

### **Rule 187. Motions on Grounds of Forum Non Conveniens**

**(a) Time for Filing.** A motion to dismiss or transfer the action under the doctrine of *forum non conveniens* must be filed by a party not later than 90 days after the last day allowed for the filing of that party's answer.

**(b) Proceedings on motions.** Hearings on motions to dismiss or transfer the action under the doctrine of *forum non conveniens* shall be scheduled so as to allow the parties sufficient time to conduct discovery on issues of fact raised by such motions. Such motions may be supported and opposed by affidavit. In determining issues of fact raised by affidavits, any competent evidence adduced by the parties shall also be considered. The determination of any issue of fact in connection with such a motion does not constitute a determination of the merits of the case or any aspect thereof.

**(c) Proceedings upon granting of motions.**

(1) *Intrastate transfer of action.* The clerk of the court from which a transfer is granted to another circuit court in this State on the ground of *forum non conveniens* shall immediately certify and transmit to the clerk of the court to which the transfer is ordered the documents filed in the case and all orders entered therein. The clerk of the court to which the transfer is ordered shall file the documents and transcript transmitted to him or her and docket the case, and the action shall proceed and be determined as if it had originated in that court. The costs attending a transfer shall be taxed by the clerk of the court from which the transfer is granted, and, together with the filing fee in the transferee court, shall be paid by the party or parties who applied for the transfer.

(2) *Dismissal of action.* Dismissal of an action under the doctrine of *forum non conveniens* shall be upon the following conditions:

- (i) if the plaintiff elects to file the action in another forum within six months of the dismissal order, the defendant shall accept service of process from that court; and
- (ii) if the statute of limitations has run in the other forum, the defendant shall waive that defense.

If the defendant refuses to abide by these conditions, the cause shall be reinstated for further proceedings in the court in which the dismissal was granted. If the court in the other forum refuses to accept jurisdiction, the plaintiff may, within 30 days of the final order refusing jurisdiction, reinstate the action in the court in which the dismissal was granted. The costs attending a dismissal may be awarded in the discretion of the court.

Adopted February 21, 1986, effective August 1, 1986; amended Jan. 4, 2013, eff. immediately; amended Dec. 29, 2017, eff. Jan. 1, 2018.

#### Committee Comments

(February 21, 1986)

Rule 187 was adopted, effective August 1, 1986, to provide for the timely filing of motions on *forum non conveniens* grounds (see *Bell v. Louisville & Nashville R.R. Co.* (1985), 106 Ill. 2d 135), and to standardize the procedure governing interstate and intrastate *forum non conveniens* motions.

#### Paragraph (a)

Paragraph (a) calculates the period for filing a *forum non conveniens* motion from the last day allowed for the filing of that party's answer. (Compare Rule 182(a).) Paragraph (a) refers to "*that party's answer*" to insure that a later-joined defendant is not foreclosed from filing a *forum non conveniens* motion by the failure of another defendant to do so in a timely manner.

#### Paragraph (b)

Paragraph (b) requires that hearings on *forum non conveniens* motions be scheduled to allow the parties sufficient time to conduct discovery on factual issues raised by such motions. The trial court should exercise its discretion in determining how much time is sufficient.

#### Paragraph (c)

Paragraph (c)(1) establishes the procedure to be followed when a transfer to another Illinois county on *forum non conveniens* grounds is granted. The procedures to be followed by the clerks of the transferee and transferor courts are similar to those in cases of transfer for wrong venue. See Section 2-106(b) of the Code of Civil Procedure. Attorney fees may not be awarded under this subparagraph.

Paragraph (c)(2) establishes two mandatory conditions to be placed on all dismissals on *forum non conveniens* grounds. If a defendant does not abide by those conditions, the cause is to be reinstated in the court in which the dismissal was granted. If the court in an appropriate forum refuses jurisdiction, the plaintiff has 30 days from the final order refusing jurisdiction to refile the action in the court in which the dismissal was granted. The awarding of costs is discretionary with the trial court. Attorney fees may not be awarded under this subparagraph.