

NY CLS CPLR § 3031

Current through 2025 released Chapters 1-207

New York

Consolidated Laws Service >
Civil Practice Law And Rules (Arts. 1 — 100) >
Article 30 Remedies and Pleading (§§ 3001 — 3045)

§ 3031. Simplified procedure for court determination of disputes—action without pleadings

An action may be commenced without the service of a summons, or may be continued after the service of a summons, without pleadings, by the filing of a statement, signed and acknowledged by all the parties or signed by their attorneys, specifying plainly and concisely the claims and defenses between the parties and the relief requested. Signing constitutes a certificate that the issues are genuine, and such filing, together with a note of issue, to be filed at the same time, shall constitute the joinder of issues in the action. The procedure in any action commenced under this section shall constitute “the New York Simplified Procedure for Court Determination of Disputes” and it shall be sufficient so to identify the procedure in any contract or other document referring to it. A submission of a controversy under this procedure shall constitute a waiver by the parties of the right to trial by jury.

History

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

Annotations

Notes

Prior Law:

Earlier statutes: CPA §§ 218–a.

Notes to Decisions

Issues sounding in tort do not come under the clause providing for simplified procedure. *New York Kandy Kard Corp. v Barton's Candy Corp.*, 32 A.D.2d 513, 298 N.Y.S.2d 562, 1969 N.Y. App. Div. LEXIS 4300 (N.Y. App. Div. 1st Dep't 1969).

Separation agreement provision, that any controversy arising between parties with respect to terms of agreement should be submitted to Supreme Court, for determination pursuant to Simplified Procedure for Court Determination of Disputes, was valid and enforceable. *Kleiner v Sanjenis*, 46 A.D.2d 617, 359 N.Y.S.2d 791, 1974 N.Y. App. Div. LEXIS 4013 (N.Y. App. Div. 1st Dep't 1974).

Where it was not claimed that there was fraudulent inducement of simplified procedure clause itself, in contract for sale of merchandise, controversy was to be adjudicated accordingly in its entirety, despite claim that underlying contract was fraudulently brought about. *Bawi U. S. Center, Inc. v Joe Brand, Inc.*, 55 A.D.2d 870, 390 N.Y.S.2d 118, 1977 N.Y. App. Div. LEXIS 10061 (N.Y. App. Div. 1st Dep't 1977).

Although looking into a change of circumstances in marital support cases is not uncommon, the separation agreement of the parties in the instant case contemplated the submission of a contention of change for the future and not retroactively. *Hunter v Hunter*, 57 A.D.2d 797, 394 N.Y.S.2d 692, 1977 N.Y. App. Div. LEXIS 11970 (N.Y. App. Div. 1st Dep't 1977).

In an action for a declaratory judgment and to recover money damages for breach of a collective bargaining agreement between food service employees and a Board of Education, the lower court erred in holding that the notice of claim was untimely, as not having been served within three months of the accrual of the employees' claim pursuant to Educ Law § 3813, where the board had waived noncompliance with the statute by adopting inconsistent regulations in the

grievance procedure. Furthermore, the employees were entitled to compensation for the days missed because of a snow emergency where the language of the relevant contract clause was unambiguous. *Aloi v Board of Education*, 81 A.D.2d 874, 439 N.Y.S.2d 169, 1981 N.Y. App. Div. LEXIS 11573 (N.Y. App. Div. 2d Dep't 1981).

An action under CPLR 3031 is a consensual procedure requiring the consent of all parties and the signature of them or their respective attorneys; this consent may be incorporated in the contract pursuant to CPLR 3033. *Time Writers, Inc. v Coleman*, 67 Misc. 2d 258, 323 N.Y.S.2d 862, 1971 N.Y. Misc. LEXIS 1522 (N.Y. Sup. Ct. 1971).

Where parties when separation agreement was executed were both residents of New York and it appeared from terms of agreement that they expected to continue to remain residents of New York and agreement stated that it was to be construed in accordance with laws of State of New York and that decision of arbitrator was to be rendered in such form as to be binding on parties in accordance with laws of State of New York and that judgment where necessary and proper should be rendered in any county of Supreme Court of the State of New York, terms of separation agreement, although ratified, confirmed and adopted by Illinois decree of divorce, survived and were to be interpreted according to laws of State of New York. *Clurman v Clurman*, 84 Misc. 2d 148, 373 N.Y.S.2d 951, 1975 N.Y. Misc. LEXIS 3069 (N.Y. Sup. Ct. 1975), *aff'd*, 51 A.D.2d 915, 382 N.Y.S.2d 281, 1976 N.Y. App. Div. LEXIS 11587 (N.Y. App. Div. 1st Dep't 1976).

Research References & Practice Aids

Cross References:

This section referred to in §§ 3033., 3035.; CLS NYC Civil Ct Act § 910.; CLS UCCA § 910.; CLS UDCA § 910.; CLS UJCA § 910.

Simplified procedure for court determination of disputes; action without pleadings, CLS NYC Civil Ct Act § 910.; UCCA § 910.; UDCA § 910.; UJCA § 910.

Jurisprudences:

5A Am Jur PI & Pr Forms (Rev), Captions, Prayers, and Formal Parts, Forms 176.— 189., 602.— 604.

Treatises

Matthew Bender's New York Civil Practice:

Weinstein, Korn & Miller, New York Civil Practice: CPLR Ch. 3031, Simplified Procedure for Court Determination of Disputes—Action Without Pleadings.

1 Lansner, Reichler, New York Civil Practice: Matrimonial Actions § 6.06; 4 Lansner, Reichler, New York Civil Practice: Matrimonial Actions § 50.08.

Matthew Bender's New York CPLR Manual:

CPLR Manual § 21.14. Action on submitted facts.

CPLR Manual § 31.01. Arbitration in general.

CPLR Manual § 31.16. An alternative to arbitration: simplified procedure for judicial determination of disputes.

Annotations:

Validity of contractual provision limiting place or court in which action may be brought. 31 ALR4th 404.

Forms:

Bender's Forms for the Civil Practice Form No. CPLR 3031:1 et seq.

LexisNexis Forms FORM 75-CPLR 3031:1.— Statement of Claims and Defenses Under Simplified Procedure for Court Determination of Disputes.

LexisNexis Forms FORM 75-CPLR 3031:2.— Statement Commencing Action Under CPLR 3031; Official Form 28.

LexisNexis Forms FORM 75-CPLR 3031:3.— Statement Commencing Action Under CPLR 3031; Proposed Official Form 32.

1 Medina's Bostwick Practice Manual (Matthew Bender), Forms 14:101 et seq .(remedies and pleadings).

Hierarchy Notes:

NY CLS CPLR, Art. 30

Forms

Forms

Form 1

Statement Commencing Action [Official Form 28]

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

U.V.W., Inc., Plaintiff,

the New York Simplified Procedure

against

for Court Determination of Disputes

X.Y.Z., Inc., Defendant.

Statement Commencing Action Under

Index No. _____

1. [For form of allegation of incorporation, see Form 4 under CPLR 107.]

2. On or about July 1, 1966, plaintiff and defendant entered into an oral agreement whereby plaintiff agreed to sell and deliver and defendant agreed to buy certain items of heavy machinery

for the sum of twenty thousand dollars to be paid by defendant to plaintiff within thirty days after delivery.

3. On or about July 9, 1966, plaintiff delivered to defendant certain items of heavy machinery. Plaintiff claims that the machinery as delivered was in accordance with the foregoing oral statement and was in good working order.

4. No part of the twenty thousand dollars purchase price has been paid.

5. Defendant claims that no part of the purchase price is due because the machinery was defective when delivered and was not accepted by defendant. Defendant claims that it still has the delivered items and is holding them for the plaintiff.

6. Plaintiff demands judgment against defendant in the sum of twenty thousand dollars, plus interest, and costs and disbursements. Defendant demands judgment dismissing the claim of the plaintiff and awarding costs and disbursements to defendant.

New York, New York, December 19, 1966.

[Print name below signature]

Attorney for Plaintiff _____ [Print name below signature] Attorney for
Defendant

Form 2

Statement Commencing Action Without Summons or Pleadings (Contract for Goods Sold and Delivered)

[Caption]

The parties hereto, _____, of the County of _____
and _____, of the County of _____, for the purpose
of commencing the above-entitled action pursuant to the provisions of Section 3031 of the Civil
Practice Law and Rules, do hereby state:

1. The purpose of the above-entitled action is the recovery of the sum of \$_____ by the plaintiff _____ against the defendant _____. The plaintiff claims said sum for goods consisting of _____ [describe briefly] allegedly sold and delivered to the defendant on or about the _____ day of _____, 20_____ for the agreed and reasonable price of \$_____. The defendant allegedly agreed to pay the said sum of \$_____ in an oral agreement made on or about the _____ day of _____, 20_____. No part of said sum has been paid by the defendant and the plaintiff has made due demand for said sum. [Or, otherwise state the claims of the parties.]

2. Defendant has refused to pay said sum of \$_____ and demands dismissal of this action on the ground that the said merchandise delivered to him by the plaintiff was defective in that _____ [describe defects]. On or about the _____ day of _____, 20_____, the defendant offered to return the said merchandise to the plaintiff but the plaintiff refused to accept the return of the said merchandise. The plaintiff claims that the said merchandise is not defective and is in conformity with the oral agreement made as aforesaid by the parties hereto. The defendant still has the said merchandise and is allegedly holding it for the plaintiff. [Or, otherwise state the defenses to the action.]

3. Based on the aforesaid claims and defenses, the plaintiff demands judgment against the defendant in the sum of \$_____ with interest from the _____ day of _____, 20_____, together with the costs and disbursements of this action. The defendant demands judgment dismissing the claim of the plaintiff and awarding defendant his costs and disbursements.

Dated, _____, 20_____.

[Acknowledgments]

[Print signer's name below signature]

Plaintiff

[Print signer's name below signature]

Defendant

Telephone No.

Form 3

Statement Commencing Action Without Summons or Pleadings (Contract for Materials)

[Caption]

The undersigned who are all the parties interested in, and necessary parties to, the above-entitled civil action make the following statement pursuant to the provisions of CPLR 3031:

1. The undersigned _____, the plaintiff herein, claims: [that _____, the defendant herein, breached the contract made between the undersigned, the _____ day of _____, a copy of which is hereto annexed and made a part hereof in that the material furnished is claimed to be off-color and grade 3 instead of grade 2].

2. The undersigned _____, the defendant defends: [that he notified the plaintiff that due to a wildcat strike he could not deliver grade 2 material within the time specified but had grade 3 material available for delivery and the plaintiff directed delivery of grade 3 material and extended the time for delivery of grade 2 material until two weeks after the termination of the strike].

3. That submitted for filing herewith is the note of issue.

Dated _____, 20_____.

[Signature of plaintiff with

name printed underneath]

Plaintiff

[Signature of defendant with

name printed underneath]

Defendant

[Acknowledgment]

Form 4

Provision in Judgment for Simplified Procedure to Regulate Controversies Concerning Compliance Therewith

ORDERED AND ADJUDGED that in the event that any dispute hereafter arises as to defendant's compliance with the provisions of this decree or with respect to the effectuation thereof, or in any manner pertaining thereto, that any and all such disputes be and they hereby are directed to be disposed of in accordance with the procedure specified in CPLR 3031 et seq.

New York Consolidated Laws Service

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