

## **22 NYCRR § 202.12**

This document reflects those changes received from the NY Bill Drafting Commission through August 1, 2025

*NY - New York*

***Codes, Rules and Regulations*** >

***TITLE 22. JUDICIARY*** >

***SUBTITLE A. JUDICIAL ADMINISTRATION*** >

***CHAPTER II. UNIFORM RULES FOR THE NEW YORK STATE TRIAL COURTS*** >

***PART 202. UNIFORM CIVIL RULES FOR THE SUPREME COURT AND THE COUNTY COURT***

### **§ 202.12 Preliminary conference**

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**(a)** A party may request a preliminary conference at any time after service of process. The request shall state the title of the action; index number; names, addresses and telephone numbers of all attorneys appearing in the action; and the nature of the action. If the action has not been assigned to a judge, the party shall file a request for judicial intervention together with the request for a preliminary conference. The request shall be served on all other parties and filed with the clerk for transmittal to the assigned judge. The court shall order a preliminary conference in any action upon compliance with the requirements of this subdivision.

**(b)** The court shall notify all parties of the scheduled conference date, which shall be not more than 45 days from the date the request for judicial intervention is filed unless the court orders otherwise, and a form of a stipulation and order, prescribed by the Chief Administrator of the Courts, shall be made available which the parties may sign, agreeing to a timetable which shall provide for completion of disclosure within 12 months of the filing of the request for judicial intervention for a standard case, or within 15 months of such filing for a complex case. If all parties sign the form and return it to the court before the scheduled preliminary conference, such form shall be "so ordered" by the court, and,

unless the court orders otherwise, the scheduled preliminary conference shall be cancelled. If such stipulation is not returned signed by all parties, the parties shall appear at the conference. Except where a party appears in the action pro se, an attorney thoroughly familiar with the action and authorized to act on behalf of the party shall appear at such conference. Where a case is reasonably likely to include electronic discovery counsel shall, prior to the preliminary conference, confer with regard to any anticipated electronic discovery issues. Further, counsel for all parties who appear at the preliminary conference must be sufficiently versed in matters relating to their clients' technological systems to discuss competently all issues relating to electronic discovery: counsel may bring a client representative or outside expert to assist in such e-discovery discussions.

**(1)** A non-exhaustive list of considerations for determining whether a case is reasonably likely to include electronic discovery is:

- (i)** does potentially relevant electronically stored information ("ESI") exist;
- (ii)** do any of the parties intend to seek or rely upon ESI;
- (iii)** are there less costly or less burdensome alternatives to secure the necessary information without recourse to discovery of ESI;
- (iv)** are the cost and burden of preserving and producing ESI proportionate to the amount in controversy; and
- (v)** what is the likelihood that discovery of ESI will aid in the resolution of the dispute.

**(c)** The matters to be considered at the preliminary conference shall include:

- (1)** simplification and limitation of factual and legal issues, where appropriate;
- (2)** establishment of a timetable for the completion of all disclosure proceedings, provided that all such procedures must be completed within the timeframes set forth in

subdivision (b) of this section, unless otherwise shortened or extended by the court depending upon the circumstances of the case;

**(3)** where the court deems appropriate, it may establish the method and scope of any electronic discovery. In establishing the method and scope of electronic discovery, the court may consider the following non-exhaustive list, including but not limited to:

- (i)** identification of potentially relevant types or categories of ESI and the relevant time frame;
- (ii)** disclosure of the applications and manner in which the ESI is maintained;
- (iii)** identification of potentially relevant sources of ESI and whether the ESI is reasonably accessible;
- (iv)** implementation of a preservation plan for potentially relevant ESI;
- (v)** identification of the individual(s) responsible for preservation of ESI;
- (vi)** the scope, extent, order, and form of production;
- (vii)** identification, redaction, labeling, and logging of privileged or confidential ESI;
- (viii)** claw-back or other provisions for privileged or protected ESI;
- (ix)** the scope or method for searching and reviewing ESI; and
- (x)** the anticipated cost and burden of data recovery and proposed initial allocation of such cost.

**(4)** addition of other necessary parties;

**(5)** settlement of the action;

**(6)** removal to a lower court pursuant to CPLR 325, where appropriate; and

**(7)** any other matters that the court may deem relevant.

**(d)** At the conclusion of the conference, the court shall make a written order including its directions to the parties as well as stipulations of counsel. Alternatively, in the court's

discretion, all directions of the court and stipulations of counsel may be recorded by a reporter. Where the latter procedure is followed, the parties shall procure and share equally the cost of a transcript thereof unless the court in its discretion otherwise provides. The transcript, corrected if necessary on motion or by stipulation of the parties approved by the court, shall have the force and effect of an order of the court. The transcript shall be filed by the plaintiff with the clerk of the court.

**(e)** The granting or continuation of a special preference shall be conditional upon full compliance by the party who has requested any such preference with the foregoing order or transcript. When a note of issue and certificate of readiness are filed pursuant to section 202.21 of this Part, in an action to which this section is applicable, the filing party, in addition to complying with all other applicable rules of the court, shall file with the note of issue and certificate of readiness an affirmation or affidavit, with proof of service on all parties who have appeared, showing specific compliance with the preliminary conference order or transcript.

**(f)** In the discretion of the court, failure by a party to comply with the order or transcript resulting from the preliminary conference, or with the so-ordered stipulation provided for in subdivision (b) of this section, or the making of unnecessary or frivolous motions by a party, shall result in the imposition upon such party of costs or such other sanctions as are authorized by law.

**(g)** A party may move to advance the date of a preliminary conference upon a showing of special circumstances.

**(h)** Motions in actions to which this section is applicable made after the preliminary conference has been scheduled, may be denied unless there is shown good cause why such relief is warranted before the preliminary conference is held.

**(i)** No action or proceeding to which this section is applicable shall be deemed ready for trial unless there is compliance with the provisions of this section and any order issued pursuant thereto.

(j) The court, in its discretion, at any time may order such conferences as the court may deem helpful or necessary in any matter before the court.

(k) The provisions of this section shall apply to preliminary conferences required in matrimonial actions and actions based upon a separation agreement, in medical malpractice actions, and in real property tax assessment review proceedings within the City of New York, only to the extent that these provisions are not inconsistent with the provisions of sections 202.16, 202.56 and 202.60 of this Part, respectively.

(l) The provisions of this section shall apply where a request is filed for a preliminary conference in an action involving a terminally ill party governed by CPLR 3407 only to the extent that the provisions of this section are not inconsistent with the provisions of CPLR 3407. In an action governed by CPLR 3407 the request for a preliminary conference may be filed at any time after commencement of the action, and shall be accompanied by the physician's affidavit required by that provision. SUPREME COURT,[1] COUNTY OF \_\_\_\_\_

INDIVIDUAL ASSIGNMENT PART \_\_\_\_\_

INDEX NO. \_\_\_\_\_

Plaintiff(s)

PRELIMINARY CONFERENCE

STIPULATION AND ORDER

- against \_ (§§202.8 and 202.12 of  
the Uniform Rules)

Defendant(s)

It is hereby STIPULATED and ORDERED that disclosure shall proceed as follows: (1) Insurance Coverage: If not already provided, shall be furnished by \_\_\_\_\_ on or before\_. (2) BILL OF PARTICULARS: (a) Demand for a bill of particulars shall be served by \_\_\_\_\_ on or before \_\_\_\_\_

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(b) Bill of particulars shall be served by \_\_\_\_\_ on or before  
\_\_\_\_\_

(c) A supplemental bill of particulars shall be served by \_\_\_\_\_ as to Items \_\_\_\_\_ on or before  
\_\_\_\_\_

**(3) MEDICAL REPORTS AND AUTHORIZATIONS:** Shall be served as follows:

\_\_\_\_\_

(4) PHYSICAL EXAMINATION: (a) Examination of \_\_\_\_\_ shall be held  
\_\_\_\_\_

(b) A copy of the physician's report shall be furnished to plaintiff  
within \_\_\_\_\_ days of the examination.

**(5) DEPOSITIONS:** Depositions of ☐ Plaintiff(s) ☐ Defendant(s) ☐ All  
Parties

shall be held  
\_\_\_\_\_

(6) Other Disclosure: (a) All parties, on or before  
\_\_\_\_\_, shall exchange names and addresses of all  
witnesses, statements of opposing parties and photographs, or, if none, provide an  
affirmation to that effect.

**(b)** Authorization for plaintiff(s)' employment records for the

period \_\_\_\_\_ shall be furnished on or before  
\_\_\_\_\_

(c) Demand for discovery and inspection shall be served by \_\_\_\_\_ on or before

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The items sought shall be produced to the extent not objected to, and objections, if any, shall be stated on or before

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(d) Other

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(7) END DATE FOR ALL DISCLOSURE: (8) IMPLADER: Shall be completed on or before. (9) MOTIONS: Any dispositive motion(s) shall be made on or before. (10) NOTE OF ISSUE: \_\_\_\_\_ shall file a note of issue/certificate of readiness on or before. A copy of this stipulation and order, an affirmation stating that the terms of the stipulation and order have been complied with, and an affidavit of service of the affirmation and note of issue shall be served and filed with the note of issue on or before said date. (11) If a motion relating to disclosure has raised additional disclosure issues, the parties agree as follows:

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**(12)** Compliance conference shall be held on

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Failure to comply with any of these directives may result in the imposition of costs or sanctions or other action authorized by law. Dated:

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Dated: SO ORDERED:

J.S.C.

ADDITIONAL DIRECTIVES In addition to the directives set forth on the annexed pages, it is further ORDERED as follows:

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Dated: SO ORDERED: J.S.C.

[1] Substitute County Court where applicable.

## Statutory Authority

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### Section statutory authority:

Civil Practice Law & Rules, § 325. Section statutory authority: Civil Practice Law & Rules, § 3407

### Statutory authority:

Judiciary Law, Art. 2

## History

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§ 202.12 Preliminary conference

Added 202.12 on 1/08/86; amended 202.12 on 2/16/88; amended 202.12 on 11/19/92; amended 202.12 on 1/01/93; amended 202.12 on 2/12/96; amended 202.12(a)(eff. 12, 21, 98) on 1/27/99; amended 202.12(b) on 8/18/10; amended 202.12(b) on 10/30/13; amended 202.12(c) on 9/14/98; added 202.12(c)(3) on 4/15/09; amended 202.12(c)(3) on 10/30/13; added 202.12(l) on 5/06/09.

NEW YORK CODES, RULES AND REGULATIONS

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