

## CHAPTER 3

### Venue

#### SECTIONS

- § 301. General provisions.
- § 302. Admiralty and maritime.
- § 303. Actions brought in High Court.
- § 304. Change of venue.

#### **§ 301. General provisions.**

(1) Except as otherwise provided, a civil action in which one of the defendants lives in the Trust Territory shall be brought in a court within whose jurisdiction the defendant or the largest number of defendants live or have their usual places of business or employment.

(2) If an action is based on a wrong not connected with a contract, it may be brought in a court within whose jurisdiction the cause of action arose.

(3) An action to collect a tax may be brought in a court within whose jurisdiction the defendant may be served.

(4) A civil action against a defendant who does not live in the Trust Territory may be brought in a court within whose jurisdiction the defendant can be served or his property can be attached.

(5) A civil action by or against the executor, administrator, or other representative of a deceased person for a cause of action in favor of or against the deceased may be brought in any court in which it might have been brought by or against the deceased.

**Source:** TT Code 1966 § 339(a); TT Code 1970, 6 TTC 101; TT Code 1980, 6 TTC 101.

**Editor's note:** In subsection (c) of this section a typographical error has been corrected. After the words ". . . jurisdiction the" the word "case" has been changed to "cause".

**Cross-reference:** The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code. The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

**Case annotation:** When an alleged tax liability arose in a state and the government attempted to collect the tax in that state, venue is

proper in that state under 6 F.S.M.C. 301(2), which allows an action, other than contract, to be brought where the cause of action arose. *Dorval Tankship Pty, Ltd. v. Department of Finance*, 8 FSM R. 111, 114 (Chk. 1997).

### **§ 302. Admiralty and maritime.**

Suit in an admiralty and maritime matter shall be brought in the District within which the defendant can be served, or within which his property can be attached, or, when the suit is against property itself, in the District within which the ship, goods, or other thing involved can be seized.

**Source:** TT Code 1966 § 339(b); TT Code 1970, 6 TTC 102; TT Code 1980, 6 TTC 102.

**Case annotations:** In an admiralty and maritime case for the *in rem* forfeiture of a vessel, jurisdiction and venue are so interrelated that the government, or its agents, may not move a defendant vessel from the state in which it was arrested where the FSM admiralty venue statute does not anticipate transfer even though the civil rules allow improper venue to be raised as a defense or to be waived. It is unclear what the result of such a move would be. *FSM v. M.T. HL Achiever (I)*, 7 FSM R. 221, 222-23 (Chk. 1995).

**Cross-references:** The statutory provisions on Admiralty and Maritime are found in title 19 of this code.

### **§ 303. Actions brought in High Court.**

(1) An action in the High Court to enforce or remove any lien upon or claim to real or personal property within the Trust Territory, or to adjudicate title to any interest in such property, or any action affecting title to land within the Trust Territory, or any interest therein, shall be brought in the District where the property or some part of it is located.

(2) Any other action in the High Court in which one of the parties is a resident of the Trust Territory shall be brought in the District in which one of the parties thereto lives or has his usual place of business or employment or, if the action is based upon a wrong not connected with a contract, it may be brought in the District in which the cause of action arose.

(3) In all other cases, actions in the High Court may be brought in the District within which any defendant can be served or his property attached.

**Source:** TT Code 1966 § 339(c); TT Code 1980, 6 TTC 103; TT Code 1980, 6 TTC 103.

### **§ 304. Change of venue.**

(1) Nothing in this chapter shall impair the jurisdiction of a court over any matter involving a party who does not make timely and sufficient objection to the venue.

(2) If a matter is brought in the wrong venue, the court in which it is brought may, on its own motion or otherwise, transfer it to any court in which the matter might properly have been brought.

(3) The High Court, if it deems the interests of justice will be served thereby, may hear any matter in a

District other than that in which it is brought, or may hear it partly in one District and partly in another District or Districts, or may transfer it from one District to another.

**Source:** TT Code § 339(d); TT Code 1970, 6 TTC 104; TT Code 1980, 6 TTC 104.

**Case annotations:** Venue does not refer to jurisdiction at all. Jurisdiction of the court means the inherent power to decide a case, whereas venue designates the particular county or city in which a court with jurisdiction may hear and determine the case. On the other hand, forum means a place of jurisdiction. *National Fisheries Corp. v. New Quick Co.*, 9 FSM R. 120, 125 (Pon. 1999).

6 F.S.M.C. 304(3) allows part or all of a case to be heard in a state other than the one in which it was brought "if the interests of justice were served thereby." *Dorval Tankship Pty, Ltd. v. Department of Finance*, 8 FSM R. 111, 114 (Chk. 1997).

The venue provision of 32 F.S.M.C. 306(2) must be read in conjunction with the service provisions of the FSM "long-arm statute," 4 F.S.M.C. 204, and with the FSM Code's venue provisions. *Foods Pacific, Ltd. v. H.J. Heinz Co. Australia*, 10 FSM R. 200, 204 (Pon. 2001).