

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK

Elena D. Diaz; Felix Martinez de la Cruz v. Richard James Fraser;
Karen Fraser

Diaz v. Fraser, 26-CV-3511 (LTS) (S.D.N.Y. May 5, 2025) · No. 26-CV-3511 (LTS) · Decided May 5, 2026

SUMMARY

The United States District Court for the Southern District of New York transferred the plaintiffs’ pro se diversity action to the District of New Hampshire. The court concluded that venue was improper in New York because the defendants resided in New Hampshire and the car accident giving rise to the claims occurred there, and ordered transfer under 28 U.S.C. § 1406(a).

CASE DETAILS

COURT	United States District Court for the Southern District of New York
WRITING FOR THE COURT	Laura Taylor Swain
JURISDICTION	United States District Court for the Southern District of New York
DECIDED	May 5, 2026
DOCKET	26-CV-3511 (LTS)
DISPOSITION	transferred
PROCEDURAL POSTURE	Plaintiffs filed a pro se diversity action in the Southern District of New York arising from a New Hampshire car accident. The court issued a transfer order under 28 U.S.C. § 1406(a).
STANDARD OF REVIEW	The court applied the statutory venue provisions in 28 U.S.C. § 1391(b) and the interest-of-justice transfer standard under 28 U.S.C. § 1406(a).
PRECEDENTIAL VALUE	Unpublished district court transfer order; limited persuasive value.
PARTIES	Elena D. Diaz, Felix Martinez de la Cruz v. Richard James Fraser, Karen Fraser

TOPICS

- venue
- civil procedure
- personal injury

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether venue was proper in the Southern District of New York under 28 U.S.C. § 1391(b).
2. Whether the action should be transferred to the District of New Hampshire in the interest of justice under 28 U.S.C. § 1406(a).

HOLDINGS

1. Venue was not proper in the Southern District of New York because defendants reside in New Hampshire and the events giving rise to plaintiffs' claims occurred in New Hampshire.
2. The action should be transferred to the United States District Court for the District of New Hampshire because venue was proper there and transfer was in the interest of justice.

KEY QUOTATIONS

“The Court concludes that it is in the interest of justice to transfer this action to the United States District Court for the District of New Hampshire.”

“The Clerk of Court is directed to transfer this action to the United States District Court for the District of New Hampshire.”

FACTUAL BACKGROUND

Plaintiffs reside in Bronx County, New York. Defendants reside in New Hampshire, and the car accident giving rise to plaintiffs' claims occurred in New Hampshire. Plaintiffs filed the action in the Southern District of New York and asserted diversity jurisdiction.

PROCEDURAL HISTORY

Plaintiffs, residents of Bronx County, New York, filed an action invoking diversity jurisdiction against defendants residing in New Hampshire based on a car accident occurring in New Hampshire. The Southern District of New York determined that venue was improper there and transferred the action to the United States District Court for the District of New Hampshire. The court closed the case in the Southern District of New York, directed that summonses not issue, and denied in forma pauperis status for any appeal.

DISPOSITION

transferred

REMAND INSTRUCTIONS

The Clerk was directed to transfer the action to the United States District Court for the District of New Hampshire. The transferee court was left to determine whether plaintiffs may proceed without prepayment of fees.

CASES CITED

- Coppedge v. United States, 369 U.S. 438, 444-45 (1962)

OPINION

Diaz

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

ELENA D. DIAZ; FELIX MARTINEZ DE

LA CRUZ,

Plaintiffs,

26-CV-3511 (LTS)

-against-

TRANSFER ORDER

RICHARD JAMES FRASER; KAREN

FRASER,

Defendants. LAURA TAYLOR SWAIN, Chief United States District Judge: Plaintiffs, residents of Bronx County, New York, filed this pro se action invoking the Court's diversity jurisdiction, 28 U.S.C. § 1332. They assert claims arising from a car accident that occurred in New Hampshire, involving Defendants who reside in New Hampshire. For the following reasons, the Court transfers this action to the United States District Court for the District of New Hampshire.

DISCUSSION

Under the general venue provision a civil action may be brought in:

(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action. 28 U.S.C. § 1391(b). Plaintiffs allege that Defendants reside in New Hampshire, and that the events or omissions giving rise to their claims arose in New Hampshire. Thus, venue is not proper in this Court under § 1391(b)(1) or (2). Because Defendants reside in New Hampshire and Plaintiffs' claims arose in New Hampshire, under § 1391(b)(1) or (2), venue is proper in the United States District Court for the District of New Hampshire. See 28 U.S.C. § 109. The Court concludes that it is in the interest of justice to transfer this action to the United States District Court for the District of New Hampshire. See 28 U.S.C. § 1406(a).

CONCLUSION

The Clerk of Court is directed to transfer this action to the United States District Court for the

District of New Hampshire. Whether Plaintiffs should be permitted to proceed further without prepayment of fees is a determination to be made by the transferee court.¹ Summonses shall not issue from this Court. The Court waives Local Civil Rule 83.1, which requires a seven-day delay before the Clerk of Court may transfer a case. This order closes this case in this court. The Court certifies, pursuant to 28 U.S.C § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. See *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962). SO ORDERED. Dated: May 5, 2025
New York, New York /s/ Laura Taylor Swain

LAURA TAYLOR SWAIN

Chief United States District Judge 1 Plaintiffs did not submit applications for leave to proceed in forma pauperis with the complaint.