



## Gary says: VENUE—What is it?

Venue refers to the county in New York State where a lawsuit is fought and brought to trial. The party bringing the lawsuit selects the venue when filing a complaint. In personal injury cases, venue can be especially important because juries in different counties have reputations for being more or less generous with accident victims.

For example, suing a homeowner in a county which has a jury pool heavy with homeowners might put the injury victim at a disadvantage. Some suburban counties have a reputation for stingy verdicts. Sue the police for false arrest or even for hurting someone in a motor vehicle accident and you may have greater success in some big cities than you might have elsewhere.

Some counties have “bifurcated” trials, where a jury first decides the issue of liability and then, if the injured person wins, goes on to a second trial on the issue of damages or how much money the accident victim recovers (which could still be zero). Other counties have a “unified” trial, where liability and damages are decided together. Each approach has its advantages and disadvantages for the injured personal injury plaintiff.

The general rule for selecting proper venue is set forth in New York’s Civil Practice Law and Rules, Section 503. This law provides that venue for a lawsuit is usually in the county where one of the parties resides when the case is started. This rule changes for corporations and various other types of lawsuit defendants.

Of interest is the rule for lawsuits against municipal defendants—such as the City of New York.

Civil Practice Law and Rules, Section 504, requires that the City of New York must be sued in the county where the claim arose; usually that means the county where the accident happened.

Improper venue can be changed under Civil Practice Law and Rules, Section 510, by a defendant applying to the court for a change of venue, showing that the venue chosen was improper, that an impartial trial cannot be held in the county selected, or even that the convenience of material witnesses and the ends of justice would be promoted by the change.

Every litigating personal injury attorney has his or her own idea about which counties are preferable to others in bringing different types of accident claims.



## Referrals

Our practice continues to grow through referrals from our clients and friends. If you know someone who has been seriously injured or hurt in an accident, we hope you will recommend us.

Thank you,  
Gary E. Rosenberg

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**(718) 520-8787**

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## Wyeth v. Levine: a victory for consumers

A 2009 U.S. Supreme Court decision proved that a lone person can fight for justice and hold wrongdoers accountable for the harm they caused. In an important victory for consumers, the court held that a patient may sue a drug company for failing to provide sufficient warning about a prescription drug's harmful side effects.

In a 6-3 decision, the court upheld a Vermont jury's verdict that Diana Levine, plaintiff in *Wyeth v. Levine*, could hold the drug manufacturer responsible for serious injuries she suffered—including the loss of her arm—after taking one of Wyeth's medicines.

A professional musician, Levine suffered from a severe migraine and went to the emergency room of a local hospital, where she was given Demerol® to alleviate the pain and Phenergan® to reduce her nausea.

A physician assistant administered both drugs through a direct intravenous (IV) injection called an "IV push," which is inappropriate and dangerous. In an "IV push," Phenergan, which has a corrosive side effect, can enter an artery and cause gangrene—exactly what happened to Levine. Surgeons had to amputate her arm.

Writing the court's majority opinion, Justice John Paul Stevens said Food and Drug Administration oversight of drug labeling should not prevent filing of state-level consumer liability lawsuits against drug companies.

American Association for Justice President Les Weisbrod said, "The Supreme Court reaffirmed the principle that state lawsuits perform a valuable and important function in ensuring accountability in uncovering drug hazards. Also, the Supreme Court rejected the FDA's attempts to use the preamble in drug regulations to provide complete immunity to drug manufacturers. It is clear consumers retained their remedy under law when drug companies have failed to provide adequate warnings for the safe use of their drugs."

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