject to § 52-251a. The defendants chose the latter. Because this matter was 'transferred to the regular docket in the Superior Court on **the motion of the defendant[s],**' the court had the discretionary authority to award the prevailing plaintiff both costs and attorney's fees. General Statutes § 52-251a. There is simply no merit to the defendants' argument that § 52-251a was inapplicable on the facts presented."

- [Lee v. Stanziale](#), 161 Conn. App. 525, 534-35, 128 A.3d 579, 585 (2015) "Distilled to its essence, the defendant's claim asks this court to expand the statutory requirements of § 52-251a to require 'a finding ... [of] some identifiable **misconduct**' warranting application thereof. The defendant maintains that because he presented good faith claims and defenses—on which he prevailed in part when the court awarded him a setoff of \$1320.78—rather than frivolous ones, the court could not justifiably render an award under § 52-251a. He further claims that the court failed to consider the purposes underlying that statute. For multiple reasons, we disagree."
- [Newtown Pool Service, LLC v. Pond](#), 140 Conn. App. 514, 520-521 (2013). "Here, once the plaintiff was confronted with the possibility of an award of more than \$5000, it raised its jurisdictional claim with the trial court — the only thing it could do given the time limit for filing a motion to transfer. As in *Veterans Memorial and Safe Home Security*, the plaintiff here was denied an opportunity to transfer because the deadline to move for transfer had passed before the error became clear. The trial court's action outside the jurisdiction of the small claims session after the deadline to seek a transfer had passed is an extraordinary and limited circumstance that meets the requirements of Practice Book § 60-1."
- [Mastrianni v. Giangrande](#), Superior Court, Judicial District of Ansonia-Milford at Derby, No. CV08-4009932-S (Aug. 20, 2010) (50 Conn. L. Rptr. 540) (2010 WL 3585411). "Section 52-251a of the General Statutes is permissive, and says **that a court 'may' allow reasonable attorneys fees**. It must be presumed that the legislative decision to utilize 'may' rather than 'shall' was purposeful, and reflected a belief that attorneys fees would not automatically be awarded, in every situation in which a Plaintiff prevailed, following a transfer to the regular docket. If an award of attorneys fees is

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appropriate, based upon these facts and findings, where both liabilities and damages were disputed, and unliquidated damages were sought, it is difficult to imagine a situation in which a Plaintiff would not be entitled to recover attorneys fees, after prevailing on any portion of a claim.”

- [Krack v. Action Motors Corp](#), 87 Conn. App. 687, 697, 867 A.2d 86 (2005). “The applicability of § 52-251a distinguishes this case from others in which the particular award of attorney’s fees at issue might be questionable. The very purpose of § 52-251a is to deter similarly situated defendants from transferring a case from the small claims session and turning a relatively clear-cut case into a pitched legal battle. The defendant claims that the court’s award was punitive, and that is not entirely untrue. As stated by our **Supreme Court: ‘Section 52-251a thus creates a substantial and effective disincentive for a defendant who might otherwise raise defenses bordering on the frivolous in an effort to gain a tactical advantage over a plaintiff by obtaining a transfer of a case from the Small Claims division.’** *Burns v. Bennett*, 220 Conn. 162, 169, 595 A.2d 877 (1991).”
- [Burns v. Bennet](#), 220 Conn. 162, 166-168, 595 A.2d 877 (1991). “We find no deficiency in these documents that would render them insufficient to satisfy the demands of § 572 (2) (b). By its terms, the subsection requires only that a motion to transfer be accompanied by an affidavit that first, states that a good defense exists, and second, sets forth with specificity the nature of that defense. In passing on a motion made pursuant to this subsection, a court is not required to review the legal sufficiency of any defenses asserted, but, rather, is limited to determining whether those defenses have been raised in good faith, not frivolously.  
Furthermore, because § 572 (2) (b) directs a defendant to state with specificity the nature of a defense, not the defense itself, compliance does not necessitate a detailed statement of the legal theory underlying the defense, including its underlying facts. Instead, a defendant’s motion to transfer need only specify generally the particular defenses upon which he intends to rely. Compare *Jennings v. Parsons*, 71 Conn. 413, 417, 42 A. 76 (1899) (statement of the nature or substance of defense may be made in ‘very general terms and in the most informal manner’).”
- [Logical Communications, Inc. v. Morgan Management Corporation](#), 4 Conn. App. 669, 671, 496 A.2d 877 (1985). “The trial court was clearly disturbed by the fact that the affidavit submitted for transference of the case from the small claims docket to the regular docket raised a defense that was explicitly contradicted by the defendants’ answer and the allegations made in their counterclaim. Under such circumstances, it was proper for the court to consider



awarding double costs to the plaintiff under General Statutes 52-245. The award of such costs is in the sound discretion of the trial court. The court did not abuse its discretion by **doubling the costs under the facts presented in this case.**"

- [Cannavo Enterprises v. Burns](#), 194 Conn. 43, 51, 478 A.2d 601 (1984). "We hold, therefore, that where a defendant satisfies one of the conditions for a transfer set out in Practice Book 572 [now 24-21], his motion to transfer must be granted. In the present case the defendant alleged by affidavit that a good defense existed and requested a transfer. We find no deficiency in that affidavit which would render it insufficient to satisfy the requirement of Practice Book 572(2) (b) that the affidavit accompanying a motion to transfer state **that a good defense exists to the claim and [set] forth with specificity the nature of the defense . . .**', Under these circumstances, the trial court had no discretion to deny the request."

**WEST KEY NUMBERS:**

- *Courts*
  - Transfer of causes
  - #483. In general
  - #484. Courts from and to which transfer may be made
  - #485. Causes which may be transferred
  - #486. Grounds
  - #487. Proceedings
  - #488. Effect of transfer and proceedings had thereafter

**ENCYCLOPEDIAS:**

- 20 [Am. Jur. 2d Courts](#) (2015).
  - § 13. Small claims courts
- 21 [C.J.S. Courts](#) (2016).
  - §§ 260-270. Transfer of cases

**PAMPHLETS:**

- State of Connecticut Judicial Branch, Superior Court, [How Small Claims Court Works](#) (JDP-CV-45), p. 12.

**TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 1 Wesley W. Horton and Kimberly A. Knox, [Connecticut Practice Book Annotated](#) (2017-2018 ed.).
  - Commentary following § 24-21
- 3A Joel M. Kaye et al., Connecticut Practice Series, [Connecticut Civil Practice Forms](#) (4<sup>th</sup> ed. 2004)
  - Commentary following Forms S-146 and S-147
- Renee Bevacqua Bollier et al. [Stephenson's Connecticut Civil Procedure](#) (3<sup>rd</sup> ed. 1997).
  - § 79g. Motion to transfer. Transfer from small claims
- 2 Ralph P. Dupont, [Dupont on Connecticut Civil Practice](#) (2017-2018 ed.).
  - § 24-21.1. Transfer mandatory upon proper motion
  - § 24-21.2. Avoiding small claims procedure

Figure 3: Motion to Transfer

NO. SC 91383

SUPERIOR COURT

KIRK A. BENNETT

JUDICIAL DISTRICT OF STAMFORD

NORWALK

VS.

AT GA 20, AT NORWALK

J. WILLIAM BURNS

OCTOBER 25, 1990

**MOTION TO TRANSFER**

Pursuant to § 24-21 of the Conn. Rules of Practice the defendant hereby moves to transfer the above referenced matter to the regular docket of the Superior Court. The defendant claims that good defenses exist in this matter. Said defenses include but are not limited to:

- a) sovereign immunity
- b) sole proximate cause
- c) contributory negligence
- d) lack of timely notice

The defendant wishes to utilize the discovery process. The defendant wishes to be able to exercise his right to a trial by jury. And the defendant wishes to preserve his right to the appellate process, all of which may be had by the granting of this motion.

For the above listed reasons the defendant requests that this motion be granted.

ORAL ARGUMENT REQUESTED  
NO TESTIMONY REQUIRED  
P.B. § 24-21

THIS IS TO CERTIFY THAT A COPY OF THE ABOVE WAS MAILED ON 10-25-90  
TO COUNSEL OF RECORD AND PRO SE PARTIES.

THE DEFENDANT

---

ORDER

The foregoing motion having been heard by this Court is hereby ordered  
GRANTED/DENIED.

BY THE COURT

---

Judge/Clerk

Figure 4: Affidavit

NO. SC 91383

SUPERIOR COURT

KIRK A. BENNETT

JUDICIAL DISTRICT OF STAMFORD

NORWALK

VS.

AT GA 20, AT NORWALK

J. WILLIAM BURNS

OCTOBER 25, 1990

**AFFIDAVIT**

I, \_\_\_\_\_ being duly sworn, depose and say:

1. That I am over the age of 18 years and believe in the obligation of an oath
2. That I am an attorney with the law firm of \_\_\_\_\_, which represents the defendant in this matter.
3. That I am familiar with the facts and legal issues of this case.
4. That good legal defenses exist to this action. Said defenses include, but are not limited to:
  - a) sovereign immunity
  - b) sole proximate cause
  - c) contributory negligence
  - d) lack of timely notice

\_\_\_\_\_

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_

Commissioner of the Superior Court/Notary Public

# Section 3: Transfer of Cases (Supreme and Appellate Courts)

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic references relating to the motion for transfer from Appellate Court to Supreme Court, transfer of cases by Supreme Court and transfer of matters brought to wrong court (Supreme or Appellate Court).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

Conn. Gen. Stat. (2017)

Chapter [883](#). Supreme Court

§ [51-199\(c\)](#). **Jurisdiction.** "The Supreme Court may transfer to itself a cause in the Appellate Court. Except for any matter brought pursuant to its original jurisdiction under section 2 of article sixteen of the amendments to the Constitution, the Supreme Court may transfer a cause or class of causes from itself, including any cause or class of causes pending on July 1, 1983, to the Appellate Court. The court to which a cause is transferred has jurisdiction."

## **COURT RULES:**

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

Connecticut Practice Book (2018)

Chapter [65](#). Transfer of cases

§ [65-1](#). Transfer of cases by Supreme Court

§ [65-2](#). Motion for transfer from Appellate Court to Supreme Court

§ [65-3](#). Transfer of petitions for review of bail orders from Appellate Court to Supreme Court

§ [65-4](#). Transfer of matters brought to wrong court

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [J.E. Robert Company, Inc. v. Signature Properties, LLC](#), 309 Conn. 307, 71 A.3d 492 (2013). "Thereafter, in two separate appeals, later consolidated by the Appellate Court, Signature and, jointly, Julian and Murray, appealed from the trial court's judgment of strict foreclosure. After hearing oral argument on both matters, the Appellate Court filed a statement with this court pursuant to Practice Book sec. 65-2 requesting that we transfer the appeals to this court. We granted the Appellate Court's request, and now address issues stemming from the appeals."
- [Crawford v. Commissioner of Correction](#), 285 Conn. 585, 592, 940 A.2d 789 (2008). "Following oral argument on January 16, 2007, the Appellate Court filed a request to transfer the appeal to this court pursuant to Practice Book § 65-2. The court explained that the claim of procedural default required review by this court because there were two conflicting lines of cases dealing with procedural default, and, therefore, a decision by this court was necessary to resolve the conflict."

- [State v. McCahill](#), 261 Conn. 492, 503, 811 A.2d 667 (2002). "The petition for review, authorized by § 54-63g, is not an appeal by which we appropriately could exercise jurisdiction via the certification authority conferred upon us by General Statutes § 51-197f. See *State v. Ayala*, 222 Conn. 331, 340-41, 610 A.2d 1162 (1992). Section 51-199(c) provides, however, that we may transfer a 'cause' in the Appellate Court. In other words, our transfer authority by way of § 51-199(c) is not limited to a formal appeal, but encompasses causes. The petition for review, once filed in the Appellate Court, is a cause that we appropriately may transfer to this court."

**WEST KEY NUMBERS:**

- *Courts*  
Transfer of causes  
#487(9). Proceedings
- Venue  
#44

**ENCYCLOPEDIAS:**

- 21 [C.J.S. Courts](#) (2016).  
§ 263. Transfer between appellate courts.

**TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Wesley W. Horton and Kenneth J. Bartschi, [Connecticut Practice: Rules of Appellate Procedure](#) (2017-2018 ed.).  
**Authors' comments following §§ 65-1 to 65-4**
- Eliot D. Prescott, [Connecticut Appellate Practice and Procedure](#) (5<sup>th</sup> ed. 2016).  
§ 1-3:6 Transfer of Jurisdiction  
4-5 Transfer  
§ 4-5: 1 Transfer of Appeal Brought to Wrong Court  
§ 4.5: 2 Discretionary Transfer by the Supreme Court  
§ 6-3: 2 Request for Transfer or Consolidation