

## NY CLS CPLR R 4013

Current through 2025 released Chapters 1-207

*New York*

*Consolidated Laws Service* >  
*Civil Practice Law And Rules (Arts. 1 — 100)* >  
*Article 40 Trial Generally (§§ 4001 — 4019)*

### **R 4013. Trial elsewhere than at courthouse**

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Upon stipulation of the parties, the judge who is to preside at the trial of an issue may direct trial in whole or in part at a specified place other than the courthouse.

### **History**

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Add, L 1962, ch 308, eff Sept 1, 1963.

Annotations

### **Notes**

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#### **Prior Law:**

Earlier statutes and rules: CPA § 437; RCP 159; CCP §§ 37, 41; Laws 1847, ch 470, § 41.

#### **Advisory Committee Notes:**

This rule is a simplification of the provisions of CPA § 437 and RCP 159. A request for trial elsewhere than at the courthouse should be made to the trial judge since his presence will be required at the place of trial.

### **Notes to Decisions**

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## **I.Under CPLR**

### **1.Generally**

## **II.Under Former Civil Practice Laws**

### **2.Generally**

### **3.Necessity for written stipulation**

## **I. Under CPLR**

### **1. Generally**

Testimony of an inmate's treating physician via video conference at a hearing for forced medication of the inmate was to be allowed because the same reasons that supported N.Y. C.P.L.R. 3117(a)(4) also supported the testimony by the physician via video conference. N.Y. C.P.L.R. 4013 did not preclude the testimony of the physician by video conference. Matter of Doe, 823 N.Y.S.2d 641, 13 Misc. 3d 497, 2006 N.Y. Misc. LEXIS 2106 (N.Y. Sup. Ct. 2006).

## **II. Under Former Civil Practice Laws**

### **2. Generally**

Except by consent of the parties a contested motion may not be brought on for hearing elsewhere than at the courthouse. In re Application of Wadley, 29 Hun 12 (N.Y.).

### **3. Necessity for written stipulation**

In view of CPA § 437, oral consent in open court could not take the place of written consent to the hearing of a cause elsewhere than in county courthouse. Where a case pending before the supreme court is brought on for trial in the county courthouse, an adjournment of the trial of the

case to another place in the same county, in which no justice of the supreme court resides or has his chambers, is not authorized unless the parties execute the written stipulation required by CPA § 437 as the oral consent of the parties granted in open court will not take the place of the written stipulation required by said section. *Armstrong v Loveland*, 99 A.D. 28, 90 N.Y.S. 711, 15 N.Y. Ann. Cas. 292, 1904 N.Y. App. Div. LEXIS 3004 (N.Y. App. Div. 1904).

## **Research References & Practice Aids**

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### **Jurisprudences:**

28 NY Jur 2d Courts and Judges § 88. .

20 Am Jur 2d, Courts §§ 16.– 19.

75 Am Jur 2d, Trial § 183.

### **Law Reviews:**

The CPLR and the trial lawyer. 9 N.Y.L. Sch. L. Rev. 269.

### **Treatises**

#### **Matthew Bender's New York Civil Practice:**

Weinstein, Korn & Miller, New York Civil Practice: CPLR Ch. 4013, Trial Elsewhere Than at Courthouse.

#### **Matthew Bender's New York CPLR Manual:**

CPLR Manual § 23.02. Trials; general rules.

### **Annotations:**

What constitutes bringing an action to trial or other activity in case sufficient to avoid dismissal under state statute or court rule requiring such activity within stated time. 32 ALR4th 840.

## Forms:

Bender's Forms for the Civil Practice Form No. CPLR 4013:1 et seq.

LexisNexis Forms FORM 380-18:401.—Written Stipulation for Trial Elsewhere Than at Courthouse.

2 Medina's Bostwick Practice Manual (Matthew Bender), Forms 18:101 et seq .(trial generally).

## Hierarchy Notes:

NY CLS CPLR, Art. 40

## Forms

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### Forms

### Stipulation for Trial Elsewhere Than Courthouse in Action or Proceeding Triable Without a Jury

Stipulation

[Title of court and cause]

Index No. \_\_\_\_\_ [if assigned]

It is hereby stipulated and agreed by and between the parties in the above entitled action [or proceeding] that the same be tried [heard, or determined] elsewhere than at the county courthouse in the City of \_\_\_\_\_, New York; namely, in the rooms [office] of \_\_\_\_\_, at No. \_\_\_\_\_ street, \_\_\_\_\_, New York [to continue on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon of that day or at such other date and time as the court may hereinafter direct]

Consented to \_\_\_\_\_ [signature of judge].

\_\_\_\_\_

[Print signer's name below signature]

Plaintiff

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[Print signer's name below signature]

Defendant

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