

## NY CLS CPLR R 3407

Current through 2025 released Chapters 1-207

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>

*Civil Practice Law And Rules (Arts. 1 — 100)*

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*Article 34 Calendar Practice; Trial Preferences (§§ 3401 — 3410)*

### **R 3407. Preliminary conference in personal injury actions involving certain terminally ill parties**

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(a) Request for conference. At any time, a party to an action who is terminally ill, and who asserts in a pleading in such action that such terminal illness is the result of the culpable conduct of another party to such action, may request an expedited preliminary conference in such action. Such request shall be filed in writing with the clerk of the court, and shall be accompanied by a physician's affidavit stating that the party is terminally ill, the nature of the terminal illness, and the duration of life expectancy of such party, if known. The court shall hold a preliminary conference in such action within twenty days after the filing of such a request.

(b)

1. Preliminary conference. At such preliminary conference, the court shall issue an order establishing a schedule for the completion of all discovery proceedings, to be completed within ninety days after the date of the preliminary conference, unless it can be demonstrated for good cause that a longer period is necessary.
2. At such preliminary conference, the court shall issue an order that a note of issue and certificate of readiness be filed in such action within a period of time specified in the order, that the action receive a preference in trial, and that the trial be commenced within one year from the date of such order. In its discretion, and upon application of

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any party, the court may advance or adjourn such trial date based on the circumstances of the case.

**3.** Notwithstanding the provisions of subdivision (b) of rule 3214 of this chapter, the service or pendency of a motion under rule 3211, 3212 or section 3213 of this chapter shall not stay disclosure in an action where a preliminary conference order has been entered pursuant to this rule.

## History

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Add, L 1992, ch 582, § 1, eff Sept 1, 1992.

Annotations

## Notes to Decisions

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### 1. In general

Court properly denied plaintiffs' CLS CPLR § 3407 motion for 90-day expedited discovery on basis of their dilatory conduct and complex nature of case. *Anonymous v New York Blood Ctr. Inc.*, 257 A.D.2d 517, 682 N.Y.S.2d 588, 1999 N.Y. App. Div. LEXIS 660 (N.Y. App. Div. 1st Dep't 1999).

## Research References & Practice Aids

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### Jurisprudences:

44 NY Jur 2d Disclosure § 118. .

44A NY Jur 2d Disclosure § 334. .

76 NY Jur 2d Malpractice § 280. .

### Treatises

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

Weinstein, Korn & Miller, New York Civil Practice: CPLR Ch. 3407, Preliminary Conference in Personal Injury Actions Involving Certain Terminally Ill Parties.

**Matthew Bender's New York CPLR Manual:**

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

CPLR Manual § 15.02 . The Individual Assignment System (IAS).

CPLR Manual § 20.05. Obtaining disclosure by order.

CPLR Manual § 21.08. Relationship between CPLR 3211 and 3212 and 3213; similarities in procedure.

CPLR Manual § 22.03. Trial preferences.

CPLR Manual § 22.05. Pretrial conferences.

**Forms:**

Bender's Forms for the Civil Practice Form No. CPLR 3407:1 et seq.

LexisNexis Forms FORM 380-17:701.—Request for Preliminary Conference.

LexisNexis Forms FORM 380-17:702.—Request for Expedited Preliminary Conference in Personal Injury Action Involving Terminally Ill Party.

LexisNexis Forms FORM 380-17:703.—Physician's Affidavit in Support of Request for Expedited Preliminary Conference in Personal Injury Action Involving Terminally Ill Party.

LexisNexis Forms FORM 380-17:704.—Order Issued at Preliminary Conference in Personal Injury Action Involving Terminally Ill Party.

2 Medina's Bostwick Practice Manual (Matthew Bender), Forms 17:101 et seq .(calendar practice; trial preference).

**Texts:**

1 New York Trial Guide (Matthew Bender) § 1.01.

**Hierarchy Notes:**

NY CLS CPLR, Art. 34

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