

What do I do if I am being sued for a debt interstate?

It's often the case that if you're being sued for money or breach of contract, then the legal proceedings would take place in the Court that is closest to you (as the Respondent) or in the Court closest to where the contract was formed.

There are, however, some exceptions to that rule.

The most common exception is where you owe the money as a result of having signed a contract but not performed it and the terms of the contract say that you agree that if you are sued, then that will occur in whatever Court the other party to the contract nominates.

If a party chooses to issue a debt or other contract claim against you interstate, you should obtain legal advice as to whether the claim should be transferred to South Australia and heard in South Australia. If the claim can be transferred, you will need to apply to the Court where the claim was first issued and request that the claim be transferred to South Australia.

The question of whether the claim will be transferred by the Court depends on a number of matters, such as whether the above exception applies or whether the person bringing the claim against you would be unduly prejudiced if the claim was transferred.

If you're unsuccessful in your application to have the claim moved to South Australia, you have several options available to you:

1. You can get a solicitor interstate. The benefit of retaining an interstate solicitor is that they will be very familiar with the local Court's rules and customs. The disadvantage is that you may incur considerable expense and effort in instructing the solicitor, particularly if frequent contact with them is required.
2. Alternatively, you can retain solicitors in South Australia who then use the services of an interstate solicitor, known as a "town agent", for Court attendances. While this will involve some double handling of the claim, you will have the benefit of a local solicitor who can take your instructions and give you advice and who will only rely on and use interstate counterparts in limited circumstances.

How can Andersons help?

It is important to properly consider the options available to you as soon as possible if you're being sued for a debt interstate. If you have any questions please contact today's author and senior associate **Julia Arena** or any of Andersons' **commercial litigation** team for legal advice on 8238 6666 or email enquiry@andersons.com.au