

Tancredi v Sottile & Megna, M.D., P.C.

2025 NY Slip Op 35037(U)

December 23, 2025

Supreme Court, New York County

Docket Number: Index No. 805392/2023

Judge: Kathy J. King

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. KATHY J. KING PART 06

Justice

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JOHN TANCREDI,

Plaintiff,

- v -

SOTTILE & MEGNA, M.D., P.C., DANIEL MEGNA,
NEWYORK-PRESBYTERIAN/WEILL CORNELL MEDICAL
CENTER, COLUMBIA PHYSICIANS, ALESSIO PIGAZZI

Defendant.

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INDEX NO. 805392/2023

MOTION DATE 07/02/2025

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67

were read on this motion to/for CHANGE VENUE.

Upon the foregoing documents, and oral arguments having been heard, the Defendants seek an Order, pursuant to CPLR §510, changing the venue and place of trial of this action from New York County to Richmond County, and directing the Clerk of the Court of New York County to transfer the physical file to Supreme Court, Richmond County.

The Plaintiff opposes.

BACKGROUND AND PROCEDURAL HISTORY

Plaintiff commenced this action by filing a Summons and Complaint on September 14, 2023. Defendants DANIEL MEGNA, M.D. and SOTTILE & MEGNA, M.D. (collectively, "Moving Defendants") joined issue by interposing an Answer on October 6, 2023.

On November 20, 2023, Plaintiff filed an Amended Complaint alleging that Dr. Megna negligently caused an intestinal perforation during a colonoscopy performed at a medical facility operated by Sottile & Megna, M.D. in Richmond County. Following the procedure, Plaintiff sought further medical treatment at a hospital owned and operated by Defendants THE NEW

YORK AND PRESBYTERIAN HOSPITAL s/h/a “NEW YORK PRESBYTERIAN/WEILL CORNELL MEDICAL CENTER” and ALESSIO PIGAZZI, M.D., PH.D. (collectively, "Discontinued Defendants"), located in New York County.

By So-Ordered Stipulations of Discontinuance with Prejudice dated November 25, 2024, the claims against THE NEW YORK AND PRESBYTERIAN HOSPITAL and ALESSIO PIGAZZI, M.D., PH.D. were dismissed (NYSCEF Doc. Nos. 42, 43).

Moving Defendants now move, by notice of motion filed July 1, 2025, for an order pursuant to CPLR § 510 to transfer the venue and place of trial of this action from New York County to Richmond County. Plaintiff opposes the motion.

LEGAL ANALYSIS

Moving Defendants, DANIEL MEGNA, M.D. and SOTTILE & MEGNA, M.D. (collectively, "Moving Defendants"), move for an order transferring the venue of this action from New York County to Richmond County. Moving Defendants contend that New York County is no longer a proper venue following the discontinuance of the action against the only parties with a New York County nexus: The New York and Presbyterian Hospital s/h/a “New York Presbyterian/Weill Cornell Medical Center” and Alessio Pigazzi, M.D., Ph.D. (collectively, "Discontinued Defendants"). Moving Defendants further assert that Richmond County is the appropriate forum, as Plaintiff resided there at the commencement of the action and the alleged malpractice occurred at Sottile & Megna, M.D., P.C.’s principal office in Richmond County.

In opposition, Plaintiff argues that venue was properly placed in New York County at the inception of the suit and that the subsequent discontinuance does not render the initial choice improper. Plaintiff further contends that the motion is untimely under CPLR 511(a) because it was

not filed with or before the Answer. Consequently, Plaintiff maintains that the motion is subject to the Court's discretion rather than as of right, and that Moving Defendants have failed to demonstrate that a change of venue would serve the interests of justice or that the motion was made within a reasonable time.

It is well-settled that where venue is initially predicated upon the residence of a party against whom the action is subsequently dismissed or discontinued, a motion to change venue should be granted (*see Chow v Long Is. R.R.*, 202 AD2d 154, 155 [1st Dept 1994]; *Crew v St. Joseph's Med. Ctr.*, 19 AD3d 205 [1st Dept 2005]). This rule specifically applies when a plaintiff voluntarily discontinues the action against the "venue-providing" defendant (*see Arthur v Liberty Mut. Auto and Home Services LLC*, 169 AD3d 554, 555 [1st Dept 2019]; *Messiha v Staten Is. Univ. Hosp.*, 77 AD3d 894, 895 [2d Dept 2010]).

Here, it is undisputed that Plaintiff voluntarily discontinued the action with prejudice against the Discontinued Defendants, who provided the sole basis for venue in New York County. Those stipulations of discontinuance were so ordered by this Court on November 25, 2024. Pursuant to CPLR 503(a), venue is properly placed in the county in which one of the parties resided when the action commenced, or where a substantial part of the events giving rise to the claim occurred. Under CPLR 503(c), a corporation is deemed a resident of the county containing its principal office.

The record reflects that SOTTILE & MEGNA, M.D. maintains its principal executive office in Richmond County, and the alleged negligent acts by Dr. Megna occurred at that location. Furthermore, Plaintiff resided in Richmond County at the time of commencement. In light of the discontinuance of the New York County defendants, the Court finds that Richmond County is the proper venue for this matter.

Finally, the Court finds Plaintiff's timeliness argument unpersuasive. There is no strict statutory time limit for a motion to change venue following the dismissal of a party whose residence served as the jurisdictional hook; rather, such a motion must be made within a "reasonable time" after the movant obtains knowledge of the facts supporting the change (*see Moracho v Open Door Family Med. Ctr., Inc.*, 79 AD3d 581 [1st Dept 2010]). While the stipulations were so ordered in November 2024 and the motion was filed in July 2025, Plaintiff has failed to demonstrate any prejudice resulting from this interval. Under these circumstances, the motion was made within a reasonable time.

Accordingly, it is hereby

ORDERED that the Defendant's motion to change venue is granted; and it is further

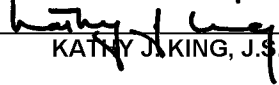
ORDERED that within twenty (20) days of the date of this Order, the moving Defendants DANIEL MEGNA, M.D. and SOTTILE & MEGNA, M.D shall serve a copy of this Order on the Plaintiff JOHN TANCREDI via first-class certified mail to her/his last known address; and it is further

ORDERED that, within twenty (20) days of the date of this Order, the moving Defendants shall serve a copy of this Order upon the County Clerk and the Clerk of the General Clerk's Office, which shall be effectuated in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases, accessible at the "E-Filing" page on the court's website, and, to comply with those procedures, the moving Defendant shall (1) upload this Order to the NYSCEF system under document title "SERVICE ON SUPREME COURT CLERK (GENL CLERK)W/COPY OF ORDER," and (2) separately file and upload the notice required by CPLR 8019(c) a completed Form EF-22, along with a copy of this Order under document title "NOTICE TO COUNTY CLERK CPLR 8019(C)," and the County

Clerk and all appropriate court support offices shall thereupon amend the court records accordingly; and it is further

ORDERED that the Clerk is directed to enter judgment in accordance with this Order.

This constitutes the Decision and Order of the Court.

<u>12/23/2025</u> DATE					 KATNY J. KING, J.S.C.
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>
					<input type="checkbox"/>
					REFERENCE