

## NY CLS CPLR § 3033

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)*

### **§ 3033. Contracts to submit; enforcement of submission**

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1. Any written contract, otherwise valid under the substantive law, to submit any existing or future controversy to the court pursuant to section 3031 is valid and enforceable and shall be construed as an implied consent of the parties to the jurisdiction of the supreme court of this state to enforce it pursuant to the procedures of rule 3036, and to enter judgment thereon, and shall constitute a waiver by the parties of the right to trial by jury.
2. If the parties to a dispute arising under a contract to submit a controversy to the court under section 3031 are unable to agree on a statement of claims and defenses and relief sought pursuant to that section, the court on motion shall settle the terms of the statement. In deciding the motion the court shall consider and determine any questions as to the existence of the contract or its validity or the failure of any party to perform it. If a substantial issue of fact be raised as to the making of the contract or submission or the failure to comply therewith, the court or judge shall proceed to trial of such issue without a jury, unless either party should demand a jury trial.

### **History**

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

Annotations

### **Notes**

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### **Prior Law:**

Earlier statutes: CPA § 218–b.

## **Notes to Decisions**

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### **1. In general**

If the underlying contract is challenged as on the premise of fraud in the inducement, as distinguished from its making, the simplified procedures are stalemated. The establishment of a valid written contract under the substantive law is basic to the sections coming into play. Submission to the New York Simplified Procedure for Court Determination of Disputes is by contractual consent only, and if the contract is vitiated, its terms are voidable. *Kores Mfg. Corp. v Standard Packaging Corp.*, 31 A.D.2d 622, 295 N.Y.S.2d 862, 1968 N.Y. App. Div. LEXIS 2658 (N.Y. App. Div. 1st Dep't 1968).

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).

## **Research References & Practice Aids**

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### **Cross References:**

This section referred to in § 3035.

### **Jurisprudences:**

86 NY Jur 2d Process and Papers § 8. .

92 NY Jur 2d References § 2. .

## **Treatises**

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

Weinstein, Korn & Miller, New York Civil Practice: CPLR Ch. 3033, Contracts to Submit; Enforcement of Submission.

### **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.

## **Forms:**

Bender's Forms for the Civil Practice Form No. CPLR 3033:1 et seq.

LexisNexis Forms FORM 75-CPLR 3033:1.— Provision in Contract for Submission of Future Controversy for Determination Pursuant to Simplified Procedure.

LexisNexis Forms FORM 75-CPLR 3033:2.— Order to Show Cause for Settlement of Statement Under Simplified Procedure.

LexisNexis Forms FORM 75-CPLR 3033:3.— Affirmation in Support of Motion for Settlement of Statement Under Simplified Procedure.

LexisNexis Forms FORM 75-CPLR 3033:4.— Affidavit in Opposition to Motion for Settlement of Statement Under Simplified Procedure.

LexisNexis Forms FORM 75-CPLR 3033:5.— Demand for Jury Trial.

LexisNexis Forms FORM 75-CPLR 3033:6.— Order Settling Statement Under Simplified Procedure.

LexisNexis Forms FORM 1434-19156.— CPLR 410, 4102, 22 NYCRR 202.21(c): Demand for Jury Trial.

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

**Hierarchy Notes:**

NY CLS CPLR, Art. 30

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