

Friday, November 13, 2020 (Civ Pro class 11 of 15!)

Today:

- Preparation of papers: summons and complaint!
- Venue!
- Pleading requirements!
- QUIZ #3!

For Mon. Nov. 16 (Intro):

- Read M&M ch. 9 (legal writing) and sample legal memorandum posted. ***NOTE use of quotes in memo!*
- Read K. Stedman, "Annoying Ways People Use Sources" and FYLC Collaborative Assignment #3.

For Wed. Nov. 18 (Intro): Read M&M ch. 7 excerpts (legal research); email thoughtful Q/response by 10am.

Fri. Nov. 13 (Civ Pro):

- Complete draft summons & verified cmplt. due by email 10am.
- Read C&W ch. 10 (Service of Papers), email thoughtful Q/response by 1pm.

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CPLR § 3016(f): "In an action involving the sale and delivery of goods, . . . the **plaintiff *may* set forth** and number in his **verified complaint** the **items of his claim** and the reasonable value or agreed price of each. Thereupon the **defendant by his verified answer *shall indicate*** specifically those items he disputes and whether in respect of delivery or performance, reasonable value or agreed price."

CPLR § 3020(a): "A **verification is a statement under oath** that the pleading is true to the knowledge of the deponent, except as to matters alleged on information and belief, and that as to those matters he believes it to be true."

NYC Civil Court, Queens County

- *less than \$25,000 damages*
- *consumer credit transaction* → Ms. Consumer (D) resides in Queens! *See CPLR § 503(f).*

Forms for this assignment!! ☺

- **Summons:** C&W Form B (*Summons Served w/ Cmplt in Action Based on a Consumer Credit Transaction*)
- **Complaint:** C&W Form F or G (*for Goods Sold, Delivered & Accepted with Itemization OR Schedule Annexed*)
- **Verification:** C&W Form O (*Verification by a Party* → must be notarized!)

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Venue!! → CPLR Article 5

- "place of trial" → county
- *We refer to "proper" venue; where venue "lies."*
- usually based on residence of parties (§ 503)

CPLR § 503(a): "[T]he place of trial shall be in **the county in which one of the parties resided when it was commenced**; [OR] the county in which a substantial part of the events or omissions giving rise to the claim occurred; [OR], **if none of the parties then resided in the state, in any county designated by the plaintiff.** ."

Where is venue proper if, when P commences the action:

- P lives in Brooklyn and D lives in Queens? *Brooklyn or Queens!*
- P lives in New Jersey and D lives in Brooklyn? *Brooklyn only!*
- P lives in Hawaii and D lives in New Jersey? *Any NY county P chooses!*

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Pleading requirements!!

CPLR R. 3016. Particularity in specific actions.

... (f) Sale and delivery of goods or performing of labor or services. **In an action involving the sale and delivery of goods**, or the performing of labor or services, or the furnishing of materials, **the plaintiff may set forth and number in his verified complaint the items of his claim and the reasonable value or agreed price** of each. ...

Summary of **CPLR Article 30** pleading requirements (for P's complaint *and* D's answer):

- sufficiently particular to give notice (§ 3013)
- plain and concise statements (§ 3014)
- numbered paragraphs (§ 3014)
- one allegation per paragraph (§ 3014)
- causes of action separately stated & numbered (§ 3014)
- demand for relief (§ 3017)
- **also – for cases involving sale and delivery of goods** → verification, and numbered list of items & prices!! (R. 3016(f))

Helpful hints for drafting your summons & complaints!

- Review the assignment, samples & templates!! *again & again!!*
- Incorporate names appropriately!! *Parties, attorney, etc.* You can be the notary. ☺
- Check your MATH!! ☹
- List the goods in a TABLE!
- Remember the PLEADING requirements! *CPLR Art. 30.*
- **PROOFREAD!!** *again & again!!*