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目次

第三目 鑑定	Item 3 Expert Testimony
第四目 書證	Item 4 Documentary Evidence
第五目 勘驗	Item 5 Inspection
第六目 證據保全	Item 6 Perpetuation of Evidence
第四節 和解	Section 4 Settlement
第五節 判決	Section 5 Judgments
第二章 調解程序	Chapter II Mediation Proceeding
第三章 簡易訴訟程序	Chapter III Summary Proceeding
第四章 小額訴訟程序	Chapter IV Small-Claim Proceeding
第三編 上訴審程序	**Part III Appellate Procedure**
第一章 第二審程序	Chapter I Procedure in The Second Instance
第二章 第三審程序	Chapter II Procedure in The Third Instance
第四編 抗告程序	**Part IV Appeals From Rulings**
第五編 再審程序	**Part V Rehearing Proceeding**
第五編之一 第三人撤銷訴訟程序	**Part V-I Third-Party Opposition Proceeding**
第六編 督促程序	**Part VI Demnd Proceeding**
第七編 保全程序	**Part VII Provisional Remedies Proceeding**
第八編 公示催告程序	**Part VIII Public Summons Proceeding**
第九編 人事訴訟程序	**Part IX Actions Concerning Personal Affairs**
第一章 婚姻事件程序	Chapter I Actions Concerning Marriage
第二章 親子關係事件程序	Chapter II Actions Concerning Parent - Child Relationship
第三章 禁治產事件程序	Chapter III Interdiction Proceeding
第四章 宣告死亡事件程序	Chapter IV Declaration of Death

第一編 總則 PART I GENERAL PRINCIPLES

第一章 法院 CHAPTER I THE COURT

第一節 管轄 Section 1 Jurisdiction

第 1 條 (普通審判籍 - 自然人) **Article 1**

訴訟，由被告住所地之法院管轄。被告住所地之法院不能行使職權者，由其居所地之法院管轄。訴之原因事實發生於被告居所地者，亦得由其居所地之法院管轄。

A defendant may be sued in the court for the place of the defendant's domicile or, when that court cannot exercise jurisdiction, in the court for the place of defendant's residence. A defendant may also be sued in the court for the place of defendant's residence for a claim arising from transactions or occurrences taking place within the jurisdiction of that court.

被告在中華民國現無住所或住所不明者，以其在中華民國之居所，視為其住所；無居所或居所不明者，以其在中華民國最後之住所，視為其住所。

Where a defendant has no place of domicile in the R.O.C., or where the defendant's place of domicile is unknown, then the defendant's place of residence in the R.O.C. shall be deemed to be the defendant's place of domicile. Where the defendant has no place of residence in the R.O.C. and where the defendant's place of residence is unknown, then the defendant's last place of domicile in the R.O.C. shall be deemed to be the defendant's place of domicile.

在外國享有治外法權之中華民國人，不能依前二項規定定管轄法院者，以中央政府所在地視為其住所地。

Where an R.O.C. citizen is located in a foreign nation and enjoys immunity from the jurisdiction of such foreign nation, and when he/she cannot be sued in a court in accordance with the provisions of the two preceding paragraphs, then the place where the central government is located shall be deemed to be the place of domicile of such citizen.

第 2 條 (普通審判籍 - 法人及其他團體) **Article 2**

對於公法人之訴訟，由其公務所所在地之法院管轄；其以中央或地方機關為被告時，由該機關所在地之法院管轄。

A public juridical person may be sued in the court where its principal office is located. A central or local government agency may be sued in the court for the jurisdiction where such office is located.

對於私法人或其他得為訴訟當事人之團體之訴訟，由其主事務所或主營業所所在地之法院管轄。

A private juridical person or unincorporated association that has the capacity to be a party to an action may be sued in the court for the location of its principal office or principal place of business.

對於外國法人或其他得為訴訟當事人之團體之訴訟，由其在中華民國之主事務所或主營業所所在地之法院管轄。

A foreign juridical person or unincorporated association may be sued in the court for the location of its principal office or principal place of business in the R.O.C.

第 3 條(因財產權涉訟之特別審判籍(一)) **Article 3**

對於在中華民國現無住所或住所不明之人，因財產權涉訟者，得由被告可扣押之財產或請求標的所在地之法院管轄。

In matters relating to proprietary rights, an action may be initiated against a defendant who either does not have a place of domicile in the R.O.C. or whose domicile is unknown, in the court for the location of the defendant's attachable property or the subject matter

of the claim.

被告之財產或請求標的如為債權，以債務人住所或該債權擔保之標的所在地，視為被告財產或請求標的之所在地。

Where the defendant's attachable property or the subject matter of a claim is a creditor's right, either the place of the debtor's domicile or the location of the subject matter of a security shall be deemed to be the location of the defendant's attachable property or the subject matter of the claim.

第 4 條(因財產權涉訟之特別審判籍(二)) **Article 4**

對於生徒、受僱人或其他寄寓人，因財產權涉訟者，得由寄寓地之法院管轄。

In matters relating to proprietary rights, an action may be initiated against an apprentice, an employee, or any other sojourners in the court for the sojourning place of such person.

第 5 條(因財產權涉訟之特別審判籍(三)) **Article 5**

對於現役軍人或海員因財產權涉訟者，得由其公務所，軍艦本籍或船籍所在地之法院管轄。

In matters relating to proprietary rights, an action may be initiated against a soldier or seaman in the court for the location of the principal office or where the warship or ship is registered.

第 6 條(因業務涉訟之特別審判籍) **Article 6**

對於設有事務所或營業所之人，因關於其事務所或營業所之業務涉訟者，得由該事務所或營業所所在地之法院管轄。

In matters relating to the business of a person's office or place of business, an action may be initiated against such person in the court for the location of its office or place of business.

第 7 條(因船舶涉訟之特別審判籍(一)) **Article 7**

對於船舶所有人或利用船舶人，因船舶或航行涉訟者，得由船籍所在地之法院管轄。

In matters relating to a ship or its voyage, an action may be initiated against the owner or user of the ship in the court for the place of registration of the ship.

第 8 條(因船舶涉訟之特別審判籍(二)) **Article 8**

因船舶債權或以船舶擔保之債權涉訟者，得由船舶所在地之法院管轄。

In matters relating to a debt arising from or secured by a ship, an action may be initiated in the court for the location of the ship.

第 9 條(因社員資格涉訟之特別審判籍) **Article 9**

公司或其他團體或其債權人，對於社員或社員對於社員，於其社員之資格有所請求而涉訟者，得由該團體主事務所或主營業所所在地之法院管轄。

In matters relating to claims arising from its membership, an action may be initiated by a corporation or any association, or its creditor or member, against a member in the court for the location of the association's principal office or principal place of business.

前項規定，於團體或其債權人或社員，對於團體職員或已退社員有所請求而涉訟者，準用

The provision of the preceding paragraph shall apply mutatis mutandis to an action initiated by an association or its creditor or member against such association's staff or former member.

之。

第 10 條(因不動產涉訟之特別審判籍(一)) **Article 10**

因不動產之物權或其分割或經界涉訟者，專屬不動產所在地之法院管轄。

In matters relating to rights in rem, partition, or demarcation of real property, exclusive jurisdiction resides in court for the place where the real property is located.

其他因不動產涉訟者，得由不動產所在地之法院管轄。

In other matters relating to real property, an action may be initiated in the court for the place where the real property is located.

第 11 條(因不動產涉訟之特別審判籍(二)) **Article 11**

對於同一被告因債權及擔保該債權之不動產物權涉訟者，得由不動產所在地之法院合併管轄。

In matters relating to debts or rights in rem of any real property provided as a security for such debt, an action may be initiated against the same defendant in the court for the place where the real property is located.

第 12 條(因契約涉訟之特別審判籍) **Article 12**

因契約涉訟者，如經當事人定有債務履行地，得由該履行地之法院管轄。

In contract matters, an action may be initiated in the court for the place agreed to by the parties as the place of performance of the contract.

第 13 條(因票據涉訟之特別審判籍) **Article 13**

本於票據有所請求而涉訟者，得由票據付款地之法院管轄。

In matters relating to negotiable instruments, an action may be initiated in the court for the location where the instruments are to be honored.

第 14 條(因財產管理涉訟之特別審判籍) **Article 14**

因關於財產管理有所請求而涉訟者,得由管理地之法院管轄。

In matters relating to claims arising from the management of property, an action may be initiated in the court for the location where the property is to be managed.

第 15 條(因侵權行為涉訟之特別審判籍) **Article 15**

因侵權行為涉訟者，得由行為地之法院管轄。

In matters relating to torts, an action may be initiated in the court for the location where the tortious act occurred.

因船舶碰撞或其他海上事故請求損害賠償而涉訟者，得由受損害之船舶最初到達地，或加害船舶被扣留地，或其船籍港之法院管轄。

In matters relating to claims for damages arising from a collision of ships or other accidents at sea, an action may be initiated in the court for the location where the damaged ship first arrived, or where the ship inflicting damages is seized or registered.

因航空器飛航失事或其他空中事故，請求損害賠償而涉訟者，得由受損害航空器最初降落地，或加害航空器被扣留地之法院管轄。

In matters relating to claims for damages arising from the crash of aircraft or other aviation accidents, an action may be initiated in the court for the location where the damaged aircraft first arrived, or where the aircraft inflicting damages is seized.

第 16 條(因海難救助涉訟之特別審判籍) **Article 16**

因海難救助涉訟者，得由救助地或被救助之船舶最初到達地之法院管轄。

In salvage matters, an action may be initiated in the court for the location where the salvage took place, or where the salvaged ship first arrived.

第 17 條(因登記涉訟之特別審判籍) **Article 17**

因登記涉訟者，得由登記地之法院管轄。

In registration matters, an action may be initiated in the court for the location where the registration is administered.

第 18 條(關於繼承事件之特別審判籍) **Article 18**

因遺產之繼承、分割、特留分或因遺贈或其他因死亡而生效力之行為涉訟者，得由繼承開始時被繼承人住所地之法院管轄。

In matters relating to succession, partition or compulsory share of an inheritance, or a legacy, or any other act that shall take effect upon death, an action may be initiated in the court for the location where the decedent resided at the time of its death.

被繼承人住所地之法院，不能行使職權，或訴之原因事實發生於被繼承人居所地，或被繼承人為中華民國人，於繼承開始時，在中華民國無住所或住所不明者，定前項管轄法院時，準用第一條之規定。

When the court for the decedent's place of domicile cannot exercise jurisdiction, or the transactions or occurrences giving rise to the claim took place at the decedent's place of residence, or the decedent is an R.O.C. citizen and either does not have a place of domicile in the R.O.C. or his/her place of domicile is unknown at the time of death, then the provision of Article 1 shall apply mutatis mutandis in determining the appropriate court.

第 19 條 (關於繼承事件之特別審判籍(二)) **Article 19**

因遺產上之負擔涉訟，如其遺產之全部或一部，在前條所定法院管轄區域內者，得由該法院管轄。

In matters relating to an encumbrance upon an inheritance, an action may be initiated in the court prescribed in the preceding Article, provided that the inheritance is in whole or in part located within the jurisdiction of that court.

第 20 條(共同訴訟之特別審判籍) **Article 20**

共同訴訟之被告數人，其住所不在一法院管轄區域內者，各該住所地之法院俱有管轄權。但依第四條至前條規定有共同管轄法院者，由該法院管轄。

The court for the location of a codefendant's domicile has jurisdiction over all codefendants, except where a court can obtain jurisdiction over the action in accordance with the provisions of Article 4 through Article 19 inclusive.

第 21 條(管轄之競合) **Article 21**

被告住所、不動產所在地、侵權行為地或其他據以定管轄法院之地，跨連或散在數法院管轄區域內者，各該法院俱有管轄權。

When the defendant's domicile, or the locus of real property, or the locus of the tort, or any other loci determinative of the court that has jurisdiction crosses or spreads over the jurisdictional boundaries of several courts, any such court may have jurisdiction over the action.

第 22 條(管轄競合之效果 - 選 **Article 22**

擇管轄)

同一訴訟，數法院有管轄權者，原告得任向其中一法院起訴。

When several courts may have jurisdiction over an action, a plaintiff may choose to initiate the action in any one of those courts.

第 23 條(指定管轄 - 原因及程序) **Article 23**

有下列各款情形之一者，直接上級法院應依當事人之聲請或受訴法院之請求，指定管轄：

一、有管轄權之法院，因法律或事實不能行使審判權，或因特別情形，由其審判恐影響公安或難期公平者。

二、因管轄區域境界不明，致不能辨別有管轄權之法院者。

直接上級法院不能行使職權者，前項指定由再上級法院為之。

第一項之聲請得向受訴法院或直接上級法院為之，前項聲請得向受訴法院或再上級法院為之。

指定管轄之裁定，不得聲明不服。

The immediate superior court shall, on motion or the request of the court in which the action is pending, designate a court to exercise jurisdiction in case of any of the following:

1.When the court with jurisdiction cannot exercise jurisdiction due to legal or actual impediments, or when special circumstances suggest that by exercising jurisdiction such court may affect the public order or the fairness of the proceeding;

2.When a court with jurisdiction cannot be determined because the jurisdictional boundaries are unascertainable.

When the immediate superior court cannot exercise such authority, the designation provided in the preceding paragraph shall be made by the court superior to the immediate superior court.

The motion provided in the first paragraph may be filed in the court in which the action is pending or in its immediate superior court. The motion provided in the preceding paragraph may be filed in the court in which the action is pending or in the court superior to its immediate superior court.

The ruling designating a court's jurisdiction is not reviewable.

第 24 條(合意管轄及其表意方法) **Article 24**

當事人得以合意定第一審管轄法院。但以關於由一定法律關係而生之訴訟為限。

前項合意，應以文書證之。

Parties may, by agreement, designate a court of first instance to exercise jurisdiction, provided that such agreement relates to a particular legal relation.

The agreement provided in the preceding paragraph shall be evidenced in writing.

第 25 條(擬制之合意管轄) **Article 25**

被告不抗辯法院無管轄權，而為本案之言詞辯論者，以其法院為有管轄權之法院。

A court obtains jurisdiction over an action where the defendant proceeds orally on the merits without contesting lack of jurisdiction.

第 26 條(合意管轄之限制) **Article 26**

前二條之規定，於本法定有專屬管轄之訴訟，不適用之。

The provisions of the two preceding Articles do not apply to an action that is subject to another court's exclusive jurisdiction in accordance with the provisions of this Code.

第 27 條(定管轄之時期) **Article 27**

定法院之管轄，以起訴時為準。

A court's jurisdiction shall be determined according to the standards existing at the time of the initiation of the action.

第 28 條(移送訴訟之原因及程序)

訴訟之全部或一部，法院認為無管轄權者，依原告聲請或依職權以裁定移送於其管轄法院。

第二十四條之合意管轄，如當事人之一造為法人或商人，依其預定用於同類契約之條款而成立，按其情形顯失公平者，他造於為本案之言詞辯論前，得聲請移送於其管轄法院。但兩造均為法人或商人者，不在此限。

移送訴訟之聲請被駁回者，不得聲明不服。

Article 28

A court, upon determining a lack of jurisdiction over the action in whole or in part, will transfer the action to a court with jurisdiction either by ruling on the plaintiff's motion or on its own initiative.

Before proceeding orally on the merits, a party may move the court to transfer the action to another court with jurisdiction when the court in which the action is pending obtains jurisdiction in accordance with the provision of Article 24 and such agreement is part of a standard contract prepared by the opposing party which is either a juridical person or a merchant, and the contract is manifestly unfair under the circumstances, provided however, that this provision will not apply where both parties are either judicial persons or merchants.

A ruling denying the motion for transfer is not reviewable.

第 29 條(移送前有急迫情形時之必要處分)

移送訴訟前如有急迫情形，法院應依當事人聲請或依職權為必要之處分。

Article 29

When there exist emergent circumstances prior to the transfer of an action, the court shall, either on motion or its own initiative, take necessary measures.

第 30 條(移送裁定之效力(一))

移送訴訟之裁定確定時，受移送之法院受其羈束。

前項法院，不得以該訴訟更移送於他法院。但專屬於他法院管轄者，不在此限。

Article 30

The transferee court is bound by the transfer ruling when such ruling becomes final and binding.

The transferee court cannot retransfer the action to another court, except where the action is subject to another court's exclusive jurisdiction.

第 31 條(移送裁定之效力(二))

移送訴訟之裁定確定時，視為該訴訟自始即繫屬於受移送之法院。

前項情形，法院書記官應速將裁定正本附入卷宗，送交受移送之法院。

Article 31

An action is deemed to have been initiated ab initio in the transferee court when the transfer ruling becomes final and binding.

In the case provided in the preceding paragraph, the court clerk shall annex the authenticated copy of the ruling to the dossier and forward it to the transferee court.

第 31-1 條 (99 年現行規定)

起訴時法院有受理訴訟權限者，不因訴訟繫屬後事實及法律狀態變更而受影響。

訴訟已繫屬於不同審判權之法院者，當事人不得就同一事件向普通法院更行起訴。

第 31-2 條 (99 年現行規定)

普通法院認其有受理訴訟權限

而為裁判經確定者，其他法院受該裁判之羈束。
普通法院認其無受理訴訟權限者，應依職權裁定將訴訟移送至有受理訴訟權限之管轄法院。
當事人就普通法院有無受理訴訟權限有爭執者，普通法院應先為裁定。
前項裁定，得為抗告。
普通法院為第二項及第三項之裁定前，應先徵詢當事人之意見。
第二十九條、第三十一條規定，於第二項之情形準用之。

第 31-3 條 (99 年現行規定)
其他法院將訴訟移送至普通法院者，依本法定其訴訟費用之徵收。移送前所生之訴訟費用視為普通法院訴訟費用之一部分。
應行徵收之訴訟費用，其他法院未加徵收、徵收不足額或溢收者，普通法院應補行徵收或通知原收款法院退還溢收部分。

第二節 法院職員之迴避 Section 2 Disqualification of Officers of the Court

第 32 條(法官之自行迴避及其事由) **Article 32**

法官有下列各款情形之一者，應自行迴避，不得執行職務：
一、法官或其配偶、前配偶或未婚配偶，為該訴訟事件當事人者。
二、法官為該訴訟事件當事人八親等內之血親或五親等內之姻親，或曾有此親屬關係者。
三、法官或其配偶、前配偶或未婚配偶，就該訴訟事件與當事人有共同權利人、共同義務人或償還義務人之關係者。
四、法官現為或曾為該訴訟事件當事人之法定代理人或家長、家屬者。
五、法官於該訴訟事件，現為或曾為當事人之訴訟代理人或

Any judge shall voluntarily disqualify himself/herself in the following circumstances:
1.When the judge, or the judge's spouse, former spouse, or fiancee is a party to the proceeding;

2.When the judge is or was either a blood relative within the eighth degree or a relative by marriage within the fifth degree, to a party to the proceeding;
3.When the judge, or the judge's spouse, former spouse, or fiancee is a co-obligee, co-obligor with, or an indemnitor to, a party to the proceeding;

4.When the judge is or was the statutory agent of a party to the proceeding, or the head or member of the party's household;

5.When the judge is acting or did act as the advocate or assistant of a party to the proceeding;

輔佐人者。

六、法官於該訴訟事件，曾為證人或鑑定人者。

6.When the judge is likely to be a witness or expert witness in the proceeding;

七、法官曾參與該訴訟事件之前審裁判或仲裁者。

7.When the judge participated in making either the prior court decision or the arbitration award regarding the same dispute in the proceeding.

第 33 條(聲請法官迴避及其事由)

Article 33

遇有下列各款情形，當事人得聲請法官迴避：

A party may move for the disqualification of a judge in the following circumstances:

一、法官有前條所定之情形而不自行迴避者。

1.When the judge does not voluntarily disqualify himself/herself in the circumstances prescribed in the preceding Article;

二、法官有前條所定以外之情形，足認其執行職務有偏頗之虞者。

2.When there exist circumstances other than those prescribed in the preceding Article suggesting that the judge may not perform his/her functions impartially.

當事人如已就該訴訟有所聲明或為陳述後，不得依前項第二款聲請法官迴避。但迴避之原因發生在後或知悉在後者，不在此限。

A party cannot move for the disqualification of a judge in accordance with the provision of the second subparagraph of this Article after such party has made any motions or statements concerning the action, except where the grounds for disqualification arise or become known thereafter.

第 34 條(聲請法官迴避之程序)

Article 34

聲請法官迴避，應舉其原因，向法官所屬法院為之。

A motion for the disqualification of a judge shall be filed in the court to which such judge is assigned, stating the specific grounds for the motion.

前項原因及前條第二項但書之事實，應自為聲請之日起，於三日內釋明之。

A preliminary showing of the grounds of the motion and the facts of disqualification provided for in the second paragraph of the preceding Article shall be made within three days of filing the motion.

被聲請迴避之法官，對於該聲請得提出意見書。

The judge for whose disqualification is sought may respond to the motion.

第 35 條(聲請法官迴避之裁定)

Article 35

法官迴避之聲請，由該法官所屬法院以合議裁定之；其因不足法定人數不能合議者，由兼院長之法官裁定之；如並不能由兼院長之法官裁定者，由直接上級法院裁定之。

The ruling on a motion for disqualification shall be made by a panel of judges of the court to which such judge is assigned. When the panel cannot be established due to an insufficient number of qualified judges, the ruling shall be made by the Chief Judge of that court. When the ruling cannot be made by the Chief Judge, it shall then be made by the immediate superior court.

前項裁定，被聲請迴避之法官，不得參與。

The judge for whom disqualification is sought cannot participate in any decision concerning the ruling prescribed in the preceding paragraph.

被聲請迴避之法官，以該聲請為有理由者，毋庸裁定，應即迴避。

The judge for whom disqualification is sought shall disqualify himself/herself without the need of a ruling when he/she considers the motion meritorious.

第 36 條(聲請法官迴避裁定之救濟)

Article 36

聲請法官迴避經裁定駁回者，得為抗告。其以聲請為正當者，不得聲明不服。

An interlocutory appeal may be taken from a ruling denying the motion for a judge's disqualification. A ruling granting the disqualification motion is not reviewable.

第 37 條(聲請法官迴避之效力)

法官被聲請迴避者，在該聲請事件終結前，應停止訴訟程序。但其聲請因違背第三十三條第二項，或第三十四條第一項或第二項之規定，或顯係意圖延滯訴訟而為者，不在此限。

依前項規定停止訴訟程序中，如有急迫情形，仍應為必要處分。

Article 37

The judge shall, upon a motion for disqualification, stay the proceeding prior to a ruling on the motion, except where the motion is filed in violation of either the provisions of the second paragraph of Article 33 or the first or second paragraph of Article 34, or for the manifest purpose of delaying the proceeding.

Despite a stay in accordance with the provision of the preceding paragraph, necessary measures shall still be taken under emergent circumstances.

第 38 條(職權裁定迴避與同意迴避)

第三十五條第一項所定為裁定之法院或兼院長之法官，如認法官有應自行迴避之原因者，應依職權為迴避之裁定。

法官有第三十三條第一項第二款之情形者，經兼院長之法官同意，得迴避之。

Article 38

When finding that a judge should have voluntarily disqualified himself/herself, the court or the Chief Judge of the court prescribed in the first paragraph of Article 35 shall make the disqualification ruling on its own initiative.

A judge may, with the consent of the Chief Judge of the court to which the judge is assigned, disqualify himself/herself under the circumstances provided in the second subparagraph of the first paragraph of Article 33.

第 39 條(書記官及通譯之迴避)

本節之規定，於法院書記官及通譯準用之。

Article 39

The provisions of this Section shall apply mutatis mutandis to all court clerks and interpreters.

第二章 當事人 CHAPTER II PARTIES

第一節 當事人能力及訴訟能力 Section 1 Capacity to be Parties and Capacity to Litigate

第 40 條(當事人能力)

有權利能力者，有當事人能力。

胎兒，關於其可享受之利益，有當事人能力。

非法人之團體，設有代表人或管理人者，有當事人能力。

中央或地方機關，有當事人能力。

Article 40

Any person who has legal capacity has the capacity to be a party.

A fetus has the capacity to be a party in an action concerning the entitlement of its interests.

An unincorporated association with a representative or an administrator has the capacity to be a party.

A central or local government agency has the capacity to be a party.

第 41 條(選定當事人之要件及效力)

多數有共同利益之人，不合於前條第三項所定者，得由其中

Article 41

Multiple parties, who have common interests and may not qualify to be an unincorporated association provided in the third paragraph of the preceding Article, may appoint one or more persons from

選定一人或數人，為選定人及被選定人全體起訴或被訴。
訴訟繫屬後，經選定前項之訴訟當事人者，其他當事人脫離訴訟。
前二項被選定之人得更換或增減之。但非通知他造，不生效力。

themselves to sue or to be sued on behalf of the appointing parties and the appointed parties.
After the appointment has been made in a pending action in accordance with the provision of the preceding paragraph, all parties who are not appointed shall withdraw from the proceeding.
The appointed parties provided in the two preceding paragraphs may be substituted, increased in number, or cancelled. Such substitution, increase in number, or cancellation shall not take effect until after a notice of such action is served upon the opposing party.

第 42 條(選定當事人之程序)

前條訴訟當事人之選定及其更換、增減，應以文書證之。

Article 42

The appointment of representative parties, and the substitution, increase in number or cancellation thereof in accordance with the provision of the preceding Article, shall be evidenced in writing.

第 43 條(選定當事人喪失其資格之救濟)

第四十一條之被選定人中，有因死亡或其他事由喪失其資格者，他被選定人得為全體為訴訟行為。

Article 43

When any of the parties who have been appointed in accordance with the provision of Article 41 has lost its capacity to sue due to death or for any other reason, the remaining appointed parties may continue to conduct the litigation for the entire body.

第 44 條(選定當事人為訴訟行為之限制)

被選定人有為選定人為一切訴訟行為之權。但選定人得限制其為捨棄、認諾、撤回或和解。

選定人中之一人所為限制，其效力不及於他選定人。
第一項之限制，應於第四十二條之文書內表明，或以書狀提出於法院。

Article 44

The appointed parties may conduct all acts of litigation for the appointing parties, provided however that the appointing parties may restrict the appointed parties?authority to abandon claims, admit claims, voluntarily dismiss the action, or settle the case.
The restriction of authority imposed by one of the appointing parties shall have no effect with regard to the other appointing parties.
Any restrictions provided in the first paragraph shall be evidenced in writing as prescribed in Article 42 or submitted to the court by subsequent pleadings.

第 44-1 條(選定法人之要件)

多數有共同利益之人為同一公益社團法人之社員者，於章程所定目的範圍內，得選定該法人為選定人起訴。

法人依前項規定為社員提起金錢賠償損害之訴時，如選定人全體以書狀表明願由法院判定被告應給付選定人全體之總額，並就給付總額之分配方法達成協議者，法院得不分別認定被告應給付各選定人之數額，而僅就被告應給付選定人全體之總額為裁判。

Article 44- 1

Multiple parties with common interests who are members of the same incorporated charitable association may, to the extent permitted by said association's purpose as prescribed in its bylaws, appoint such association as an appointed party to sue on behalf of them.
Where an incorporated association initiates an action for monetary damages on behalf of its members in accordance with the provision of the preceding paragraph, if the entire body of the appointing parties agrees to allow the court to grant the full amount of a monetary award to them as a whole body and prescribes how such total award shall be distributed, and furthermore, if the entire body has filed a pleading to such effect, then the court may award a total sum of money to the entire body of the appointing parties without specifying the amount that the defendant must pay to each of the

appointing parties respectively.

第一項情形準用第四十二條及第四十四條之規定。

The provisions of Articles 42 and 44 shall apply mutatis mutandis to the circumstance provided in the first paragraph of this article.

第 44-2 條(公告曉示)

因公害、交通事故、商品瑕疵或其他本於同一原因事實而有共同利益之多數人，依第四十一條之規定選定一人或數人為同種類之法律關係起訴者，法院得徵求原被選定人之同意，或由被選定人聲請經法院認為適當時，公告曉示其他共同利益人，得於一定期間內以書狀表明其原因事實、證據及應受判決事項之聲明，併案請求。其請求之人，視為已依第四十一條為選定。

其他有共同利益之人，亦得聲請法院依前項規定為公告曉示。

併案請求之書狀，應以繕本或影本送達於兩造。

第一項之期間至少應有二十日，公告應黏貼於法院公告處，並登載公報、新聞紙或其他相類之傳播工具，其費用由國庫墊付。

第一項原被選定人不同意者，法院得依職權公告曉示其他共同利益人起訴，由法院併案審理。

Article 44- 2

When multiple parties, whose common interests have arisen from the same public nuisance, traffic accident, product defect, or the same transaction or occurrence of any kind, appoint one or more persons from themselves in accordance with the provision of Article 41 to sue for the same category of legal claims, the court may, with the consent of the appointed party, or upon the original appointed party's motion which the court considers appropriate, publish a notice to the effect that other persons with the same common interests may join the action by filing a pleading within a designated period of time specifying: the transaction or occurrence giving rise to such claim; the evidence; and the demand for judgment for the relief sought. Those persons so joining shall be deemed to have made the same appointment in accordance with the provisions of Article 41.

Other persons with the same common interest may also move the court to publish the notice provided in the preceding paragraph.

A written copy or photocopy of the pleading of joinder shall be served upon all parties to the action.

The publication period of the notice provided for in the first paragraph shall be no less than twenty days. The same notice shall be posted on the court's bulletin board and published in official gazettes, newspapers, or other similar means of communication. The expenses for such publication shall be advanced by the national treasury.

When the appointed party provided in the first paragraph does not agree to such joinder, the court may, on its own initiative, publish a notice to inform other persons with the same common interests to initiate actions and then the court will consolidate the actions.

第 44-3 條(提起不作為訴訟之權)

以公益為目的之社團法人或財團法人，經其目的事業主管機關許可，於章程所定目的範圍內，得對侵害多數人利益之行為人，提起不作為之訴。

前項許可及監督辦法，由司法院會同行政院定之。

Article 44- 3

An incorporated charitable association or a foundation may initiate, with the permission of its competent governmental business authority and to the extent permitted by the purposes as prescribed in its bylaws, an action for injunctive relief prohibiting specific acts of a person who has violated the interests of the majority concerned.

The Judicial Yuan and the Executive Yuan jointly shall prescribe regulations governing the permission provided in the preceding paragraph as well as appropriate supervision.

第 44-4 條(訴訟代理人之選任)

前三條訴訟，法院得依聲請為原告選任律師為訴訟代理人。

Article 44- 4

In actions initiated in accordance with the provisions of the three preceding Articles, the court may, on motion, appoint an attorney as an advocate for the plaintiff.

前項訴訟代理人之選任，以伸張或防衛權利所必要者為限。

The appointment of an attorney in accordance with the provision of the preceding paragraph shall be made only insofar as necessary for asserting or defending rights.

第 45 條(訴訟能力)

能獨立以法律行為負義務者，有訴訟能力。

Article 45

Any person who has the capacity to undertake obligations through independent juridical acts has the capacity to litigate.

第 45-1 條 (99 年現行規定)

輔助人同意受輔助宣告之人為訴訟行為，應以文書證之。

受輔助宣告之人就他造之起訴或上訴為訴訟行為時，無須經輔助人同意。

受輔助宣告之人為捨棄、認諾、撤回或和解，應經輔助人以書面特別同意。

第 46 條(外國人之訴訟能力)

外國人依其本國法律無訴訟能力，而依中華民國法律有訴訟能力者，視為有訴訟能力。

Article 46

A foreign national who does not have the capacity to litigate under the law of its own country but who has the capacity to litigate under the R.O.C. law will be deemed to have the capacity to litigate.

第 47 條(法定代理及為訴訟所必要之允許應適用之法規)

關於訴訟之法定代理及為訴訟所必要之允許，依民法及其他法令之規定。

Article 47

The provisions of the Civil Code and other laws and regulations will govern the authority of a statutory agent of a person without the capacity to litigate and the necessary approval to initiate an action.

第 48 條(能力、法定代理權或為訴訟所必要之允許欠缺之追認)

於能力、法定代理權或為訴訟所必要之允許有欠缺之人所為之訴訟行為，經取得能力之本人、取得法定代理權或允許之人、法定代理人或有允許權人之承認，溯及於行為時發生效力。

Article 48

Any act of litigation conducted by a person who lacks capacity, authority as a statutory agent, or necessary approval to initiate an action, shall take effect retroactively from the occurrence of such action upon its ratification by a person who subsequently obtains the capacity or the authority as a statutory agent or the necessary approval, or by the statutory agent, or by the person who has authority to grant such approval.

第 49 條(能力、法定代理權或為訴訟所必要之允許欠缺之補正)

能力、法定代理權或為訴訟所必要之允許有欠缺而可以補正者，審判長應定期間命其補正；如恐久延致當事人受損害時，得許其暫為訴訟行為。

Article 49

When there exists a correctable defect in one's capacity, the authority as a statutory agent, or the approval to initiate an action, the presiding judge shall order such defect to be corrected within a designated period of time. In such cases, when there exists a danger that delay will prejudice the party, the presiding judge may permit acts of litigation to be conducted pro tempore.

第 50 條(選定當事人能力欠缺之追認或補正) **Article 50**

前二條規定，於第四十一條、第四十四條之一及第四十四條之二之被選定人為訴訟行為者準用之。

The provisions of the two preceding Articles shall apply mutatis mutandis to the case where a party is appointed in accordance with the provisions of Articles 41, 44-1, and 44-2.

第 50 條 (99 年現行規定)

前二條規定，於第四十一條、第四十四條之一、第四十四條之二被選定人及第四十五條之一受輔助宣告之人為訴訟行為者準用之。

第 51 條(特別代理人之選任及其權限) **Article 51**

對於無訴訟能力人為訴訟行為，因其無法定代理人或其法定代理人不能行代理權，恐致久延而受損害者，得聲請受訴法院之審判長，選任特別代理人。

Any person who intends to conduct litigation against another person, but who is without the capacity to litigate and who does not have a statutory agent or whose statutory agent cannot exercise authority, may file a motion with the presiding judge to appoint a special representative for him/her when there exists a danger that delay will result in prejudice.

無訴訟能力人有為訴訟之必要，而無法定代理人或法定代理人不能行代理權者，其親屬或利害關係人，得聲請受訴法院之審判長,選任特別代理人。

When a person needs to initiate an action but is without the capacity to litigate and does not have a statutory agent, or where the statutory agent cannot exercise authority, the relatives of such person or anyone who has a legal interest in such action may move for the presiding judge to appoint a special representative.

選任特別代理人之裁定，並應送達於特別代理人。

A ruling appointing a special representative shall be served upon the appointed special representative.

特別代理人於法定代理人或本人承當訴訟以前，代理當事人為一切訴訟行為。但不得為捨棄、認諾、撤回或和解。

Except for such acts of litigation as abandoning a claim, admitting a claim, voluntarily dismissing an action, or settling a case, a special representative is authorized to conduct all acts of litigation for the party represented until the party's statutory agent or the party himself/herself assumes the action.

選任特別代理人所需費用，及特別代理人代為訴訟所需費用，得命聲請人墊付。

The expenses necessary for appointing a special representative and for the special representative to conduct acts of litigation may be ordered to be advanced by the movant.

第 52 條(法定代理規定之準用) **Article 52**

本法關於法定代理之規定，於法人之代表人、第四十條第三項之代表人或管理人、第四項機關之代表人及依法令得為訴訟上行為之代理人準用之。

The provisions of this Code regarding a statutory agent's authority shall apply mutatis mutandis to the representative of a juridical person, the representative or administrator provided in the third paragraph of Article 40, the representative of a government agency provided in the fourth paragraph of Article 40, and a representative who has the authority to conduct acts of litigation according to the applicable laws and regulations.

第二節 共同訴訟 Section 2 Joinder of Parties

第 53 條(共同訴訟之要件) **Article 53**

二人以上於下列各款情形，得為共同訴訟人，一同起訴或一同被訴：

Two or more persons may sue or be sued as co-parties under the following circumstances:

一、為訴訟標的之權利或義務，為其所共同者。

1.When the rights or obligations of the claim are common to them;

二、為訴訟標的之權利或義務，本於同一之事實上及法律上原因者。

2.When the rights or obligations of the claim arise from the same factual and legal grounds;

三、為訴訟標的之權利或義務，係同種類，而本於事實上及法律上同種類之原因者。但以被告之住所在同一法院管轄區域內，或有第四條至第十九條所定之共同管轄法院者為限。

3.When the rights or obligations of the claim are of the same nature and arise from the same kind of factual and legal grounds, so long as all defendants are domiciled within the jurisdictional boundaries of the same court or a court can be determined in accordance with the provisions of Articles 4 to 19 inclusive to exercise jurisdiction over all of the defendants.

第 54 條(主參加訴訟) **Article 54**

就他人間之訴訟，有下列情形之一者，得於第一審或第二審本訴訟繫屬中，以其當事人兩造為共同被告，向本訴訟繫屬之法院起訴：

A third person may intervene to assert a claim against the parties to an action pending in a court of either the first or second instance under any of the following circumstances:

一、對其訴訟標的全部或一部，為自己有所請求者。

1.When such third person asserts rights to the whole or a part of any claim of the action;

二、主張因其訴訟之結果，自己之權利將被侵害者。

2.When such third person claims that the outcome of the action will infringe its rights.

依前項規定起訴者，準用第五十六條各款之規定。

The provisions of all subparagraphs of Article 56 shall apply mutatis mutandis to an action initiated in accordance with the provision of the preceding paragraph.

第 55 條(通常共同訴訟人間之關係) **Article 55**

共同訴訟中，一人之行為或他造對於共同訴訟人中一人之行為及關於其一人所生之事項，除別有規定外，其利害不及於他共同訴訟人。

Except as otherwise provided, an act conducted by a co-party or by the opposing party against one of the co-parties, and all matters concerning such co-party, will have no effect on the other co-parties.

第 56 條(必要共同訴訟人間之關係) **Article 56**

訴訟標的對於共同訴訟之各人必須合一確定者，適用下列各款之規定：

Wherever a claim must be adjudicated jointly with regard to all co-parties, the following subparagraphs shall apply:

一共同訴訟人中一人之行為有利益於共同訴訟人者，其效力及於全體；不利益者，對於全

1.Any act conducted by one of the co-parties in the interest of all co-parties will be effective with regard to all of them; any act conducted by one of the co-parties against the interests of all

體不生效力。
二他造對於共同訴訟人中一人之行為，其效力及於全體。
三共同訴訟人中之一人生有訴訟當然停止或裁定停止之原因者，其當然停止或裁定停止之效力及於全體。

co-parties will have no effect with regard to any of them.
2.Any act conducted by the opposing party against one of the co-parties will be effective with regard to all of them;
3.Any reason for a stay of proceeding, either by operation of law or by a court ruling, that arises with regard to one of the co-parties, will take effect with regard to all of them.

第 56 條 (99 年現行規定)
訴訟標的對於共同訴訟之各人必須合一確定者，適用下列各款之規定：
一、共同訴訟人中一人之行為有利益於共同訴訟人者，其效力及於全體；不利益者，對於全體不生效力。
二、他造對於共同訴訟人中一人之行為，其效力及於全體。
三、共同訴訟人中之一人生有訴訟當然停止或裁定停止之原因者，其當然停止或裁定停止之效力及於全體。
前項共同訴訟人中一人提起上訴，其他共同訴訟人為受輔助宣告之人時，準用第四十五條之一第二項之規定。

第 56-1 條(未共同起訴之人追加為原告)
訴訟標的對於數人必須合一確定而應共同起訴，如其中一人或數人拒絕同為原告而無正當理由者，法院得依原告聲請，以裁定命該未起訴之人於一定期間內追加為原告。逾期未追加者，視為已一同起訴。
法院為前項裁定前，應使該未起訴之人有陳述意見之機會。

第一項未共同起訴之人所在不明，經原告聲請命為追加，法院認其聲請為正當者，得以裁定將該未起訴之人列為原告。但該原告於第一次言詞辯論期日前陳明拒絕為原告之理由，經法院認為正當者，得撤銷原裁定。
第一項及前項裁定,得為抗告。
第一項及第三項情形，如訴訟

Article 56- 1

Wherever a claim must be adjudicated jointly with regard to several persons, and they shall join as indispensable plaintiffs to initiate the action, but if one or some of them refuse to join as co-plaintiffs without giving a justifiable reason, the court may, on plaintiff's motion, order by a ruling such persons to join within a designated period of time. If such persons fail to join, they shall be deemed to have joined as co-plaintiffs.
The court shall afford any persons refusing to join an opportunity to be heard, prior to making its ruling in accordance with the provision of the preceding paragraph.
In accordance with the provision of the first paragraph, wherever the whereabouts of an indispensable person is unknown and that person has not joined in the litigation action, and the plaintiff has moved for joinder of such person, if the court considers such motion just, it may join said person as a co-plaintiff. Notwithstanding, the court may revoke the original ruling where the joined plaintiff submits reasons for refusing to join as a co-plaintiff prior to the first oral-argument session and the court considers such reasons just.
An interlocutory appeal may be taken from the rulings provided in the first and the preceding paragraph.

費用應由原告負擔者，法院得酌量情形，命僅由原起訴之原告負擔。

In cases provided in the first and third paragraphs, if plaintiffs shall bear the litigation expenses, the court may, in its discretion, order only those plaintiffs who initially initiated the action to bear such expenses.

第 57 條(續行訴訟權) **Article 57**

共同訴訟人，各有續行訴訟之權。

Each co-party has the right to continue the action.

法院指定期日者，應通知各共同訴訟人到場。

Prior to designating a court session, the court shall notify all co-parties to appear.

第三節 訴訟參加 Section 3 Intervention

第 58 條(訴訟參加之要件) **Article 58**

就兩造之訴訟有法律上利害關係之第三人，為輔助一造起見，於該訴訟繫屬中，得為參加。

A third person who is legally interested in an action between two parties may, for the purpose of supporting one of them, intervene in the action while it is pending.

參加，得與上訴、抗告或其他訴訟行為，合併為之。

Intervention may occur jointly with appeals from judgments, appeals from rulings, or any other act of litigation.

就兩造之確定判決有法律上利害關係之第三人，於前訴訟程序中已為參加者，亦得輔助一造提起再審之訴。

A third person who is legally interested in a final and binding judgment in an action between two parties and who has intervened in such action, may initiate a rehearing action for the party supported.

第 59 條(訴訟參加之程序) **Article 59**

參加，應提出參加書狀，於本訴訟繫屬之法院為之。

A motion for intervention shall be filed along with intervention pleadings in the court where the intervened action is pending.

參加書狀，應表明下列各款事項：

Intervention pleadings shall indicate the following matters:

一、本訴訟及當事人。

1.The action intervened and its parties;

二、參加人於本訴訟之利害關係。

2.The legal interests of the intervener in the action to be intervened;

三、參加訴訟之陳述。

3.The statement of intervention.

法院應將參加書狀，送達於兩造。

The court shall serve the intervention pleadings on all parties.

第 60 條(當事人對第三人參加訴訟之異議權) **Article 60**

當事人對於第三人之參加，得聲請法院駁回。但對於參加未提出異議而已為言詞辯論者，不在此限。

Except where a party had conducted oral argument without objecting to the intervention, any party may move the court to deny a third-party motion for intervention,

關於前項聲請之裁定，得為抗告。

An interlocutory appeal may be taken from the ruling on the motion provided in the preceding paragraph.

駁回參加之裁定未確定前，參加人得為訴訟行為。

An intervener may conduct acts of litigation before the ruling denying the motion for intervention becomes final and binding.

第 61 條(參加人之權限)
參加人得按參加時之訴訟程度，輔助當事人為一切訴訟行為。但其行為與該當事人之行為牴觸者，不生效力。

Article 61
Except for acts that contradict the acts conducted by a supported party, an intervener may conduct all acts of litigation for the supported party according to the phase of litigation at the time of intervention.

第 62 條(獨立參加之效力)
訴訟標的，對於參加人及其所輔助之當事人必須合一確定者，準用第五十六條之規定。

Article 62
Article 56 shall apply mutatis mutandis to all cases where the claims of an action must be adjudicated jointly with regard to the intervener and the party supported.

第 63 條(本訴訟裁判對參加人之效力)
參加人對於其所輔助之當事人，不得主張本訴訟之裁判不當。但參加人因參加時訴訟之程度或因該當事人之行為，不能用攻擊或防禦方法，或當事人因故意或重大過失不用參加人所不知之攻擊或防禦方法者，不在此限。
參加人所輔助之當事人對於參加人，準用前項之規定。

Article 63
An intervener may not dispute the correctness of the decisions made in the action against the supported party, except where the intervener has been denied a means of attack or defense either due to the phase of the litigation at the time of the intervention or by an act of the party supported, or where the supported party has willfully or through gross negligence failed to employ certain means of attack or defense unknown to the intervener.

The provisions of the preceding paragraph shall apply mutatis mutandis to the case where the supported party asserts the same dispute against the intervener.

第 64 條(參加人之承擔訴訟)
參加人經兩造同意時，得代其所輔助之當事人承當訴訟。
參加人承當訴訟者，其所輔助之當事人，脫離訴訟。但本案之判決，對於脫離之當事人，仍有效力。

Article 64
With the consent of both parties, the intervener may assume the action on behalf of the supported party.
When the intervener assumes the action, the supported party will be deemed to have withdrawn from the action. The judgment of the action will have binding effect upon the withdrawing party.

第 65 條(告知訴訟)
當事人得於訴訟繫屬中，將訴訟告知於因自己敗訴而有法律上利害關係之第三人。
受訴訟之告知者，得遞行告知。

Article 65
While an action is pending, a party may notify a third party whose legal interests will be adversely affected if such party is defeated.
The notified third person may make further notification to another person.

第 66 條(告知訴訟之程序)
告知訴訟，應以書狀表明理由及訴訟程度提出於法院，由法院送達於第三人。
前項書狀，並應送達於他造。

Article 66
Notification of an action shall be made by a pleading indicating the reason and phase of litigation reached, and shall be submitted to the court to be served by the court upon the third party.
The notification pleading provided in the preceding paragraph shall also be served upon the opposing party.

第 67 條(告知訴訟之效力)
受告知人不為參加或參加逾時者，視為於得行參加時已參加

Article 67
The notified person is deemed to have intervened in the action at the earliest time when intervention is available notwithstanding his/her

於訴訟，準用第六十三條之規定。

failure or delay to intervene. The provision of Article 63 shall apply mutatis mutandis.

第 67-1 條(訴訟事件及進行程度通知利害關係人之第三人)

訴訟之結果，於第三人有法律上利害關係者，法院得於第一審或第二審言詞辯論終結前相當時期，將訴訟事件及進行程度以書面通知該第三人。

前項受通知人得於通知送達後五日內，為第二百四十二條第一項之請求。

第一項受通知人得依第五十八條規定參加訴訟者，準用前條之規定。

Article 67- 1

The court may, at an appropriate time prior to the conclusion of oral-argument in the first or second instance, serve a written notice of the action and the phase reached to a third party who is legally interested in the outcome of such action.

The third party notified in accordance with the provision of the preceding paragraph may file, within five days of service of the notice, the motion provided in the first paragraph of Article 242.

Wherever the third party notified in accordance with the provision of the first paragraph is qualified to intervene in accordance with the provision of Article 58, the provision of the preceding Article shall apply mutatis mutandis.

第四節 訴訟代理人及輔佐人

Section 4 Advocates and Assistants

第 68 條(訴訟代理人之限制)

訴訟代理人應委任律師為之。但經審判長許可者，亦得委任非律師為訴訟代理人。

前項之許可，審判長得隨時以裁定撤銷之，並應送達於為訴訟委任之人。

非律師為訴訟代理人之許可準則，由司法院定之。

Article 68

Only an attorney may act as an advocate, except where the presiding judge permits a person who is not an attorney to act as an advocate.

The presiding judge may by a ruling, at any time revoke the permission provided in the preceding paragraph. The notification of such revocation shall be served upon the principal of the retention.

The Judicial Yuan shall prescribe the regulations governing permission of a person who is not an attorney to act as an advocate.

第 69 條 （委任訴訟代理人之方式）

訴訟代理人，應於最初為訴訟行為時，提出委任書。但由當事人以言詞委任，經法院書記官記明筆錄，或經法院、審判長依法選任者，不在此限。

前項委任或選任，應於每審級為之。但有下列情形之一者，不在此限：

一當事人就特定訴訟於委任書表明其委任不受審級限制，並經公證者。

二依第五百八十五條第一項選任者。

Article 69

An advocate shall produce a Power of Attorney upon conducting the initial act of litigation, except where the advocate is retained by a party orally and such retention is entered in the court record by the court clerk or where the advocate is appointed by the court or the presiding judge in accordance with the applicable law.

The retention or appointment in accordance with the provision of the preceding paragraph shall be made separately in each instance, except in case of any of the following:

1.The party has indicated in the Power of Attorney that the retention for a specific action takes effect in all of the court instances and such Power of Attorney has been duly notarized;

2.The appointment is made in accordance with the provision of the first paragraph of Article 585.

第 69 條 (99 年現行規定)

訴訟代理人，應於最初為訴訟

行為時，提出委任書。但由當事人以言詞委任，經法院書記官記明筆錄，或經法院、審判長依法選任者，不在此限。
前項委任或選任，應於每審級為之。但有下列情形之一，不在此限：
一、當事人就特定訴訟於委任書表明其委任不受審級限制，並經公證者。
二、依第五百七十一條之一第二項或第五百八十五條第一項選任者。

第 70 條(訴訟代理人之權限)

訴訟代理人就其受委任之事件有為一切訴訟行為之權。但捨棄、認諾、撤回、和解、提起反訴、上訴或再審之訴及選任代理人，非受特別委任不得為之。

關於強制執行之行為或領取所爭物，準用前項但書之規定。

如於第一項之代理權加以限制者，應於前條之委任書或筆錄內表明。

Article 70

An advocate has the authority to conduct all acts of litigation with regard to the action for which he/she is retained, except that he/she may not, without special authorization for him/her to do so: (i) abandon the claim; (ii) admit the claim; (iii) voluntarily dismiss the action; (iv) settle the case; (v) initiate counterclaims; (vi) take an appeal; (vii) initiate a rehearing action; or (ix) appoint another advocate..

The provisions of the proviso of the preceding paragraph shall apply mutatis mutandis to acts concerning compulsory execution or collection of a thing in dispute.

Any restriction on the authority provided in the first paragraph shall be specified in the Power of Attorney or court record provided in the preceding Article.

第 70-1 條(訴訟代理人之權限)

法院或審判長依法律規定為當事人選任律師為訴訟代理人者，該訴訟代理人得代理當事人為一切訴訟行為。但不得為捨棄、認諾、撤回或和解。
當事人自行委任訴訟代理人或表示自為訴訟行為者，前項訴訟代理人之代理權消滅。
前項情形，應通知選任之訴訟代理人及他造當事人。

Article 70- 1

When the court or the presiding judge appoints an attorney to act as advocate for a party in accordance with the applicable law, such advocate may conduct all acts of litigation for the party, except for the acts of: abandoning the claim; admitting the claim; voluntarily dismissing the action; or settling the case.

When a party retains an advocate or expresses the intention to conduct acts of litigation on his/her own behalf, the advocate's authority provided in the preceding paragraph shall terminate.

In the case provided in the preceding paragraph, a notice shall be served upon the appointed advocate and the opposing party.

第 71 條(各別代理權)

訴訟代理人有二人以上者，均得單獨代理當事人。
違反前項之規定而為委任者，對於他造不生效力。

Article 71

In cases where there are two or more advocates, each advocate may represent the party independently.

Retention in violation of the provision of the preceding paragraph shall have no effect on the opposing party.

第 72 條(當事人本人之撤銷或更正權)

Article 72

訴訟代理人事實上之陳述，經到場之當事人本人即時撤銷或更正者，不生效力。

Any factual statement made by an advocate shall not be effective if such statement is revoked or rectified immediately by the party appearing in person.

第 73 條(訴訟代理權之效力)

訴訟代理權，不因本人死亡、破產或訴訟能力喪失而消滅；法定代理有變更者亦同。

Article 73

An advocate's authority shall not terminate by reason of the death, bankruptcy, or loss of the capacity to litigate of the party represented, nor shall it terminate by reason of a change of the statutory agent of the party represented.

第 74 條(終止訴訟委任之要件及程序)

訴訟委任之終止，非通知他造，不生效力。

前項通知，應以書狀或言詞提出於法院，由法院送達或告知於他造。

由訴訟代理人終止委任者，自為終止之意思表示之日起十五日內，仍應為防衛本人權利所必要之行為。

Article 74

The termination of an advocate's retention shall be ineffective unless a notice thereof is served upon the opposing party.

The notice provided in the preceding paragraph shall be made to the court in writing or orally and served upon or notified to the opposing party by the court.

In cases of termination of retention by an advocate, such advocate shall continue to conduct all acts necessary to protect the rights of the party represented for a period of fifteen days from the day of expression of the intention to terminate retention.

第 75 條(訴訟代理權欠缺之補正)

訴訟代理權有欠缺而可以補正者，審判長應定期間命其補正。但得許其暫為訴訟行為。

第四十八條之規定，於訴訟代理準用之。

Article 75

When there exists a correctable defect in the advocate's authority, the presiding judge shall order the correction of the defect within a designated period of time; however, the judge may permit the advocate to conduct acts of litigation pro tempore.

The provision of Article 48 shall apply mutatis mutandis to the authority of an advocate.

第 76 條(輔佐人到場之許可及撤銷)

當事人或訴訟代理人經審判長之許可，得於期日偕同輔佐人到場。

前項許可，審判長得隨時撤銷之。

Article 76

A party or an advocate may, with the permission of the presiding judge, appear with an assistant during a court session.

At any time, the presiding judge may revoke the permission provided in the preceding paragraph.

第 77 條(輔佐人所為陳述之效力)

輔佐人所為之陳述，當事人或訴訟代理人不即時撤銷或更正者，視為其所自為。

Article 77

Any statement made by an assistant, unless revokedor rectified by the party or advocate immediately, shall be deemed to be made by the party or advocate himself/herself.

第三章 訴訟標的價額之核定及訴訟費用

CHAPTER III VALUE OF CLAIM & LITIGATION EXPENSES

第一節 訴訟標的價額之核定 Section 1 Determination of the Value of Claim

第 77-1 條(訴訟標的價額之核定) **Article 77- 1**

訴訟標的之價額,由法院核定。
核定訴訟標的之價額，以起訴時之交易價額為準；無交易價額者，以原告就訴訟標的所有之利益為準。
法院因核定訴訟標的之價額，得依職權調查證據。
第一項之核定，得為抗告。

The court shall determine the value of a claim.
The claim's value will be determined based on its transaction value at the time when the action is initiated or, in the absence of such transaction value, the interests in the claim as owned by the plaintiff.
For purposes of determining the value of a claim, the court may investigate evidence on its own initiative.
An interlocutory appeal may be taken from a ruling on the value of the claim made in accordance with the provision of the first paragraph.

第 77-2 條(數項訴訟標的價額之計算) **Article 77- 2**

以一訴主張數項標的者，其價額合併計算之。但所主張之數項標的互相競合或應為選擇者，其訴訟標的價額，應依其中價額最高者定之。
以一訴附帶請求其孳息、損害賠償、違約金或費用者，不併算其價額。

Where multiple claims are asserted in an action, the claims?value will be the total value of all claims combined. Notwithstanding, the claim's value shall be determined based on the value of the claim with the highest value when such multiple claims are of the same economic purpose or are asserted alternatively.
The values of all incidental claims for interests, damages, default penalty or expenses shall be excluded for purposes of calculating the claim's value.

第 77-3 條(原告應負擔對待給付之計算) **Article 77- 3**

原告應負擔之對待給付，不得從訴訟標的之價額中扣除。
原告並求確定對待給付之額數者，其訴訟標的之價額，應依給付中價額最高者定之。

The value of the counter-prestation which plaintiff should perform shall not be deducted from the claim's value.
Where plaintiff has demanded the court to adjudicate jointly the value of the counter-prestation, the claim's value shall be determined based on the value of such prestation of the highest value of all claims.

第 77-4 條(地上權、永佃權涉訟其價額之計算) **Article 77- 4**

因地上權、永佃權涉訟，其價額以一年租金十五倍為準；無租金時，以一年所獲可視同租金利益之十五倍為準；如一年租金或利益之十五倍超過其地價者，以地價為準。

In matters arising from superficies or yong-dian1, a claim's value shall be fifteen times the total amount of rent for a period of one year, or, in the absence of such amount of rent, fifteen times the attainable rent-equivalent interests for a period of one year. Notwithstanding, where the total amount of rent or the attainable interests for a period of one year exceeds the land value, the land value will govern for purposes of determining the claim's value.

第 77-5 條(地役權涉訟其價額之計算) **Article 77- 5**

因地役權涉訟，如係地役權人為原告，以需役地所增價額為

In matters arising from servitude, a claim's value shall consist of the increment in the value of the dominant land when the servitude

準；如係供役地人為原告，以供役地所減價額為準。

holder is the plaintiff, or the reduction in the value of the servient land when the owner of the dominant land is the plaintiff.

第 77-6 條(擔保債權涉訟其價額之計算)

因債權之擔保涉訟，以所擔保之債權額為準；如供擔保之物其價額少於債權額時，以該物之價額為準。

Article 77- 6

In matters arising from security for creditor's rights, a claim's value shall be the value of the secured creditor's right or, when the value of the security is smaller than the value of the creditor's right, the value of such security.

第 77-7 條(典權涉訟其價額之計算)

因典產回贖權涉訟，以產價為準；如僅係典價之爭執，以原告主張之利益為準。

Article 77- 7

In matters arising from rights in the redemption of a dian property2, the claim's value shall be the value of such property or, where only the price of the dian is in dispute, such interests as asserted by plaintiff.

第 77-8 條(水利涉訟其價額之計算)

因水利涉訟，以一年水利可望增加收益之額為準。

Article 77- 8

In matters arising from irrigation, the claim's value shall be the attainable increment in the proceeds from utilization of such irrigation for a period of one year.

第 77-9 條(租賃權涉訟其價額之計算)

因租賃權涉訟，其租賃定有期間者，以權利存續期間之租金總額為準；其租金總額超過租賃物之價額者，以租賃物之價額為準；未定期間者，動產以二個月租金之總額為準，不動產以二期租金之總額為準。

Article 77- 9

In matters arising from a right in a lease or in cases of fixed term leases, the claim's value shall be the total amount of rent for the entire duration of the existence of such right. Where the total amount of rent exceeds the value of the leased property, the latter will govern for purposes of determining the claim's value. In cases of non-fixed-term leases, the claim's value shall be the total amount of rent for a period of two months with regard to personal property, and the total amount of rent for two payment periods with regard to real property.

第 77-10 條(定期給付涉訟其價額之計算)

因定期給付或定期收益涉訟，以權利存續期間之收入總數為準；期間未確定時，應推定其存續期間。但其期間超過十年者，以十年計算。

Article 77-10

In matters arising from periodical performance or periodical proceeds, a claim's value shall be the total amount of income for the entire duration of the existence of the right to such performance or proceeds. Where the duration is not fixed, the term shall be determined by presumption. Notwithstanding, where the duration exceeds ten years, a duration of only ten years shall be applied.

第 77-11 條(分割共有物涉訟其價額之計算)

分割共有物涉訟，以原告因分割所受利益之價額為準。

Article 77-11

In matters arising from partition of a thing held in indivision, a claim's value shall be the interests receivable by plaintiff as a result of the partition in dispute.

第 77-12 條(訴訟標的價額不能核定者)

訴訟標的之價額不能核定者，以第四百六十六條所定不得上訴第三審之最高利益額數加十分之一定之。

Article 77-12

When a claim's value cannot be determined, the value shall be deemed as the minimum amount under which an appeal may be taken to the court of third instance as provided in Article 466, plus one tenth of such minimum amount.

第二節 訴訟費用之計算及徵收

Section 2 Accounting & Taxation of Litigation Expenses

第 77-13 條(財產權起訴訴訟標的金額之計算)

因財產權而起訴，其訴訟標的之金額或價額在新臺幣十萬元以下部分，徵收一千元；逾十萬元至一百萬元部分，每萬元徵收一百元；逾一百萬元至一千萬元部分，每萬元徵收九十元；逾一千萬元至一億元部分，每萬元徵收八十元；逾一億元至十億元部分，每萬元徵收七十元；逾十億元部分，每萬元徵收六十元；其畸零之數不滿萬元者，以萬元計算。

Article 77-13

In matters arising from proprietary rights, the court cost shall be 1,000 New Taiwan Dollars [" NTD "] on the first NTD100,000 of the price or claim's value, and an additional amount shall be taxed for each NTD10,000 thereafter in accordance with the following rates: NTD100 on the portion between NTD100,001 and NTD1,000,000 inclusive; NTD90 on the portion between NTD1,000,001 and NTD10,000,000 inclusive; NTD80 on the portion between NTD10,000,001 and NTD100,000,000 inclusive; NTD70 on the portion between NTD100,000,001 and NTD1,000,000,000 inclusive; and NTD60 on the portion over NTD1,000,000,000. A fraction of NTD10,000 shall be rounded up to NTD10,000 for purposes of taxing court costs.

第 77-14 條(非財產權訴訟其訴訟費之徵收)

非因財產權而起訴者，徵收裁判費新臺幣三千元。

於非財產權上之訴，並為財產權上之請求者，其裁判費分別徵收之。

Article 77-14

In matters arising from non-proprietary rights, a court cost of NTD3,000 shall be taxed.

Where such action is accompanied with a proprietary claim, the court costs shall be taxed separately.

第 77-15 條(反訴之裁判費)

本訴與反訴之訴訟標的相同者，反訴不另徵收裁判費。

依第三百九十五條第二項、第五百三十一條第二項所為之聲明，不徵收裁判費。

訴之變更或追加，其變更或追加後訴訟標的之價額超過原訴訟標的之價額者，就其超過部分補徵裁判費。

Article 77-15

Where the principal claim is the same as the counterclaim, no court cost will be taxed on the counterclaim.

No court cost shall be taxed on claims asserted in accordance either with the provision of the second paragraph of Article 395 or the second paragraph of Article 531.

In cases of an amended or added claim, where the value of such amended or added claim exceeds the value of the original claim, additional court costs shall be taxed on the excess portion.

第 77-16 條(上訴之裁判費)

向第二審或第三審法院上訴，依第七十七條之十三及第七十

Article 77-16

In matters of appeal to a court of second or third instance, an additional five tenths of the court cost shall be taxed in accordance

七條之十四規定，加徵裁判費十分之五；發回或發交更審再行上訴者免徵；其依第四百五十二條第二項為移送，經判決後再行上訴者，亦同。

with the provisions of Articles 77-13 and 77-14. No court costs will be taxed on a repeated appeal from a judgment rendered after the case has been remanded or transferred by a superior court, or on an appeal from a judgment rendered by the transferee court after the case is transferred in accordance with the provision of the second paragraph of Article 452.

於第二審為訴之變更、追加或依第五十四條規定起訴者，其裁判費之徵收，依前條第三項規定，並準用前項規定徵收之。提起反訴應徵收裁判費者，亦同。

When a claim is amended or added in a court of second instance or is asserted in an action initiated in accordance with the provision of Article 54, the court costs shall be taxed in accordance with the provision of the third paragraph of the preceding article and the provisions of the preceding paragraph shall apply mutatis mutandis. The same principle shall apply to a counterclaim, upon which court costs shall be taxed.

第 77-17 條(再審裁判費之徵收) **Article 77-17**

再審之訴，按起訴法院之審級，依第七十七條之十三、第七十七條之十四及前條規定徵收裁判費。

In cases of a rehearing proceeding, court costs shall be taxed in accordance with the provisions of Article 77-13, Article 77-14, and the preceding article, in accordance with the court before which such proceeding is initiated.

對於確定之裁定聲請再審者，徵收裁判費新臺幣一千元。

Where a motion for a rehearing proceeds to a final and binding ruling, court costs of NTD1,000 shall be taxed.

第 77-18 條(抗告裁判費之徵收) **Article 77-18**

抗告，徵收裁判費新臺幣一千元，再為抗告者，亦同。

Court costs of NTD 1,000 shall be taxed on an appeal from a ruling and on each subsequent re-appeal .

第 77-19 條（聲請或聲明裁判費之徵收） **Article 77-19**

聲請或聲明不徵費用。但下列聲請，徵收裁判費新臺幣一千元：

As a general rule, no costs will be taxed on motions or statements. Notwithstanding, court costs of NTD 1,000 shall be taxed on the following motions :

一聲請參加訴訟或駁回參加。

1.A motion for intervention or for denying intervention;

二聲請回復原狀。

2.A motion for restoration to status quo ante;

三起訴前聲請證據保全。

3.A motion for pre-action perpetuation of evidence;

四聲請發支付命令。

4.A motion for issuance of a payment order;

五聲請假扣押、假處分或撤銷假扣押、假處分裁定。

5.A motion for provisional attachment, provisional injunction, or revocation of a ruling for provisional attachment or provisional injunction;

六聲請宣告禁治產或撤銷禁治產。

6.A motion for declaration of interdiction or for revocation of interdiction;

七聲請公示催告、除權判決或宣告死亡。

7.A motion for public summons, for a judgment of abridgment of rights, or for declaration of death.

第 77-19 條 (99 年現行規定)

聲請或聲明不徵費用。但下列第一款之聲請，徵收裁判費新

臺幣五百元；第二款至第七款之聲請，徵收裁判費新臺幣一千元：
一、聲請發支付命令。
二、聲請參加訴訟或駁回參加。
三、聲請回復原狀。
四、起訴前聲請證據保全。
五、聲請假扣押、假處分或撤銷假扣押、假處分裁定。
六、聲請監護宣告、輔助宣告；變更或撤銷監護宣告、輔助宣告。
七、聲請公示催告、除權判決或宣告死亡。

第 77-20 條(聲請費之徵收)

因財產權事件聲請調解，其標的之金額或價額未滿新臺幣十萬元者，免徵聲請費；十萬元以上，未滿一百萬元者，徵收一千元；一百萬元以上，未滿五百萬元者，徵收二千元；五百萬元以上，未滿一千萬元者，徵收三千元；一千萬元以上者，徵收五千元。非因財產權而聲請調解者,免徵聲請費。調解不成立後三十日內起訴者，當事人應繳之裁判費，得以其所繳調解之聲請費扣抵之。

Article 77-20

In a motion for mediation of disputes over proprietary rights, no filing fees will be taxed where the price or claim's value is less than NTD 100,000. A filing fee shall be taxed for claims valued at NTD 100,000 or greater according to the following rates: NTD 1,000 where the price or claim's value is NTD 100,000 or more but less than NTD 1,000,000; NTD 2,000 where the price or claim's value is NTD1,000,000 or more but less than NTD 5,000,00; NTD 3,000 where the price or claim's value is NTD 5,000,000 or more but less than NTD 10,000,000; NTD 5,000 where the price or claim's value is NTD 10,000,000 or more. No filing fees will be taxed on a motion for mediation of disputes over non-proprietary rights.

In cases where an action is initiated within thirty days following an unsuccessful mediation, the party moving for mediation may have the filing fees paid for that motion deducted from the court cost to be paid.

第 77-21 條(視為起訴者裁判費之徵收)

依第五百十九條第一項規定以支付命令之聲請視為起訴或聲請調解者，仍應依第七十七條之十三或第七十七條之二十規定全額徵收裁判費或聲請費。前項應徵收之裁判費或聲請費，當事人得以聲請支付命令時已繳之裁判費扣抵之。

Article 77-21

In cases where a motion for issuance of a payment order is deemed to be the initiation of an action or a motion for mediation in accordance with the provision of the first paragraph of Article 519, the court costs or filing fees shall be taxed in full in accordance with the provisions of Article 77-13 or Article 77-20.

In such cases, the party moving for issuance of a payment order may have the filing fees that were paid for that motion deducted from the court costs or filing fees to be paid in accordance with the provision of the preceding paragraph.

第 77-22 條（併案請求賠償人裁判費之徵收）

依第四十四條之二請求賠償之人，其裁判費超過新臺幣六十萬元部分暫免徵收。

Article 77-22

The appointed party who initiated an action in accordance with the provision of Article 44-2 may temporarily be exempted from paying the portion of the court costs in excess of NTD 600,000 if the

依第四十四條之三規定請求者，免徵裁判費。
第一項暫免徵收之裁判費，第一審法院應於該事件確定後，依職權裁定向負擔訴訟費用之一造徵收之。

amount of court costs taxed is more than NTD 600,000.
No court cost will be taxed on an action initiated in accordance with the provision of Article 44-3.
The court of first instance shall, after the action is concluded, make a ruling on its own initiative to tax court costs, the payment of which will be temporarily exempted against the party who should bear such cost in accordance with the provision of the first paragraph.

第 77-22 條 (99 年現行規定)
依第四十四條之二請求賠償之人，其裁判費超過新臺幣六十萬元部分暫免徵收。
依第四十四條之三規定請求者，免徵裁判費。
依第一項或其他法律規定暫免徵收之裁判費，第一審法院應於該事件確定後，依職權裁定向負擔訴訟費用之一造徵收之。

第 77-23 條(其他費用之徵收) Article 77-23
訴訟文書之影印費、攝影費、抄錄費、翻譯費，證人、鑑定人之日費、旅費及其他進行訴訟之必要費用，其項目及標準由司法院定之。
運送費、登載公報新聞紙費及法院核定之鑑定人報酬，依實支數計算。
命當事人預納之前二項費用，應專就該事件所預納之項目支用。
郵電送達費及法官、書記官、執達員、通譯於法院外為訴訟行為之食、宿、舟、車費，不另徵收。

The Judicial Yuan shall prescribe the items and rates of taxable fees for photocopies, video recording, transcripts, translation, daily fees, travel expenses of witnesses and expert witnesses, and other fees and disbursements necessary for the proceeding items.

Fees for transportation, publication in official gazettes, newspapers and compensation of expert witness as assessed by the court, shall be calculated according to the actual cost.
Advance payments received from the parties of the fees and disbursements referred to in the two preceding paragraphs shall be applied exclusively to the case for the items of designated fees.
Fees for service effected by mail or telecommunication, and fees for meals, accommodation and transportation as incurred by the judge, court clerk, executive officer, and interpreter for conducting acts of litigation outside the courtroom shall not be taxed additionally.

第 77-23 條 (99 年現行規定)
訴訟文書之影印費、攝影費、抄錄費、翻譯費，證人、鑑定人之日費、旅費及其他進行訴訟之必要費用，其項目及標準由司法院定之。
運送費、登載公報新聞紙費及法院核定之鑑定人報酬，依實支數計算。
命當事人預納之前二項費用，應專就該事件所預納之項目支

用，並得由法院代收代付之。有剩餘者，應於訴訟終結後返還繳款人。
郵電送達費及法官、書記官、執達員、通譯於法院外為訴訟行為之食、宿、舟、車費，不另徵收。

第 77-24 條(到場費用之計算)
當事人、法定代理人或其他依法令代當事人為訴訟行為之人，經法院命其於期日到場或依當事人訊問程序陳述者，其到場之費用為訴訟費用之一部。
前項費用額之計算，準用證人日費、旅費之規定。

Article 77-24
Litigation expenses shall include fees incurred by a party to the action, by the statutory agent or by any other person who duly conducts acts of litigation on behalf of a party to the action for appearing at a court session to make statements, whether such appearance is ordered by the court or for purposes of conducting the examination of parties.
The fees provided in the preceding paragraph shall apply mutatis mutandis in accordance with the provisions applicable to the taxation of daily fees and travel expenses incurred by witnesses.

第 77-25 條(律師酬金之訂定及標準)
法院或審判長依法律規定，為當事人選任律師為特別代理人或訴訟代理人者，其律師之酬金由法院或審判長酌定之。
前項酬金及第四百六十六條之三第一項之酬金為訴訟費用之一部，其支給標準，由司法院參酌法務部及中華民國律師公會全國聯合會意見定之。

Article 77-25
When the court or the presiding judge has duly appointed an attorney to act as the special representative or advocate for a party, the compensation to be paid to such appointed attorney shall be determined in the discretion of the court or the presiding judge.
Both the compensation provided in the preceding paragraph and the compensation provided in the first paragraph of Article 466-3 shall be included as part of litigation expenses.
The Judicial Yuan shall prescribe the payment rates of such compensation taking into consideration the opinions of the Ministry of Justice and the Taiwan Bar Association.

第 77-26 條（溢收訴訟費用之返還）
訴訟費用如有溢收情事者，法院應依聲請並得依職權以裁定返還之。
前項聲請，至遲應於裁判確定或事件終結後三個月內為之。

Article 77-26
In cases of excessive taxation of litigation expenses, the court shall, by ruling on a motion or on its own initiative, return the excess amount taxed and received.
The motion provided in the preceding paragraph must be filed by the expiration of three months either following the entry of a final and binding decision or the conclusion of the action.

第 77-26 條 (99 年現行規定)
訴訟費用如有溢收情事者，法院應依聲請並得依職權以裁定返還之。
前項聲請，至遲應於裁判確定或事件終結後三個月內為之。
裁判費如有因法院曉示文字記載錯誤或其他類此情形而繳納

者，得於繳費之日起五年內聲請返還，法院並得依職權以裁定返還之。

第 77-27 條(裁判費之加徵)
本法應徵收之裁判費，各高等法院得因必要情形，擬定額數，報請司法院核准後加徵之。但其加徵之額數，不得超過原額數十分之五。

Article 77-27
When necessary, each High Court may propose to the Judicial Yuan approval of additional taxation of court costs. Notwithstanding, the additional amount to be taxed must not exceed five tenths of the original taxed amount.

第三節 訴訟費用之負擔 Section 3 Bearing of Litigation Expenses

第 78 條(訴訟費用負擔之原則)
訴訟費用，由敗訴之當事人負擔。

Article 78
The losing party shall bear the litigation expenses.

第 79 條(一部勝訴一部敗訴之負擔標準)
各當事人一部勝訴、一部敗訴者，其訴訟費用，由法院酌量情形，命兩造以比例分擔或命一造負擔，或命兩造各自負擔其支出之訴訟費用。

Article 79
In cases of a partial victory or a partial defeat, the court may, in its discretion, order the litigation expenses to be borne by both parties in a certain proportion; or by a particular party alone, or order both parties separately to bear the litigation expenses they incurred respectively.

第 80 條(原告負擔訴訟費用)
被告對於原告關於訴訟標的之主張逕行認諾，並能證明其無庸起訴者，訴訟費用，由原告負擔。

Article 80
When a defendant had forthwith admitted to a claim presented by a plaintiff and established that the litigation action was unnecessary, the plaintiff shall bear the litigation expenses.

第 80-1 條(分割共有物或定經界等訴訟費用之負擔)
因共有物分割、經界或其他性質上類似之事件涉訟，由敗訴當事人負擔訴訟費用顯失公平者，法院得酌量情形，命勝訴之當事人負擔其一部。

Article 80- 1
In matters arising from a partition or demarcation of a thing held indivisibly or other matters of similar nature, where it is manifestly unfair for the defeated party to bear solely the litigation expenses, the court may, in its discretion, order the prevailing party to bear part of the litigation expenses.

第 81 條(由勝訴人負擔訴訟費用)
因下列行為所生之費用，法院得酌量情形，命勝訴之當事人負擔其全部或一部：
一、勝訴人之行為，非為伸張或防衛權利所必要者。
二、敗訴人之行為，按當時之訴訟程度，為伸張或防衛權利

Article 81
The court may, in its discretion, order the prevailing party to bear the litigation expenses incurred in full or in part for the following:
1.An act performed by the prevailing party which is unnecessary for asserting or defending its rights;
2.An act performed by the defeated party which is necessary for asserting or defending its rights in accordance with the phase of the

所必要者。

proceedings reached at the time.

第 82 條(由勝訴人負擔訴訟費用(二))

當事人不於適當時期提出攻擊或防禦方法，或遲誤期日或期間，或因其他應歸責於己之事由而致訴訟延滯者，雖該當事人勝訴，其因延滯而生之費用，法院得命其負擔全部或一部。

Article 82

Where a party has failed timely to present means of attack or defense, or to meet a specified date or period, or otherwise delayed the proceeding by reason of whatever cause imputable to such party, the court may order such party to bear the litigation expenses incurred from the delay, in full or in part, irrespective of his/her victory.

第 83 條 （撤回訴訟、上訴或抗告之訴訟費用負擔）

原告撤回其訴者，訴訟費用由原告負擔。其於第一審言詞辯論終結前撤回者，得於撤回後三個月內聲請退還該審級所繳裁判費二分之一。

前項規定，於當事人撤回上訴或抗告者準用之。

第 83 條 (99 年現行規定)

原告撤回其訴者，訴訟費用由原告負擔。其於第一審言詞辯論終結前撤回者，得於撤回後三個月內聲請退還該審級所繳裁判費三分之二。

前項規定，於當事人撤回上訴或抗告者準用之。

Article 83

In cases of voluntary dismissal, the plaintiff shall bear the litigation expenses. When the plaintiff voluntarily dismisses the action prior to the termination of the oral-argument session in the first instance, he/she may, within three months after such dismissal, move for the return of one-half of the court costs paid for that instance.

The provision of the preceding paragraph shall apply mutatis mutandis to cases of voluntary dismissal of an appeal from a judgment or an appeal from a ruling.

第 84 條 （和解時之訴訟費用負擔）

當事人為和解者，其和解費用及訴訟費用各自負擔之。但別有約定者，不在此限。

和解成立者，當事人得於成立之日起三個月內聲請退還其於該審級所繳裁判費二分之一。

第 84 條 (99 年現行規定)

當事人為和解者，其和解費用及訴訟費用各自負擔之。但別有約定者，不在此限。

和解成立者，當事人得於成立之日起三個月內聲請退還其於該審級所繳裁判費三分之二。

Article 84

In cases of a settlement, the parties shall respectively bear the expenses of the settlement and the litigation expenses, except as otherwise may be agreed upon.

When a settlement is reached, the parties may, within three months after the settlement date, move for the return of one-half of the court costs paid for the current court action.

第 85 條(共同訴訟之訴訟費用

Article 85

負擔)

共同訴訟人，按其人數，平均分擔訴訟費用。但共同訴訟人於訴訟之利害關係顯有差異者，法院得酌量其利害關係之比例，命分別負擔。

Co-parties shall bear the litigation expenses in equal proportion. Notwithstanding, where there is a manifest difference in the co-parties?gains and losses from the action, the court may, taking such difference into consideration, order the litigation expenses to be borne proportionately to the gains and losses.

共同訴訟人因連帶或不可分之債敗訴者，應連帶負擔訴訟費用。

When the co-parties lose an action over a joint or indivisible debt, they shall bear the litigation expenses jointly and severally.

共同訴訟人中有專為自己之利益而為訴訟行為者，因此所生之費用，應由該當事人負擔。

When one of the co-parties conducts acts of litigation solely for his/her own interests, the expenses incurred thereby shall be borne by such party.

第 86 條(參加人之訴訟費用負擔) **Article 86**

因參加訴訟所生之費用，由參加人負擔。但他造當事人依第七十八條至第八十四條規定應負擔之訴訟費用，仍由該當事人負擔。

An intervener shall bear the expenses incurred for the intervention. Notwithstanding, the opposing party shall still bear the litigation expenses imposed in accordance with the provisions of Articles 78 to 84 inclusive.

訴訟標的，對於參加人與其所輔助之當事人必須合一確定者，準用前條之規定。

The provision of the preceding article shall apply mutatis mutandis to the case where the claim of the action must be adjudicated jointly with regard to the intervener and the supported party.

第 87 條(依職權為訴訟費用之裁判) **Article 87**

法院為終局判決時，應依職權為訴訟費用之裁判。

Upon entering a final judgment, the court shall, on its own initiative, decide the responsibility for litigation expenses.

上級法院廢棄下級法院之判決，而就該事件為裁判或變更下級法院之判決者，應為訴訟總費用之裁判；受發回或發交之法院為終局之判決者亦同。

Where a superior court has reversed a lower court's judgment and entered a decision or changed the lower court's judgment, such superior court shall decide the responsibility for total litigation expenses. The same principle shall apply to cases where the lower court to which a case has been remanded or transferred is to enter a final judgment on that case.

第 88 條(對訴訟費用聲明不服之限制) **Article 88**

訴訟費用之裁判，非對於本案裁判有上訴時,不得聲明不服。

A decision on the responsibility for litigation expenses is not reviewable in the absence of an appeal from the principal decision in issue.

第 89 條(第三人負擔訴訟費用) **Article 89**

法院書記官、執達員、法定代理人或訴訟代理人因故意或重大過失，致生無益之訴訟費用者，法院得依聲請或依職權以裁定命該官員或代理人負擔。

In cases of meritless litigation expenses incurred by the court clerk, the executive officer, the statutory agent, or the advocate, intentionally or through gross negligence, the court may by a ruling on a motion or its own initiative, order such court officer, statutory agent or advocate to bear the litigation expenses incurred.

依第四十九條或第七十五條第一項規定，暫為訴訟行為之人

Where the party who was permitted to conduct acts of litigation pro tempore in accordance with the provisions of Article 49 or the first

不補正其欠缺者，因其訴訟行為所生之費用，法院得依職權以裁定命其負擔。

前二項裁定，得為抗告。

paragraph of Article 75 failed to correct the remediable defect, the court may rule by an order on its own initiative that such party will bear the litigation expenses incurred by his/her acts of litigation.
An interlocutory appeal may be taken from a ruling made in accordance with the provision of either of the two preceding paragraphs.

第 90 條(依聲請訴訟費用之裁判) **Article 90**

訴訟不經裁判而終結者，法院應依聲請以裁定為訴訟費用之裁判。
前項聲請，應於訴訟終結後二十日之不變期間內為之。

Where an action is concluded without a decision, the court shall by ruling on a motion decide on the responsibility for litigation expenses.
The motion provided in the preceding paragraph must be filed within a peremptory period of twenty days following the conclusion of the action.

第 91 條(聲請確定訴訟費用額之要件及程序) **Article 91**

法院未於訴訟費用之裁判確定其費用額者，第一審受訴法院於該裁判有執行力後，應依聲請以裁定確定之。
聲請確定訴訟費用額者，應提出費用計算書、交付他造之計算書繕本或影本及釋明費用額之證書。
依第一項確定之訴訟費用額，應於裁定送達之翌日起，加給按法定利率計算之利息。

Where the amount of litigation expenses is not fixed by the decision on the responsibility for litigation expenses, the court of first instance shall, on motion, fix the amount by a ruling after that decision becomes enforceable.
A motion for fixing the amount of litigation expenses shall be filed with a statement of fees, a written copy or photocopy copy of such statement to be served upon the opposing party, and explanatory evidence of the stated fees.
The amount of litigation expenses payable based on the amount fixed in accordance with the provision of the first paragraph shall be the amount fixed plus interest accrued at the statutory interest rate from the day following the service of the ruling.

第 92 條(確定訴訟費用額之程序) **Article 92**

當事人分擔訴訟費用者，法院應於裁判前命他造於一定期間內，提出費用計算書、交付聲請人之計算書繕本或影本及釋明費用額之證書。

他造遲誤前項期間者，法院得僅就聲請人一造之費用裁判之。但他造嗣後仍得聲請確定其訴訟費用額。

Where litigation expenses are to be borne by both parties proportionately, the court shall order the opposing party to present a statement of fees, a written copy or photocopy copy of such statement to be served upon the movant, and explanatory evidence of the stated fees within a designated period of time before entering the decision.
When the opposing party has failed to observe the designated period of time provided in the preceding paragraph, the court solely may decide the stated fees presented by the movant. Notwithstanding, the opposing party may move the court to fix the payable amount of litigation expenses at a later date.

第 93 條(確定之方法) **Article 93**

當事人分擔訴訟費用者，法院為確定費用額之裁判時，除前條第二項情形外，應視為各當

Where the litigation expenses are to be borne by both parties in a certain proportion, except in the case provided in the second paragraph of the preceding article, the court, when fixing the

事人應負擔之費用，已就相等之額抵銷，而確定其一造應賠償他造之差額。

amount of litigation expenses payable by each party, shall adjudicate the amount of the balance payable by one party to the other party as a result of an offset.

第 94 條(費用之計算)

法院得命書記官計算訴訟費用額。

Article 94

The court may order the court clerk to compute litigation expenses.

第 94-1 條(訴訟費用之預納)

訴訟行為須支出費用者，審判長得定期命當事人預納之。當事人不預納者，法院得不為該行為。但其不預納費用致訴訟無從進行，經定期通知他造墊支亦不為墊支時，視為合意停止訴訟程序。

前項但書情形，經當事人於四個月內預納或墊支費用者，續行其訴訟程序。其逾四個月未預納或墊支者，視為撤回其訴或上訴。

Article 94- 1

The presiding judge may order a party to advance within a designated period of time the fees necessary for conducting an act of litigation. When the party fails to advance the fees, the court may elect not to conduct such act. Notwithstanding, absent such advance payment of fees, where the proceedings will be prevented from continuing and the opposing party has refused to disburse such fees after being notified to do so within a designated period of time, the proceeding shall be deemed stayed by consent.

In cases covered by the proviso of the preceding paragraph, the proceedings shall resume within four months of receipt of the advance payment or disbursement of the fees from the party. If neither party advances or disburses the fees by the expiration of the said four months, the action or appeal shall be deemed dismissed voluntarily.

第 95 條(裁定程序準用本節規定)

本節之規定，於法院以裁定終結本案或與本案無涉之爭點者準用之。

Article 95

Provisions of this Section 3 shall apply mutatis mutandis to cases where the court rules that the action or issues are not relevant to the action.

第 95-1 條(國庫負擔訴訟費用)

檢察官為當事人，依本節之規定應負擔訴訟費用時，由國庫支付。

Article 95- 1

Where a prosecutor is a party and bears litigation expenses in accordance with the provisions of this Section, such litigation expenses shall be disbursed by the national treasury.

第四節 訴訟費用之擔保

Section 4 Security for Litigation Expenses

第 96 條(命供訴訟費用擔保之要件)

原告於中華民國無住所、事務所及營業所者，法院應依被告聲請，以裁定命原告供訴訟費用之擔保；訴訟中發生擔保不足額或不確實之情事時，亦同。

前項規定，如原告請求中，被告無爭執之部分，或原告在中華民國有資產，足以賠償訴訟

Article 96

Where a plaintiff has no domicile, office, or place of business in the R.O.C., the court shall, by a ruling on motion by the defendant, order the plaintiff to provide a security for the litigation expenses. The court shall do the same when such security is found to be inadequate or not correctly provided during the process of the proceedings.

The provision of the preceding paragraph is not applicable in the case where either the portion of the plaintiff's claim is not disputed by defendant or the plaintiff's assets in the R.O.C. are sufficient to

費用時，不適用之。

compensate the litigation expenses.

第 97 條(聲請命供擔保之限制)

被告已為本案之言詞辯論者，不得聲請命原告供擔保。但應供擔保之事由知悉在後者，不在此限。

Article 97

A defendant who has proceeded orally on the merits may not move the court to order the plaintiff to provide a security except in the case where the cause of action requiring the provision of a security becomes known after proceeding on the merits.

第 98 條(被告之拒絕本案辯論權)

被告聲請命原告供擔保者，於其聲請被駁回或原告供擔保前，得拒絕本案辯論。

Article 98

Where a defendant has moved the court to order a plaintiff to provide a security, the defendant may refuse to present argument on the merits either before the motion is dismissed or the plaintiff has provided the security as ordered.

第 99 條(命供擔保裁定之內容)

法院命原告供擔保者，應於裁定中定擔保額及供擔保之期間。

定擔保額，以被告於各審應支出之費用總額為準。

Article 99

The court, in ordering a plaintiff to provide a security, shall specify in its ruling the amount of security to be provided and the period of time within which such security shall be provided.

The requisite security amount shall be determined based on the total amount of fees that a defendant is to pay through all court instances.

第 100 條(裁定之抗告)

關於聲請命供擔保之裁定，得為抗告。

Article 100

An interlocutory appeal may be taken from a ruling made on a motion for provision of security.

第 101 條(不遵期提供擔保之效果)

原告於裁定所定供擔保之期間內不供擔保者，法院應以裁定駁回其訴。但在裁定前已供擔保者，不在此限。

Article 101

Except in cases where the security has been provided before such ruling is made, when a plaintiff fails to provide the security within the period of time designated in the ruling, the court shall, by a ruling, dismiss the action.

第 102 條(供擔保之方法)

供擔保應提存現金或法院認為相當之有價證券。但當事人別有約定者，不在此限。

前項擔保，得由保險人或經營保證業務之銀行出具保證書代之。

應供擔保之原告，不能依前二項規定供擔保者，法院得許由該管區域內有資產之人具保證書代之。

Article 102

Unless agreed upon by the parties, the security shall be lodged in cash or in the form of comparable negotiable securities acceptable to the court.

The security provided in the preceding paragraph may be provided in the form of a promissory note issued by an insurer or a bank authorized to provide surety services.

Where the plaintiff is unable to provide the required security in accordance with the provisions of the two preceding paragraphs, instead, the court may allow the provision of a promissory note issued by a person who owns assets within the jurisdictional boundaries of the court.

第 103 條(擔保之效力)

被告就前條之提存物，與質權人有同一之權利。

Article 103

A defendant will have the same rights in the lodged security provided in the preceding article as those held by a pledgee of the

same.

前條具保證書人，於原告不履行其所負義務時，有就保證金額履行之責任。法院得因被告之聲請，逕向具保證書人為強制執行。

Where the plaintiff fails to perform the obligation, the issuer of the promissory note provided in the preceding article will be required to perform the obligation up to the promised amount. In such case, the court may, on motion by the defendant, forthwith start the proceeding of compulsory execution against the issuer.

第 104 條(擔保物返還原因及程序)

Article 104

有下列各款情形之一者，法院應依供擔保人之聲請，以裁定命返還其提存物或保證書：
一、應供擔保之原因消滅者。
二、供擔保人證明受擔保利益人同意返還者。
三、訴訟終結後，供擔保人證明已定二十日以上之期間，催告受擔保利益人行使權利而未行使，或法院依供擔保人之聲請，通知受擔保利益人於一定期間內行使權利並向法院為行使權利之證明而未證明者。

The court shall rule on a motion by the provider of the security to order the return of the lodgment or the promissory note in the following circumstances:
1.The cause requiring the provision of a security has terminated:
2.The security provider proves that the beneficiary of the security has consented to the return;
3.The security provider proves that he/she has, after the conclusion of the action, requested an answer from the beneficiary of the security to exercise its rights within a given period of twenty days or more, and the beneficiary has failed to do so; or the court has, after the action is concluded, served a notice to the beneficiary of the security to exercise its rights within a designated period of time and produce to the court the evidence of its exercise of rights thereafter, and the beneficiary has failed to produce such evidence.

關於前項聲請之裁定，得為抗告，抗告中應停止執行。

An interlocutory appeal may be taken from a ruling on the motion provided in the preceding paragraph; the execution shall be stayed pending such appeal.

第 105 條(擔保物之變換)

Article 105

供擔保之提存物或保證書，除得由當事人約定變換外，法院得依供擔保人之聲請，以裁定許其變換。

The lodgment or promissory note provided as security may be changed by an agreement of the parties or the court may rule, on motion by the security provider, to allow such a change.

關於前項聲請之裁定，得為抗告，抗告中應停止執行。

An interlocutory appeal may be taken from a ruling on the motion provided in the preceding paragraph; the execution shall be stayed pending such appeal.

第 106 條(其他依法令供訴訟上擔保者準用之規定)

Article 106

第一百零二條第一項、第二項及第一百零三條至前條之規定，於其他依法令供訴訟上之擔保者準用之；其應就起訴供擔保者，並準用第九十八條、第九十九條第一項、第一百條及第一百零一條之規定。

The provisions of the first and second paragraphs of Article 102 and Article 103 to the preceding article inclusive, shall apply mutatis mutandis to other securities duly provided for purposes of litigation pursuant to applicable laws. The provisions of Article 98, the first paragraph of Article 99, Articles 100 and 101 shall also apply mutatis mutandis to the case where a security is required for initiating an action.

第五節 訴訟救助

Section 5 Litigation Aid

第 107 條(訴訟救助之要件)

當事人無資力支出訴訟費用者，法院應依聲請，以裁定准予訴訟救助。但顯無勝訴之望者，不在此限。

法院認定前項資力時，應斟酌當事人及其共同生活親屬基本生活之需要。

Article 107

Except in cases where there is manifestly no prospect for a party to prevail in the action, where a party lacks the financial means to pay the litigation expenses, the court shall, by ruling on a motion, grant litigation aid.

The court, in determining whether a party lacks financial means, shall take into consideration the basic living expenses of the party and his/her families living together.

第 108 條(外國人訴訟救助之要件)

對於外國人准予訴訟救助，以依條約、協定或其本國法令或慣例，中華民國人在其國得受訴訟救助者為限。

Article 108

Litigation aid will be granted to a foreign national on the condition that an R.O.C. national may receive the same aid in such foreign national's country in accordance with a treaty, agreement, or the laws or customs of such country.

第 109 條(聲請訴訟救助之程序)

聲請訴訟救助，應向受訴法院為之。於訴訟繫屬前聲請者，並應陳明關於本案訴訟之聲明及其原因事實。

無資力支出訴訟費用之事由，應釋明之。

前項釋明，得由受訴法院管轄區域內有資力之人，出具保證書代之。保證書內，應載明具保證書人於聲請訴訟救助人負擔訴訟費用時，代繳暫免之費用。

Article 109

A motion for litigation aid shall be filed with the court in which the action is pending. When the motion is made before the action is initiated, the movant shall state the relief to be sought and the transaction or occurrence giving rise to the action.

A preliminary showing shall be made on the fact of lack of financial means to pay litigation expenses.

In place of the preliminary showing provided in the preceding paragraph, a promissory note may be provided by a person who owns assets within the jurisdictional boundaries of the court. Such promissory note must bear an expressed covenant that the issuer will disburse the litigation expenses when the movant is ordered to bear the litigation expenses.

第 109-1 條(訴訟救助之駁回)

駁回訴訟救助聲請之裁定確定前，第一審法院不得以原告未繳納裁判費為由駁回其訴。

Article 109- 1

Before a ruling denying a motion for litigation aid becomes final and binding, the court of first instance must not dismiss the action by reason of the plaintiff's failure to pay the court costs.

第 110 條(訴訟救助之效力)

准予訴訟救助，於訴訟終結前，有下列各款之效力：

一、暫免裁判費及其他應預納之訴訟費用。

二、免供訴訟費用之擔保。

三、審判長依法律規定為受救助人選任律師代理訴訟時，暫行免付酬金。

前項第一款暫免之訴訟費用，由國庫墊付。

Article 110

A grant of litigation aid has the following effects before the action is concluded:

1. Temporary exemption from paying the court costs and other litigation expenses which are to be advanced;
2. Exemption from providing a security for the litigation expenses;
3. Temporary exemption from paying the attorney's fees when the presiding judge, pursuant to the applicable laws, appoints an attorney to advocate the case for the party.

The national treasury shall disburse the litigation expenses for which the movant is temporarily exempted from paying in accordance with the provision of the first subparagraph.

第 111 條(訴訟救助之效力(二))
准予訴訟救助，於假扣押、假處分、上訴及抗告，亦有效力。

Article 111
The effect of a grant of litigation aid shall extend to the proceedings of a provisional attachment, provisional injunction, appeal from a judgment, and appeal from a ruling.

第 112 條(訴訟救助效力之消滅)
准予訴訟救助之效力，因受救助人死亡而消滅。

Article 112
The effect of a grant of litigation aid shall terminate upon the death of the aided party.

第 113 條(訴訟救助之撤銷)
當事人力能支出訴訟費用而受訴訟救助或其後力能支出者，法院應以裁定撤銷救助，並命其補交暫免之費用。

前項裁定，由訴訟卷宗所在之法院為之。

Article 113
Where a party who has the means to pay litigation expenses has been granted litigation aid or subsequently becomes able to pay the litigation expenses, the court shall, by a ruling, revoke the grant of litigation aid and order such party to pay in full the costs and fees which have been temporarily exempted.
The court where the record is maintained shall issue the ruling provided in the preceding paragraph.

第 114 條(訴訟費用之徵收)
經准予訴訟救助者，於終局判決確定或訴訟不經裁判而終結後，第一審受訴法院應依職權以裁定確定訴訟費用額，向應負擔訴訟費用之當事人徵收之；其因訴訟救助暫免而應由受救助人負擔之訴訟費用，並得向具保證書人為強制執行。

為受救助人選任律師之酬金，徵收而無效果時，由國庫墊付。

Article 114
Where litigation aid is granted, the court of first instance to which the action was initiated shall, on its own initiative after the final judgment becomes binding or after the action is concluded without a decision, rule on the adjudication of the amount of the litigation expenses and tax the same against the party who should bear such costs. The litigation expenses which the aided party has been exempted from paying and which should be borne by such party may be reimbursed through a compulsory execution against the issuer of a promissory note.
Compensation of the attorney appointed to advocate the case for the aided party will be disbursed by the national treasury when collection of such compensation proves ineffective.

第 115 條(裁定之抗告)
本節所定之各裁定，得為抗告。

Article 115
An appeal may be taken from a ruling made under this Section.

第四章 訴訟程序 CHAPTER IV LITIGATION PROCEEDINGS

第一節 當事人書狀 Section 1 Pleadings

第 116 條(書狀應記載事項)
當事人書狀，除別有規定外，應記載下列各款事項：
一、當事人姓名及住所或居所；當事人為法人、其他團體或機關者，其名稱及公務所、事務所或營業所。
二、有法定代理人、訴訟代理

Article 116
Except as otherwise provided, a pleading submitted by a party shall indicate the following matters:
1. The full name and domicile or residence of the parties; in the case of a juridical person, an unincorporated association or agency, then its name and principal office, office or place of business.
2. The full name and domicile or residence of such party's statutory

人者，其姓名、住所或居所，及法定代理人與當事人之關係。
三、訴訟事件。
四、應為之聲明或陳述。
五、供證明或釋明用之證據。
六、附屬文件及其件數。
七、法院。
八、年、月、日。
書狀內宜記載當事人、法定代理人或訴訟代理人之性別、出生年月日、職業、國民身分證號碼、營利事業統一編號、電話號碼及其他足資辨別之特徵。
當事人得以電信傳真或其他科技設備將書狀傳送於法院，效力與提出書狀同。其辦法，由司法院定之。
當事人書狀之格式及其記載方法，由司法院定之。

agent and advocate, if any, and the relationship between such party and the statutory agent;
3. The subject matter of the action;
4. Any motion or statement required to be made in the pleading;
5. The evidence necessary to prove the fact or to make a preliminary showing;
6. The annexed documents and the numbers thereof;
7. The court; and
8. The date.
A pleading may indicate the gender, date of birth, occupation, R.O.C. citizen identification number, uniform business number, telephone number, and any other details for the identification of the parties, statutory agents, and advocates.

Parties may submit pleadings to the court by telefax or by any other technological device, and pleadings so submitted shall take full effect as if they were submitted in the original copy.

The Judicial Yuan shall prescribe rules governing such submittal as well as the forms and particulars of pleadings.

第 117 條(書狀之簽名)

當事人或代理人應於書狀內簽名或蓋章。其以指印代簽名者，應由他人代書姓名，記明其事由並簽名。

Article 117

Parities or their advocates shall sign their names or impress their seals on the pleadings. Where fingerprints are impressed instead of seals, the parties shall cause another person to write their full names for them, indicate the reason for this approach, and sign his/her own name.

第 118 條(書狀內引用證據)

當事人於書狀內引用所執之文書者，應添具該文書原本或繕本或影本；其僅引用一部分者，得祇具節本，摘錄該部分及其所載年、月、日並名押、印記；如文書係他造所知或浩繁難以備錄者，得祇表明該文書。

當事人於書狀內引用非其所執之文書或其他證物者，應表明執有人姓名及住居所或保管之機關；引用證人者，應表明該證人姓名及住居所。

Article 118

Where parties have referenced in the pleadings documents in their possession, the original copy or a written copy or photocopy of such documents shall be annexed to the pleadings; in case of a partial reference, an excerpted copy of the portion referenced along with the date, signature and seal appearing on the document will be acceptable; in case where the content of the referenced document either is known to the opposing party or is too voluminous for an excerpted copy to be prepared, the mere specification of the document will be acceptable.
Where parties have referenced in the pleadings a document or other tangible evidence which is not in their possession, the full name and domicile or residence of the person or agency possessing that document shall be specified; in case of a reference to a witness, the full name and domicile or residence of such witness shall be specified.

第 119 條(書狀繕本或影本之提出)

書狀及其附屬文件，除提出於

Article 119

In addition to the copy submitted to the court, additional written

法院者外，應按應受送達之他造人數，提出繕本或影本。

前項繕本或影本與書狀有不符時，以提出於法院者為準。

copies or photocopies of a pleading with annexed documents shall be prepared according to the number of the opposing party to be served.

In case of a discrepancy between the original copy of a pleading and its written copy or photocopy, the copy submitted to the court will prevail.

第 120 條(他造對附屬文件原本之閱覽) **Article 120**

當事人提出於法院之附屬文件原本，他造得請求閱覽；所執原本未經提出者，法院因他造之聲請，應命其於五日內提出，並於提出後通知他造。

他造接到前項通知後，得於三日內閱覽原本，並製作繕本或影本。

The original copy of the annexed documents submitted to the court by a party may be inspected by the opposing party on application; in cases where the original copy is not submitted, the court shall, on the opposing party's motion, order the party to submit it within five days and notify the opposing party after submission.

The opposing party may, within three days after receipt of the notice provided in the preceding paragraph, inspect the original copy and make a written copy or photocopy thereof.

第 121 條(書狀欠缺之補正) **Article 121**

書狀不合程式或有其他欠缺者，審判長應定期間命其補正。

因命補正欠缺，得將書狀發還；如當事人住居法院所在地者，得命其到場補正。

書狀之欠缺，經於期間內補正者，視其補正之書狀，與最初提出同。

The presiding judge shall order a correction of a pleading not submitted in the prescribed form or defective in any required particulars within a designated period of time.

The pleading to be corrected may be returned for purposes of such correction; in cases where the party domiciles or resides within the jurisdictional boundaries of the court, he/she may be ordered to appear before the court to make the correction.

When a defect in a pleading has been corrected within the designated period of time, such corrected pleading shall be deemed to have taken effect upon its initial submittal.

第 122 條(以筆錄代書狀) **Article 122**

於言詞辯論外，關於訴訟所為之聲明或陳述，除依本法應用書狀者外，得於法院書記官前以言詞為之。

前項情形，法院書記官應作筆錄，並於筆錄內簽名。

第一百十六條及第一百十八條至第一百二十條之規定，於前項筆錄準用之。

Except as required by this Code to be made in pleadings, any motion or statement concerning the action outside the oral-argument sessions may be made orally before the court clerk.

In the case provided in the preceding paragraph, the court clerk shall record it in the court record and sign therein.

The provisions of Article 116, Articles 118 to 120 inclusive shall apply mutatis mutandis to the court record provided in the preceding paragraph.

第二節 送達 Section 2 Service of Process

第 123 條(依職權送達) **Article 123**

送達，除別有規定外，由法院書記官依職權為之。

Except as otherwise provided, service of process will be administered by the court clerk on his/her own authority.

第 124 條(送達之機關) **Article 124**

送達，由法院書記官交執達員或郵務機構行之。
由郵務機構行送達者，以郵務人員為送達人。

Service of process shall be effectuated by an execution officer or post office delegated by the court clerk.
In cases of service effectuated by a post office, the relevant postman shall be deemed the person who effects service.

第 125 條(囑託送達(一) - 於管轄區域外之送達)

Article 125

法院得向送達地地方法院為送達之囑託。

A court may request the court at the place where service is to be effectuated to effect the service.

第 126 條(自行交付送達)

Article 126

法院書記官，得於法院內，將文書付與應受送達人，以為送達。

Service is deemed effectuated when the court clerk delivers the paper to be served to the person in the courthouse.

第 127 條(對無訴訟能力人之送達)

Article 127

對於無訴訟能力人為送達者，應向其全體法定代理人為之。
法定代理人有二人以上，如其中有應為送達處所不明者，送達得僅向其餘之法定代理人為之。

Service upon a person without the capacity to litigate shall be effectuated upon all of his/her statutory agents.
Where there are two or more statutory agents and the place where service shall be effectuated with regard to some of them is unknown, service may be effectuated upon the other statutory agents only.

第 128 條(對外國法人團體之送達)

Article 128

對於在中華民國有事務所或營業所之外國法人或團體為送達者，應向其在中華民國之代表人或管理人為之。
前條第二項規定，於前項送達準用之。

Service upon a foreign juridical person or unincorporated association which has set up an office or a place of business in the R.O.C. shall be effectuated upon its representative or administrator in the R.O.C.

第 129 條(對軍人之送達)

Article 129

對於在軍隊或軍艦服役之軍人為送達者，應囑託該管軍事機關或長官為之。

Service upon a soldier in the military or on a warship shall be effectuated by the competent military agency or officer requested to do so.

第 130 條(對在監所人之送達)

Article 130

對於在監所人為送達者，應囑託該監所首長為之。

Service upon a prisoner shall be effectuated by the chief officer in charge of the prison to make the service requested to do so.

第 131 條(商業訴訟事件之送達)

Article 131

關於商業之訴訟事件，送達得向經理人為之。

In an action regarding a business, service may be effectuated upon the manager.

第 132 條(對訴訟代理人之送達)

Article 132

訴訟代理人受送達之權限未受限制者，送達應向該代理人為之。但審判長認為必要時，得命送達於當事人本人。

Where there is no limitation on an advocate's authority to receive service, service shall be effectuated upon the advocate, except where the presiding judge may order the service to be effectuated upon the party represented when he/she considers it necessary to do so.

第 133 條(送達代收人之指定)

當事人或代理人經指定送達代收人向受訴法院陳明者，應向該代收人為送達。

Article 133

Where the party or his/her agent has appointed an agent of service and notice of such appointment has been given to the court in which the action is pending, service shall be effectuated upon the agent of service.

第 134 條(指定送達代收人之效力)

送達代收人，經指定陳明後，其效力及於同地之各級法院。但該當事人或代理人別有陳明者，不在此限。

Article 134

Except as otherwise notified by the party or the agent, where an agent of service has been appointed and such appointment has been notified to the court, such appointment shall take effect with regard to the courts of all instances within the same geographic boundaries.

第 135 條(應送達之文書)

送達，除別有規定外，付與該文書之繕本或影本。

Article 135

Except as otherwise provided, service shall be made by delivering a written copy or photocopy of the paper purported to be served.

第 136 條(送達處所)

送達於應受送達人之住居所、事務所或營業所行之。但在他處會晤應受送達人時，得於會晤處所行之。

不知前項所定應為送達之處所或不能在該處所為送達時，得在應受送達人就業處所為送達。應受送達人陳明在其就業處所收受送達者，亦同。

對於法定代理人之送達，亦得於當事人本人之事務所或營業所行之。

Article 136

Service shall be effectuated in the domicile or residence, office or place of business of the person to be served; but service may also be effectuated at the place where the person to be served is found.

In cases where the place to which the service should be effectuated under the preceding paragraph is unknown or where service cannot be effectuated therein, service may be effectuated at the employment place of the person to be served. The same shall apply to cases where the person to be served has notified the court that service may be effectuated at his/her employment place.

Service upon a statutory agent may also be made in the office or place of business of the party.

第 137 條(補充送達)

送達於住居所、事務所或營業所不獲會晤應受送達人者，得將文書付與有辨別事理能力之同居人或受僱人。

如同居人或受僱人為他造當事人者，不適用前項之規定。

Article 137

When the person to be served cannot be found in his/her domicile/residence, office, or place of business, service may be effectuated by leaving the paper with his/her housemate or employee of suitable age and discretion.

The provision of the preceding paragraph does not apply to cases where the housemate or employee is the opposing party.

第 138 條(寄存送達)

送達不能依前二條規定為之者，得將文書寄存送達地之自治或警察機關，並作送達通知

Article 138

Where service cannot be effectuated in accordance with the provisions of the two preceding Articles, it may be effectuated by depositing the paper with the autonomous agency or police

書兩份，一份黏貼於應受送達人住居所、事務所、營業所或其就業處所門首，另一份置於該送達處所信箱或其他適當位置，以為送達。

department at the place where the service shall be effectuated. In such cases, two copies of notice of service shall be made with one copy posted on the front gate of the domicile or residence, office, place of business, or employment place of the person to be served and the other copy placed in the mailbox or any other appropriate location of the place of service.

寄存送達，自寄存之日起，經十日發生效力。

Service by deposit shall take effect ten days from the day of the deposit.

寄存之文書自寄存之日起，寄存機關應保存二個月。

The depository agency shall keep the deposited paper for two months from the day of deposit.

第 139 條(留置送達)

應受送達人拒絕收領而無法律上理由者，應將文書置於送達處所，以為送達。

前項情形，如有難達留置情事者，準用前條之規定。

Article 139

Where the person to be served refuses to receive service without legal grounds, service will be effectuated by leaving the paper at the place of service.

When there exist circumstances under which service cannot be effectuated by leaving the paper in accordance with the provision of the preceding paragraph, the provision of the preceding Article shall apply mutatis mutandis.

第 140 條(送達時間)

送達，除依第一百二十四條第二項由郵務人員為之者外，非經審判長或受命法官、受託法官或送達地地方法院法官之許可，不得於星期日或其他休息日或日出前、日沒後為之。但應受送達人不拒絕收領者，不在此限。

前項許可，法院書記官應於送達之文書內記明。

Article 140

Unless effectuated by a postmen in accordance with the provision of the second paragraph of Article 124, no service will, without the permission of the presiding judge, the commissioned judge, the assigned judge, or a judge sitting in the district court at the place of service, be effectuated on Sunday or other holidays, neither before sunrise nor after sunset, except where the person to be served upon does not refuse to receive service.

The court clerk shall indicate in the paper served the permission provided in the preceding paragraph.

第 141 條(送達證書)

送達人應作送達證書，記載下列各款事項並簽名：

一、交送達之法院。

二、應受送達人。

三、應送達之文書。

四、送達處所及年、月、日、時。

五、送達方法。

送達證書，應於作就後交收領人簽名、蓋章或按指印；如拒絕或不能簽名、蓋章或按指印者，送達人應記明其事由。

收領人非應受送達人本人者，應由送達人記明其姓名。

送達證書，應提出於法院附卷。

Article 141

The person effecting service shall make a service report, indicating the following matters and signing thereon:

1. The court ordering service;
2. The person to be served;
3. The paper to be served;
4. The place, hour, and date of service; and
5. The means of service.

The service report shall be signed, or impressed by seal or fingerprints of the person receiving service. If he/she refuses or is unable to do so, the person effecting service shall make a note of this fact.

Where the person receiving service is not the person to be served himself/herself, the person effecting service shall make a note of such person's name.

The service report shall be submitted to the court and included in the

dossier.

第 142 條(不能送達時處置)

不能為送達者，送達人應作記載該事由之報告書，提出於法院附卷，並繳回應送達之文書。

法院書記官應將不能送達之事由，通知使為送達之當事人。

Article 142

When service cannot be effectuated, the person attempting to effect service shall make a report indicating the fact, submit the same to the court to include it in the dossier, and return the paper to be served.

The court clerk shall notify the fact that service cannot be effectuated and the reason therefor to the party for whose purpose the service was attempted.

第 143 條(送達之證據方法)

依第一百二十六條之規定為送達者，應命受送達人提出收據附卷。

Article 143

Where service is effectuated in accordance with the provision of Article 126, the person receiving service shall be ordered to provide a receipt to be included in the dossier.

第 144 條(囑託送達(二) - 對治外法權人之送達)

於有治外法權人之住居所或事務所為送達者，得囑託外交部為之。

Article 144

Where service is to be effectuated in the domicile or residence or office of a person who enjoys immunity, the Ministry of Foreign Affairs may be requested to effect service.

第 145 條(囑託送達 - 於外國為送達)

於外國為送達者，應囑託該國管轄機關或駐在該國之中華民國使領館或其他機構、團體為之。

不能依前項規定為囑託送達者，得將應送達之文書交郵務機構以雙掛號發送，以為送達，並將掛號回執附卷。

Article 145

Where service is to be made in a foreign country, it shall be effectuated by the competent authorities of such country requested to do so, or the relevant R.O.C. ambassador/minister envoy/consul, or other authorized institutes or organizations in that country.

Where service cannot be effectuated in accordance with the provision of the preceding paragraph, it may be effectuated by dispatching the paper to be served with by registered and receipt requested mail. The returning receipt requested of such mail shall be included in the dossier.

第 146 條(囑託送達 - 對駐外使節送達)

對於駐在外國之中華民國大使、公使、領事或其他駐外人員為送達者，應囑託外交部為之。

Article 146

Service upon an R.O.C. ambassador/minister envoy/consul, or any other staff stationed in a foreign country shall be effectuated by the Ministry of Foreign Affairs requested to do so.

第 147 條

(刪除)

Article 147

(Repealed.)

第 148 條(受託送達之處置)

受囑託之機關或公務員，經通知已為送達或不能為送達者，法院書記官應將通知書附卷；其不能為送達者，並應將其事

Article 148

After the requested authorities or public servants notify that service has been or cannot be effectuated, the court clerk shall include such notice in the dossier; in cases where service cannot be effectuated, the court clerk shall also notify the fact and the reason therefor to

由通知使為送達之當事人。 the party for whose purpose service was attempted.

第 149 條(聲請公示送達之事由) **Article 149**

對於當事人之送達，有下列各款情形之一者，受訴法院得依聲請，准為公示送達：
一、應為送達之處所不明者。
二、於有治外法權人之住居所或事務所為送達而無效者。
三、於外國為送達，不能依第一百四十五條之規定辦理，或預知雖依該條規定辦理而無效者。
駁回前項聲請之裁定，得為抗告。
第一項所列各款情形，如無人為公示送達之聲請者，受訴法院為避免訴訟遲延認有必要時，得依職權命為公示送達。

原告或曾受送達之被告變更其送達之處所，而不向受訴法院陳明，致有第一項第一款之情形者，受訴法院得依職權，命為公示送達。

The court in which the action is pending may, on motion, permit service upon a party to be effectuated by constructive notice in the following circumstances:
1. Where the place where service shall be made is unknown;
2. Where service effectuated in the domicile or residence or office of a person who enjoys immunity is ineffective;
3. Where service which should be effectuated in a foreign country cannot be effectuated in accordance with the provision of Article 145, or it is foreseeable to be futile even if it has been so effectuated.
An interlocutory appeal may be taken from a ruling denying the motion provided in the preceding paragraph.
When no person moves for service by constructive notice in the cases prescribed in the first paragraph, the court in which the action is pending may on its own initiative order service to be effectuated by constructive notice if it considers it necessary to do so for avoidance of delay.
Where the plaintiff or the defendant who has been served previously fails to notify the court in which the action is pending of the change of the place where he/she can be served and such failure results in the situation provided in the first subparagraph of the first paragraph, the court may, on its own initiative, order service to be effectuated by constructive notice.

第 150 條(職權公示送達) **Article 150**

依前條規定為公示送達後，對於同一當事人仍應為公示送達者，依職權為之。

Where service has been effectuated by constructive notice in accordance with the provision of the preceding Article, the court may, on its own initiative, continue to effectuate service with regard to the same party by constructive notice.

第 151 條(公示送達之方法) **Article 151**

公示送達，應由法院書記官保管應送達之文書，而於法院之公告處黏貼公告，曉示應受送達人應隨時向其領取。但應送達者如係通知書，應將該通知書黏貼於公告處。
除前項規定外，法院應命將文書之繕本、影本或節本，登載於公報或新聞紙，或用其他方法通知或公告之。

In the case of service by constructive notice, the paper to be served shall be kept in the court clerk's custody and a notice shall be posted on the court's bulletin board, indicating that the person to be served shall collect the paper from the court clerk at any time. Notwithstanding, where the paper to be served is a summons, the summons shall be posted on the bulletin board.
Apart from the requirement provided in the preceding paragraph, the court shall order a written copy, photocopy, or excerpted copy of the paper to be published in official gazettes or newspapers, or to make notification or publication of it by other means.

第 152 條(公示送達之生效時期) **Article 152**

公示送達，自將公告或通知書 Service by constructive notice shall take effect twenty days after the

黏貼公告處之日起，其登載公報或新聞紙者，自最後登載之日起，經二十日發生效力；就應於外國為送達而為公示送達者，經六十日發生效力。但第一百五十條之公示送達，自黏貼公告處之翌日起，發生效力。

date of posting the notice or summons on the court's bulletin board, and in case of publication in an official gazette or newspaper, from the last day of such publication. Where service should be effectuated in a foreign country by constructive notice, such service shall take effect sixty days thereafter. Notwithstanding, service effectuated by constructive notice in accordance with the provision of Article 150 shall take effect the day after the date on which the notice is posted on the court's bulletin board.

第 153 條(公示送達證書)

為公示送達者，法院書記官應作記載該事由及年、月、日、時之證書附卷。

Article 153

When service by constructive notice is effectuated, the court clerk shall make a report, indicating the fact and date, and include it in the record.

第 153-1 條(訴訟文書之傳送)

訴訟文書，得以電信傳真或其他科技設備傳送之；其有下列情形之一者，傳送與送達有同一之效力：

一、應受送達人陳明已收領該文書者。

二、訴訟關係人就特定訴訟文書聲請傳送者。

前項傳送辦法，由司法院定之。

Article 153- 1

Any litigation paper may be transmitted by telefax or by any other technological device, and such transmission shall have the same effect as service in the case of any of the following:

1.The person to be served notifies the court that he/she has received the paper;

2.A person interested in the action moves for transmission of a specific litigation paper.

The Judicial Yuan shall prescribe rules governing the transmission provided in the preceding paragraph.

第三節 期日及期間

Section 3 Date & Period

第 154 條(指定期日之人)

期日，除別有規定外，由審判長依職權定之。

Article 154

Except as otherwise provided, the date for a court session shall be designated in the presiding judge's discretion.

第 155 條(指定期日之限制)

期日，除有不得已之情形外，不得於星期日或其他休息日定之。

Article 155

Except under compelling circumstances, a court session may not be designated on Sunday or any other holiday.

第 156 條(期日之告知)

審判長定期日後，法院書記官應作通知書送達於訴訟關係人。但經審判長面告以所定之期日命其到場，或訴訟關係人曾以書狀陳明屆期到場者，與送達有同一之效力。

Article 156

After the presiding judge designates the date for a court session, the court clerk shall issue and serve a summons upon the persons concerned in the action. Notwithstanding, in cases where the presiding judge has informed such persons of the date in person and ordered them to appear accordingly, or where the persons concerned have notified the court in pleadings that they will appear accordingly, such act shall have the same effect as a service of summons.

第 157 條(期日應為行為之處

Article 157

所)

期日應為之行為，於法院內為之。但在法院內不能為或為之而不適當者，不在此限。

Any act which is to be conducted in a court session shall be conducted in a courthouse, except for any acts which cannot or are not appropriate to be conducted in a courthouse.

第 158 條(期日之開始)

期日，以朗讀案由為始。

Article 158

A court session starts at the time when the case is called.

第 159 條(期日之變更或延展)

期日，如有重大理由，得變更或延展之。

變更或延展期日，除別有規定外，由審判長裁定之。

Article 159

The date for a court session may be altered or postponed for compelling reasons.

Except as otherwise provided, the alteration or postponement of the date shall be decided by the presiding judge by a ruling.

第 160 條(裁定期間之酌定及其起算)

期間，除法定者外，由法院或審判長酌量情形定之。

法院或審判長所定期間，自送達定期間之文書時起算；無庸送達者，自宣示定期間之裁判時起算。但別定起算方法者，不在此限。

Article 160

Except as fixed by the applicable law, the time period is to be designated in the discretion of the court or the presiding judge.

The time period which is designated by the court or the presiding judge begins to run from the service of the paper bearing the designation of the period, or where no service is required, from the time when the decision designating the period is announced, except where another way of calculation is provided.

第 161 條(期間之計算)

期間之計算，依民法之規定。

Article 161

The Civil Code shall govern the calculation of a period of time.

第 162 條(在途期間之扣除)

當事人不在法院所在地住居者，計算法定期間，應扣除其在途之期間。但有訴訟代理人住居法院所在地，得為期間內應為之訴訟行為者,不在此限。

前項應扣除之在途期間，由司法院定之。

Article 162

Where a party does not dwell within the jurisdictional boundaries of the court, the time needed for transportation shall be deducted in calculating a period fixed by the applicable law, except where the party's advocate dwells within the jurisdictional boundaries of the court and has the authority to conduct the act of litigation which shall be conducted within such period.

The Judicial Yuan shall prescribe the time needed for transportation which shall be deducted as provided in the preceding paragraph.

第 163 條(期間之伸長或縮短)

期間，如有重大理由，得伸長或縮短之但不變期間，不在此限。

伸長或縮短期間，由法院裁定。但期間係審判長所定者，由審判長裁定。

Article 163

A time period may be extended or shortened for compelling reasons, except for a peremptory period.

A ruling to extend or shorten a time period shall be made by the court, except where the period is designated by the presiding judge, where upon such ruling shall be made by the presiding judge.

第 164 條(回復原狀之聲請)

當事人或代理人，因天災或其他不應歸責於己之事由，遲誤不變期間者，於其原因消滅後

Article 164

Where a party or his/her agent does not observe a peremptory period due to a force majeure or any other reason not imputable to him/her, such party or agent may move for restoration to status quo ante

十日內，得聲請回復原狀。
前項期間，不得伸長或縮短之。但得準用前項之規定，聲請回復原狀。

遲誤不變期間已逾一年者，不得聲請回復原狀。

within ten days after the reason terminates.
The period provided in the preceding paragraph may not be extended or shortened, but a motion for restoration to status quo ante may be filed in accordance with the provision of the preceding paragraph which shall apply mutatis mutandis.
No motion for restoration to status quo ante may be filed after a period of one year has elapsed from the time of failure to observe the peremptory period.

第 165 條(聲請回復狀之程序)

因遲誤上訴或抗告期間而聲請回復原狀者，應以書狀向為裁判之原法院為之；遲誤其他期間者，向管轄該期間內應為之訴訟行為之法院為之。

遲誤期間之原因及其消滅時期，應於書狀內表明並釋明之。

聲請回復原狀，應同時補行期間內應為之訴訟行為。

Article 165

A motion for restoration to status quo ante from a failure to observe the period for appeal from a judgment or ruling shall be filed in pleadings to the court rendering the decision; a motion for restoration to status quo ante from a failure to observe any other period shall be filed in the court having jurisdiction over the act of litigation which shall be conducted within such period.
The reason for the failure to observe a period and the date when it extinguishes shall be indicated in the pleadings with a preliminary showing made thereof.
The act of litigation which should have been conducted within the time period shall be conducted at the same time when the motion for restoration to status quo ante is filed.

第 166 條(聲請回復原狀之裁判)

回復原狀之聲請，由受聲請之法院與補行之訴訟行為合併裁判之。但原法院認其聲請應行許可，而將該上訴或抗告事件送交上級法院者，應送由上級法院合併裁判。

Article 166

The motion for restoration to status quo ante and the act of litigation conducted shall be decided jointly by the court in which the motion is filed; but where the original court considers that the motion should be granted and forwards the appeal from the judgment or ruling to its superior court, such motion and appeal shall be decided jointly by the superior court.

第 167 條(受命法官或受託法官之指定期日及期間)

受命法官或受託法官關於其所為之行為，得定期日及期間。
第一百五十四條至第一百六十條及第一百六十三條之規定，於受命法官或受託法官定期日及期間者準用之。

Article 167

The commissioned judge or the assigned judge may designate a date or a time period for the acts which he/she conducts.
The provisions of Articles 154 to 160 inclusive and Article 163 shall apply mutatis mutandis to the date and time period designated by the commissioned judge or the assigned judge.

第四節 訴訟程序之停止

Section 4 Stay of Litigation Proceedings

第 168 條(當然停止(一) - 當事人死亡)

當事人死亡者，訴訟程序在有繼承人、遺產管理人或其他依法令應續行訴訟之人承受其訴

Article 168

When a party dies, the proceeding shall be stayed automatically until his/her heir, executor of estate, or any other person who by operation of laws and regulations shall continue the action assumes

訟以前當然停止。 the action.

第 169 條(當然停止(二) - 法人合併) **Article 169**

法人因合併而消滅者，訴訟程序在因合併而設立或合併後存續之法人承受其訴訟以前當然停止。
前項規定，於其合併不得對抗他造者，不適用之。

When a juridical person ceases to exist due to a merger, the proceeding shall be stayed automatically until the juridical person that is incorporated or surviving as a result of the merger assumes the action.
The provision of the preceding paragraph does not apply where the merger cannot be applied against the opposing party.

第 170 條(當然停止(三) - 喪失訴訟能力、法定代理人死亡或代理權消滅) **Article 170**

當事人喪失訴訟能力或法定代理人死亡或其代理權消滅者，訴訟程序在有法定代理人或取得訴訟能力之本人，承受其訴訟以前當然停止。

When a party loses the capacity to litigate or his/her statutory agent dies or loses the representative authority, the proceeding shall be stayed automatically until the action is assumed by another statutory agent of such party or by such party himself/herself after obtaining the capacity to litigate.

第 171 條(當然停止 - 信託任務終了) **Article 171**

受託人之信託任務終了者，訴訟程序在新受託人或其他依法令應續行訴訟之人承受其訴訟以前當然停止。

When a trustee is discharged from his/her duty under the trust, the proceeding shall be stayed automatically until a new trustee or any other person who by operation of laws and regulations shall continue the action assumes the action.

第 172 條(當然停止 - 喪失一定資格或死亡) **Article 172**

本於一定資格以自己名義為他人任訴訟當事人之人，喪失其資格或死亡者，訴訟程序在有同一資格之人承受其訴訟以前當然停止。
依法被選定為訴訟當事人之人全體喪失其資格者，訴訟程序在該有共同利益人全體或新被選定為訴訟當事人之人承受其訴訟以前當然停止。

When a person who sues or is sued on behalf of another person in such person's own name based on a certain qualification either loses such qualification or dies, the proceeding shall be stayed automatically until another person with the same qualification assumes the action.
When all of the appointed parties who are appointed pursuant to the applicable law lose their qualification to be so appointed, the proceeding shall be stayed automatically until all of the appointing parties or a newly appointed party assumes the action.

第 173 條(當然停止之例外規定) **Article 173**

第一百六十八條、第一百六十九條第一項及第一百七十條至前條之規定，於有訴訟代理人時不適用之。但法院得酌量情形，裁定停止其訴訟程序。

The provisions of Article 168, the first paragraph of Article 169, and Articles 170 to the preceding article inclusive do not apply where the party concerned is represented by an advocate. In such cases, however, the court may rule, in its discretion, to stay the proceeding.

第 174 條 （當然停止(六) - **Article 174**

破產宣告)

當事人受破產之宣告者，關於破產財團之訴訟程序，在依破產法有承受訴訟人或破產程序終結以前當然停止。

When a party is adjudicated bankrupt, the proceeding of all actions concerning the bankruptcy estate shall be stayed automatically until a qualified person assumes the action pursuant to the Bankruptcy Act or the bankruptcy proceeding is concluded.

第 174 條 (99 年現行規定)

當事人受破產之宣告者，關於破產財團之訴訟程序，在依破產法有承受訴訟人或破產程序終結以前當然停止。

當事人經法院依消費者債務清理條例裁定開始清算程序者，關於清算財團之訴訟程序，於管理人承受訴訟或清算程序終止、終結以前當然停止。

第 175 條(承受訴訟之聲明)

第一百六十八條至第一百七十二條及前條所定之承受訴訟人，於得為承受時，應即為承受之聲明。

他造當事人，亦得聲明承受訴訟。

Article 175

A person assuming the action as provided in Articles 168 to 172 inclusive and the preceding article shall move for assumption of the action as soon as he/she is able to assume the action.

The opposing party may also move for the action to be assumed.

第 176 條(聲明承受訴訟之程序)

聲明承受訴訟，應提出書狀於受訴法院,由法院送達於他造。

Article 176

A motion for assumption of action shall be filed in pleadings to the court in which the action is pending and the court shall serve it upon the opposing party.

第 177 條(法院對承受訴訟聲明之處置)

承受訴訟之聲明有無理由，法院應依職權調查之。

法院認其聲明為無理由者，應以裁定駁回之。

訴訟程序於裁判送達後當然停止者，其承受訴訟之聲明，由為裁判之原法院裁定之。

Article 177

The court shall investigate on its own initiate whether a motion for the assumption of an action is meritorious.

A court finding the motion without merit shall deny the motion by a ruling.

When the proceeding is automatically stayed after the decision has been served, the court rendering the decision shall determine a motion for the assumption of an action.

第 178 條(命續行訴訟)

當事人不聲明承受訴訟時，法院亦得依職權，以裁定命其續行訴訟。

Article 178

Where a party has failed to move for the assumption of an action, the court may , on its own initiative, order such party to assume the action by a ruling.

第 179 條(裁定之抗告)

前二條之裁定，得為抗告。

Article 179

An interlocutory appeal may be taken from the rulings provided in the two preceding articles.

第 180 條(當然停止 - 法院不能執行職務) **Article 180**

法院因天災或其他不可避之事故不能執行職務者，訴訟程序在法院公告執行職務前當然停止。但因戰事不能執行職務者，訴訟程序在法院公告執行職務屆滿六個月以前當然停止。

Where a force majeure or other unavoidable events prevent the court from performing its functions, the proceeding shall be stayed automatically until the court declares the resumption of its functions. Notwithstanding, where the court's inability to perform its functions is due to war, the proceeding shall be stayed automatically until the expiration of six months after the court declares that it can resume its functions.

前項但書情形，當事人於停止期間內均向法院為訴訟行為者，其停止終竣。

In the case provided in the proviso of the preceding paragraph, where the parties conduct acts of litigation in the court during that period, the stay shall be terminated.

第 181 條(裁定停止 - 特殊障礙事故) **Article 181**

當事人於戰時服兵役，有停止訴訟程序之必要者，或因天災、戰事或其他不可避之事故與法院交通隔絕者，法院得在障礙消滅前，裁定停止訴訟程序。

When it is necessary for a party to stay the proceeding due to his/her military service during wartime, or a party's communication to the court is obstructed due to a force majeure, war, or other unavoidable events, the court may stay the proceeding by a ruling until such obstruction is removed.

第 182 條(裁定停止 - 訴訟之裁判以他訴訟法律關係為據) **Article 182**

訴訟全部或一部之裁判，以他訴訟之法律關係是否成立為據者，法院得在他訴訟終結前以裁定停止訴訟程序。

When the decision on an action, in whole or in part, is premised upon the existence or non-existence of certain legal relations to be determined in another action, the court may by a ruling stay the proceeding until that action is concluded.

前項規定，於應依行政爭訟程序確定法律關係是否成立者準用之。但法律別有規定者，依其規定。

Except as otherwise provided, the provision of the preceding paragraph shall apply mutatis mutandis to cases where the existence or non-existence of a legal relation is to be determined by an administrative proceeding.

第 182-1 條 **Article 182- 1**

普通法院就其受理訴訟之權限，如與行政法院確定裁判之見解有異時，應以裁定停止訴訟程序，並聲請司法院大法官解釋。但當事人合意願由普通法院為裁判者，由普通法院裁判之。

When a civil court's decision regarding its subject matter jurisdiction over an action conflicts with an administrative court's binding decision, the civil court shall stay the proceeding pending a ruling and petition for the Grand Justice Council's explanation. Notwithstanding, should the parties?consent for the civil court to adjudicate the action, then the civil court shall adjudicate the case.

經司法院大法官解釋普通法院無受理訴訟權限者，普通法院應將該訴訟移送至有受理訴訟權限之法院。

The consent provided in the preceding paragraph shall be evidenced in writing.

第一項之合意,應以文書證之。

第 182-2 條（裁定停止 - 已在 **Article 182- 2**

外國法院起訴之事件）

當事人就已繫屬於外國法院之事件更行起訴，如有相當理由足認該事件之外國法院判決在中華民國有承認其效力之可能，並於被告在外國應訴無重大不便者，法院得在外國法院判決確定前，以裁定停止訴訟程序。但兩造合意願由中華民國法院裁判者，不在此限。

法院為前項裁定前，應使當事人有陳述意見之機會。

In cases where a party has initiated an action with regard to a subject matter for which an action is pending in a foreign court, if reasons exist for the court reasonably to believe that the foreign court's judgment on the action may be recognized in the R.O.C., and it is not substantially inconvenient for the defendant to litigate in such foreign country, then the court by a ruling may stay the proceeding until the entry of a final and binding judgment on the action in that foreign country, except where the parties have otherwise consented to have the subject matter adjudicated by the R.O.C. court.

Before deciding on the ruling provided in the preceding paragraph, the court shall accord the parties an opportunity to be heard.

第 182-2 條(裁定停止 - 已在外國法院起訴之事件) (99 年現行規定)

當事人就已繫屬於外國法院之事件更行起訴，如有相當理由足認該事件之外國法院判決在中華民國有承認其效力之可能，並於被告在外國應訴無重大不便者，法院得在外國法院判決確定前，以裁定停止訴訟程序。但兩造合意願由中華民國法院裁判者，不在此限。

法院為前項裁定前，應使當事人有陳述意見之機會。

第 183 條(裁定停止(三) - 犯罪嫌疑涉其裁判) **Article 183**

訴訟中有犯罪嫌疑牽涉其裁判者，法院得在刑事訴訟終結前，以裁定停止訴訟程序。

When the commission of a crime is suspected in the course of proceedings which would affect the decision on the action, the court may stay the proceeding by a ruling until the conclusion of the relevant criminal proceeding.

第 184 條(裁定停止(四) - 提起主參加訴訟) **Article 184**

依第五十四條之規定提起訴訟者，法院得在該訴訟終結前，以裁定停止本訴訟之程序。

In an action initiated in accordance with the provision of Article 54, the court may stay the proceeding of the original action until such action is concluded.

第 185 條(裁定停止(五) - 告知訴訟) **Article 185**

依第六十五條之規定，告知訴訟，法院如認受告知人能為參加者，得在其參加前以裁定停止訴訟程序。

Where an action has been notified to a third person in accordance with the provision of Article 65 and if the court believes that the person notified is able to intervene, the court, by a ruling, may stay the proceeding until the person notified intervenes.

第 186 條(裁定停止之撤銷)
停止訴訟程序之裁定，法院得依聲請或依職權撤銷之。

Article 186
The court may, on motion or its own initiative, revoke the ruling for a stay of the proceeding.

第 187 條(裁定之抗告)
關於停止訴訟程序之裁定，及關於撤銷停止之裁定，得為抗告。

Article 187
An interlocutory appeal may be taken from a ruling concerning the stay of a proceeding or the revocation thereof.

第 188 條(當然停止裁定停止之效力)
訴訟程序當然或裁定停止間，法院及當事人不得為關於本案之訴訟行為。
但於言詞辯論終結後當然停止者，本於其辯論之裁判得宣示之。
訴訟程序當然或裁定停止者，期間停止進行；自停止終竣時起，其期間更始進行。

Article 188
When the proceeding is stayed automatically or by a ruling, neither the court nor the parties may conduct acts of litigation concerning the merits of the action. Notwithstanding, if the proceeding is stayed automatically after the conclusion of the oral-argument sessions, the decision based on such oral argument may be announced.

When the proceeding is stayed automatically or by a ruling, all relevant periods of time shall cease to run, and then run anew from the end of the stay.

第 189 條(合意停止)
當事人得以合意停止訴訟程序。但不變期間之進行，不受影響。
前項合意，應由兩造向受訴法院或受命法官陳明。
前條規定，除第一項但書外，於合意停止訴訟程序準用之。

Article 189
The parties may stay the proceeding by consent, except that the running of a peremptory period shall not be affected by the stay.

The consent provided in the preceding paragraph shall be notified by both parties to the court or the commissioned judge.
Except for the proviso of the first paragraph, the preceding article shall apply mutatis mutandis to cases where the proceeding is stayed by consent.

第 190 條(合意停止之期間及次數之限制)
合意停止訴訟程序之當事人，自陳明合意停止時起，如於四個月內不續行訴訟者，視為撤回其訴或上訴；續行訴訟而再以合意停止訴訟程序者，以一次為限。如再次陳明合意停止訴訟程序，不生合意停止訴訟之效力，法院得依職權續行訴訟；如兩造無正當理由仍遲誤言詞辯論期日者，視為撤回其訴或上訴。

Article 190
In cases where the proceeding is stayed by consent, if the parties fail to continue the proceeding within four months after notifying such consent to the court, the action or appeal shall be deemed dismissed voluntarily. The parties may stay the proceeding by consent only on one additional occasion after continuing the proceeding from a stay by consent. No notification of a stay of the proceeding by consent shall take effect when the proceeding previously has been stayed by consent twice, and the court may continue the proceeding on its own initiative. If both parties fail to appear in the oral argument sessions without giving a justifiable reason, the action or appeal shall be deemed dismissed voluntarily.

第 191 條(擬制合意停止)
當事人兩造無正當理由遲誤言詞辯論期日者，除別有規定外，視為合意停止訴訟程序。

Article 191
Except as otherwise provided, the fact that both parties failed to appear in the oral-argument sessions without giving a justifiable reason will be deemed a consent to stay the proceeding. If the

如於四個月內不續行訴訟者，視為撤回其訴或上訴。
前項訴訟程序停止間，法院於認為必要時，得依職權續行訴訟，如無正當理由兩造仍遲誤不到者，視為撤回其訴或上訴。

parties fail to continue the proceeding within four months thereafter, the action or appeal will be deemed dismissed involuntarily.
When the proceeding is stayed in accordance with the provision of the preceding paragraph, the court may, as it considers necessary, continue the proceeding on its own initiative. If both parties still fail to appear without giving a justifiable reason, the action or appeal shall be deemed dismissed voluntarily.

第五節 言詞辯論 Section 5 Oral Argument

第 192 條(言詞辯論之開始) **Article 192**

言詞辯論，以當事人聲明應受裁判之事項為始。

Oral-argument sessions start with the parties?stating their respective demands for judgment for the relief sought.

第 193 條(當事人之陳述(一)) **Article 193**

當事人應就訴訟關係為事實上及法律上之陳述。
當事人不得引用文件以代言詞陳述。但以舉文件之辭句為必要時，得朗讀其必要之部分。

A party shall make factual and legal statements regarding matters involved in the action.
A party may not quote documents in lieu of oral statements, except where it is necessary to quote certain passages from the documents and then, he/she may do so by reading the essential part.

第 194 條(聲明證據) **Article 194**

當事人依第二編第一章第三節之規定，聲明所用之證據。

A party shall state its evidence in accordance with the provisions of Part II, Chapter I, Section 3.

第 195 條(當事人之陳述) **Article 195**

當事人就其提出之事實，應為真實及完全之陳述。
當事人對於他造提出之事實及證據，應為陳述。

Parties shall make truthful and complete statements with regard to the facts they present.
A party shall make statements concerning the facts and evidence presented by the opposing party.

第 195-1 條(不公開審判之要件) **Article 195- 1**

當事人提出之攻擊或防禦方法，涉及當事人或第三人隱私、業務秘密，經當事人聲請，法院認為適當者，得不公開審判；其經兩造合意不公開審判者，亦同。

Where a party's means of attack or defense involves the privacy or a business secret of either party or a third person, the court may, on motion, order the hearing not be held in public if the court considers it appropriate to do so. The same rule shall apply when the parties have consented the hearing not be held in public.

第 196 條(攻擊或防禦方法之提出時期) **Article 196**

攻擊或防禦方法，除別有規定外，應依訴訟進行之程度，於言詞辯論終結前適當時期提出之。
當事人意圖延滯訴訟，或因重大過失，逾時始行提出攻擊或

Except as otherwise provided, the means of attack or defense shall be presented in due course according to the phase of litigation before the conclusion of the oral-argument sessions.

Where a party, attempting to delay litigation or through gross negligence, presents an attack or defense in a dilatory manner at the

防禦方法，有礙訴訟之終結者，法院得駁回之。攻擊或防禦方法之意旨不明瞭，經命其敘明而不為必要之敘明者，亦同。

possible cost of a timely conclusion of the litigation, the court may deny the means of attack or defense so presented. The same rule shall apply when the purpose of the means of attack or defense presented is unclear and the presenting party fails to provide a necessary explanation after being ordered to do so.

第 197 條(責問權)

當事人對於訴訟程序規定之違背，得提出異議。但已表示無異議或無異議而就該訴訟有所聲明或陳述者，不在此限。

前項但書規定，於該訴訟程序之規定，非僅為當事人之利益而設者，不適用之。

Article 197

A party may object to any violation of the provisions regulating litigation procedure, except where the party waives the right of objection or makes further statements or representations without objecting to the violation.

The proviso of the preceding paragraph does not apply when the provision regulating litigation procedure in issue is not provided solely for the interests of the parties.

第 198 條(審判長之職權(一))

審判長開閉及指揮言詞辯論，並宣示法院之裁判。

審判長對於不從其命者，得禁止發言。

言詞辯論須續行者，審判長應速定其期日。

Article 198

The presiding judge shall start, conclude, and direct oral argument and announce the court's decision.

The presiding judge may prohibit any person from speaking who disobeys his/her order.

When the oral argument needs to be continued, the presiding judge shall promptly designate the date for continuation.

第 199 條(審判長之職權)

審判長應注意令當事人就訴訟關係之事實及法律為適當完全之辯論。

審判長應向當事人發問或曉諭，令其為事實上及法律上陳述、聲明證據或為其他必要之聲明及陳述；其所聲明或陳述有不明瞭或不完足者，應令其敘明或補充之。

陪席法官告明審判長後，得向當事人發問或曉諭。

Article 199

The presiding judge shall exercise care when directing the parties to present appropriate and complete arguments about the facts and the laws regarding the matters involved in the action.

The presiding judge shall question the parties or direct them to make factual and legal representations, state evidence, or make other necessary statements and representations; where the presented statements or representations are ambiguous or incomplete, the presiding judge shall direct the presenting party to clarify or supplement.

The associate judges may, after informing the presiding judge, question or direct the parties.

第 199-1 條(審判長之職權)

依原告之聲明及事實上之陳述，得主張數項法律關係，而其主張不明瞭或不完足者，審判長應曉諭其敘明或補充之。

被告如主張有消滅或妨礙原告請求之事由，究為防禦方法或提起反訴有疑義時，審判長應闡明之。

Article 199- 1

Where the plaintiff's statements and factual representations may lead to an assertion of several legal relations and his/her assertion is ambiguous or incomplete, the presiding judge shall direct him/her to clarify or supplement.

Where the defendant asserts a reason to extinguish or prevent the plaintiff's claim and there exists ambiguity as to whether such reason is raised as a means of defense or counterclaim, the presiding judge shall elucidate.

第 200 條(當事人之發問權)

當事人得聲請審判長為必要之發問，並得向審判長陳明後自

Article 200

A party may move the presiding judge to conduct necessary interrogation and may, after informing the presiding judge, conduct

行發問。
審判長認為當事人聲請之發問或自行發問有不當者，得不為發問或禁止之。

interrogation himself/herself.
Where the presiding judge considers either the party's motion for interrogation or the interrogation conducted by the party to be inappropriate, the presiding judge may decline to conduct such interrogation or prohibit the party from conducting such interrogation.

第 201 條(對審判長指揮訴訟提出異議之裁定)

Article 201

參與辯論人，如以審判長關於指揮訴訟之裁定，或審判長及陪席法官之發問或曉諭為違法而提出異議者，法院應就其異議為裁定。

Where any person who participates in the oral argument raises an objection on the ground that the presiding judge's ruling on the proceeding, or the presiding judge's or the associate judge's interrogation or direction is in violation of law, the court shall make a ruling on such objection.

第 202 條(受命法官之指定及法院之囑託)

Article 202

凡依本法使受命法官為行為者，由審判長指定之。
法院應為之囑託，除別有規定外，由審判長行之。

The presiding judge shall appoint a judge who is to be commissioned to act in accordance with the provisions of this Code.
Except as otherwise provided, any request to be made by the court shall be made by the presiding judge.

第 203 條(法院因闡明或確定訴訟關係得為之處置)

Article 203

法院因闡明或確定訴訟關係，得為下列各款之處置：
一、命當事人或法定代理人本人到場。
二、命當事人提出圖案、表冊、外國文文書之譯本或其他文書、物件。
三、將當事人或第三人提出之文書、物件，暫留置於法院。
四、依第二編第一章第三節之規定，行勘驗、鑑定或囑託機關、團體為調查。

In order to elucidate or ascertain relations involved in the action, the court may take the followings measures:
1. Order the parties or their statutory agents to appear in person;
2. Order the parties to produce drawings/illustrations, schedules/lists, translations of documents written in a foreign language, or other documents and objects;
3. Temporarily retain in the court the documents and objects produced by a party or a third person;
4. Conduct inspections, order expert testimony, or request an agency or organization to conduct an investigation in accordance with the provisions of Part II, Chapter I, Section 3.

第 204 條(分別辯論)

Article 204

當事人以一訴主張之數項標的，法院得命分別辯論。但該數項標的或其攻擊或防禦方法有牽連關係者，不得為之。

The court may order arguments to be held separately where a party asserts multiple claims in an action, unless such multiple claims or the means of attack or defense thereof are related.

第 205 條(合併辯論)

Article 205

分別提起之數宗訴訟，其訴訟標的相牽連或得以一訴主張者，法院得命合併辯論。
命合併辯論之數宗訴訟，得合併裁判。

The court may order arguments to be held jointly where the claims in multiple actions are initiated separately but are related or could be asserted in a single action.
Arguments of several actions that have been ordered to be held jointly may be decided jointly.

第五十四條所定之訴訟，應與本訴訟合併辯論及裁判之。但法院認為無合併之必要或應適用第一百八十四條之規定者，不在此限。

An action initiated in accordance with the provision of Article 54 shall be jointly argued and decided with the original action, except where the court considers it unnecessary or considers that the provision of Article 184 shall apply.

第 206 條(限制辯論)

當事人關於同一訴訟標的，提出數種獨立之攻擊或防禦方法者，法院得命限制辯論。

Article 206

The court may restrict the order of the arguments where a party asserts several independent means of attack or defense with regard to the same claim.

第 207 條(應用通譯之情形)

參與辯論人如不通中華民國語言，法院應用通譯；法官不通參與辯論人所用之方言者，亦同。

參與辯論人如為聾、啞人，法院應用通譯。但亦得以文字發問或使其以文字陳述。

關於鑑定人之規定，於前二項通譯準用之。

Article 207

The court shall appoint an interpreter where a person who participates in the argument does not understand the language used in the R.O.C. The same principle will apply when the judge does not understand the dialect used by a participant in the argument.

Although the court shall appoint an interpreter where a person who participates in the argument is unable to hear or is mute, the court may also question such person in writing or direct such person to express answers in writing.

第 208 條(對欠缺陳述能力當事人之處置)

當事人欠缺陳述能力者，法院得禁止其陳述。

前項情形，除有訴訟代理人或輔佐人同時到場者外，應延展辯論期日；如新期日到場之人再經禁止陳述者，得視同不到場。

前二項之規定，於訴訟代理人或輔佐人欠缺陳述能力者準用之。

Article 208

The court may prohibit any party from making statements if that party lacks the capacity to express himself/herself.

In the case provided in the preceding paragraph, unless an advocate or assistant also appears, the oral-argument session shall be postponed; if the party is prohibited from making statements again at the newly designated session, he/she shall be deemed to have failed to appear.

The provisions of the two preceding paragraphs shall apply mutatis mutandis when an advocate or assistant lacks the capacity to express himself/herself.

第 209 條(調查證據之期日)

法院調查證據，除別有規定外，於言詞辯論期日行之。

Article 209

Except as otherwise provided, the court shall take evidence in the oral-argument sessions.

第 210 條(再開辯論)

法院於言詞辯論終結後，宣示裁判前，如有必要得命再開言詞辯論。

Article 210

The court may, if necessary, order the concluded oral argument to be reopened before announcing the decision.

第 211 條(再開辯論)

參與言詞辯論之法官有變更者，當事人應陳述以前辯論之要領。但審判長得令書記官朗讀以前筆錄代之。

Article 211

Where there is any substitution of a judge participating in the oral argument, the parties shall state orally the purport of their previous arguments. Notwithstanding, the presiding judge may order the court clerk to read aloud the previous transcript instead. transcript.

第 212 條(言詞辯論筆錄應記載之事項)

法院書記官應作言詞辯論筆錄，記載下列各款事項：
一、辯論之處所及年、月、日。
二、法官、書記官及通譯姓名。
三、訴訟事件。
四、到場當事人、法定代理人、訴訟代理人、輔佐人及其他經通知到場之人姓名。
五、辯論之公開或不公開，如不公開者，其理由。

Article 212

The court clerk shall prepare an oral argument transcript, indicating the following matters:
1.The place and date of the oral argument;
2.The full names of the judges, the court clerk, and the interpreter;
3.The subject matter of the action;
4.The names of the appearing parties, statutory agents, advocates, assistants, and other persons who were summoned to appear; and
5.A statement as to whether the argument was held in public, and, if not, the reason therefor.

第 213 條(言詞辯論筆錄實質上應記載之事項)

言詞辯論筆錄內，應記載辯論進行之要領，並將下列各款事項，記載明確：
一、訴訟標的之捨棄、認諾及自認。
二、證據之聲明或捨棄及對於違背訴訟程序規定之異議。
三、依本法規定應記載筆錄之其他聲明或陳述。
四、證人或鑑定人之陳述及勘驗所得之結果。
五、不作裁判書附卷之裁判。
六、裁判之宣示。
除前項所列外，當事人所為重要聲明或陳述，及經曉諭而不為聲明或陳述之情形，審判長得命記載於筆錄。

Article 213

The oral argument transcript shall indicate the purport of the progress of the argument and the following matters with particularity:
1. Any abandonment or admission of the claim, and admission of facts;
2. Any statement or withdrawal of evidence and any objection to the violation of provisions regulating to litigation procedure;
3. Any other statements or representations which are required to be indicated in the transcript by this Code;
4. Any testimony of a witness or an expert witness, and any inspection findings;
5. Decisions other than those which must be made in writing and included in the dossier;
6. Announcement of the decision.
Except as provided in the preceding paragraph, the presiding judge may order the entry in the transcript of important statements or representations made by the parties and the parties?failure to make statements or representations after being directed to do so.

第 213-1 條(言詞辯論筆錄製作之輔助設備)

法院得依當事人之聲請或依職權，使用錄音機或其他機器設備，輔助製作言詞辯論筆錄。其辦法，由司法院定之。

Article 213- 1

The court may, on motion, or on its own initiative, use a tape recorder or other machines or equipment to aid in making the oral argument transcript. The Judicial Yuan shall prescribe relevant regulations.

第 214 條(附於言詞辯論筆錄之書狀)

當事人將其在言詞辯論時所為之聲明或陳述記載於書狀，當場提出，經審判長認為適當者，得命法院書記官以該書狀附於筆錄，並於筆錄內記載其

Article 214

Where a party indicates in a pleading his/her statements or representations presented at the oral argument session and submits such pleading to the court at that session, the presiding judge may, as he/she deems appropriate, order the court clerk to annex such pleading to the transcript and make a note of such fact in the

事由。 transcript.

第 215 條(筆錄內引用附卷文書之效力) **Article 215**

筆錄內引用附卷之文書或表示將該文書作為附件者，其文書所記載之事項，與記載筆錄者有同一之效力。

Where the transcript references a document that is included in the dossier or indicates that such document shall be appended thereto, the matters indicated in such document shall take the same effect as those indicated in the transcript.

第 216 條(筆錄之朗讀閱覽) **Article 216**

筆錄或前條文書內所記第二百十三條第一項第一款至第四款事項，應依聲請於法庭向關係人朗讀或令其閱覽，並於筆錄內附記其事由。

關係人對於筆錄所記有異議者，法院書記官得更正或補充之；如以異議為不當，應於筆錄內附記其異議。

The transcript and the document provided in the preceding article, indicating matters specified in the first subparagraph through the fourth subparagraph of the first paragraph of Article 213, shall, on motion, be read aloud to the persons concerned in the court, or such persons as may be permitted to inspect them. A note to such effect shall be made in the transcript.

Where the person concerned objects to entries in the transcript, the court clerk may rectify or supplement such entries. If the objection is considered meritless, the court clerk shall make a note of the objection in the transcript.

第 217 條(筆錄之簽名) **Article 217**

審判長及法院書記官應於筆錄內簽名；審判長因故不能簽名者，由資深陪席法官簽名，法官均不能簽名者，僅由書記官簽名，書記官不能簽名者，由審判長或法官簽名，並均應附記其事由。

The presiding judge and the court clerk shall sign their names in the transcript; if for whatever reason the presiding judge cannot sign, the senior associate judge shall sign instead; if no judge can sign, the court clerk may sign alone; if the court clerk cannot sign, the presiding judge or other judges may sign. A note to the above effect, if any, shall be made in the transcript.

第 218 條(筆錄之增刪) **Article 218**

筆錄不得挖補或塗改文字，如有增加、刪除，應蓋章並記明字數，其刪除處應留存字跡，俾得辨認。

No words in the transcript may be erased or altered; any words added to or crossed out shall be identified along with the impression of a seal and with a note of the number of the affected words; the crossed out words must be left legible.

第 219 條(筆錄之效力) **Article 219**

關於言詞辯論所定程式之遵守，專以筆錄證之。

The transcript exclusively shall evidence the fact that the formalities of the oral argument have been observed.

第六節 裁判 Section 6 Decision

第 220 條(裁判之方式) **Article 220**

裁判，除依本法應用判決者外，以裁定行之。

Except for decisions to be rendered in the form of a judgment as provided by this Code, all decisions shall be made in the form of a ruling.

第 221 條(判決之形式要件 - **Article 221**

言詞審理、直接審理)

判決，除別有規定外，應本於當事人之言詞辯論為之。
Except as otherwise provided, a judgment shall be based on the parties?oral arguments.

法官非參與為判決基礎之辯論者，不得參與判決。
No judge who did not participate in the arguments on which a judgment is based may participate in making the judgment.

第 222 條(判決之實質要件 - 自由心證) **Article 222**

法院為判決時，應斟酌全辯論意旨及調查證據之結果，依自由心證判斷事實之真偽。但別有規定者，不在此限。
Except as otherwise provided, in making a judgment the court shall, taking into consideration the entire import of the oral argument and the result of evidence-taking, determine the facts by free evaluation.

當事人已證明受有損害而不能證明其數額或證明顯有重大困難者，法院應審酌一切情況，依所得心證定其數額。
Where a party has proved injury but is unable to or is under great difficulty to prove the exact amount, the court shall, taking into consideration all circumstances, determine the amount by its conviction.

法院依自由心證判斷事實之真偽,不得違背論理及經驗法則。
The court shall not violate the rules of logic and experience in finding the facts by free evaluation.

得心證之理由,應記明於判決。
The judgment shall specify the reasons on which the determination is based.

第 223 條(判決之宣示及宣示之期日) **Article 223**

經言詞辯論之判決，應宣示之；不經言詞辯論之判決，應公告之。
Judgments for which oral arguments were conducted shall be announced; judgments for which no oral arguments were conducted shall be published.

宣示判決，應於言詞辯論終結之期日或辯論終結時指定之期日為之。
A judgment shall be announced on the day of the last oral-argument session or on a later date that is designated on the day of the last oral-argument session.

前項指定之宣示期日，自辯論終結時起，不得逾二星期。
The date designated for announcing the judgment provided in the preceding paragraph shall be no later than two weeks from the day of the conclusion of the oral argument.

前項判決之宣示，應本於已作成之判決原本為之。
The announcement of judgment provided in the preceding paragraph shall be based on the original copy of the judgment already made.

第 224 條(宣示判決之程式) **Article 224**

宣示判決，應朗讀主文，其理由如認為須告知者，應朗讀或口述要領。
The announcement of judgment shall be made by reading aloud the main text and, where necessary, the reasons for the judgment shall be read aloud or the purport thereof shall be stated verbally.

公告判決，應於法院公告處公告其主文，法院書記官並應作記載該事由及年、月、日、時之證書附卷。
The publication of a judgment shall be made by publishing the main text of the judgment on the court's bulletin board. The court clerk shall produce a report evidencing such fact nothing the hour and date and shall include such report in the dossier.

第 225 條(宣示判決之效力) **Article 225**

宣示判決，不問當事人是否在場，均有效力。
A judgment announced will take effect irrespective of whether the parties appear in person to hear the announcement.

第 226 條(判決書之內容) **Article 226**

判決，應作判決書，記載下列各款事項：
一、當事人姓名及住所或居所；當事人為法人、其他團體或機關者，其名稱及公務所、事務所或營業所。
二、有法定代理人、訴訟代理人者，其姓名、住所或居所。
三、訴訟事件；判決經言詞辯論者，其言詞辯論終結日期。
四、主文。
五、事實。
六、理由。
七、年、月、日。
八、法院。
事實項下，應記載言詞辯論時當事人之聲明，並表明其聲明為正當之攻擊或防禦方法要領。
理由項下，應記載關於攻擊或防禦方法之意見及法律上之意見。
一造辯論判決及基於當事人就事實之全部自認所為之判決，其事實及理由得簡略記載之。

Every judgment shall be made in a written form, indicating the following matters:
1. The full name and domicile or residence of the parties; in case of a juridical person, an unincorporated association or agency, its name and principal office, other office or place of business;
2. The full name and domicile or residence of such party's statutory agent and advocate, if any;
3. The subject matter of the action and in the case of a judgment based on an oral argument, the date of the last oral-argument session;
4. The main text;
5. The facts;
6. The reasons;
7. The date; and
8. The court.
Under the heading "facts" shall be indicated the parties'statements presented at the oral-argument sessions and the purport of the means of attack or defense that the court considers just.

Under the heading "reasons" shall be indicated the court's opinions on the means of attack or defense and legal opinions.

In cases of a default judgment or a judgment based on a party's admission of all facts, the facts and reasons thereof may be indicated briefly.

第 227 條(判決書之簽名)

為判決之法官，應於判決書內簽名；法官中有因故不能簽名者，由審判長附記其事由；審判長因故不能簽名者，由資深陪席法官附記之。

Article 227

The judges who enter the judgment shall sign their full names in the judgment; in cases where one of them cannot sign for whatever reason, the presiding judge shall make a note of such fact; in cases where the presiding judge cannot sign, the senior associate judge shall make such note.

第 228 條(判決原本之交付)

判決原本，應於判決宣示後，當日交付法院書記官；其於辯論終結之期日宣示判決者，應於五日內交付之。
書記官應於判決原本內，記明收領期日並簽名。

Article 228

The original copy of the judgment shall be delivered to the court clerk on the same day of its announcement; in cases where the judgment is announced during the last oral-argument session, it shall be delivered within five days of that session.
The court clerk shall indicate the date of receipt of the judgment in the original copy of the judgment and sign on the judgment.

第 229 條(判決正本之送達)

判決，應以正本送達當事人。
前項送達，自法院書記官收領判決原本時起，至遲不得逾十日。
對於判決得上訴者，應於送達當事人之正本內，記載其期間及提出上訴狀之法院。

Article 229

Authenticated copies of the judgment shall be served upon parties.
The service provided in the preceding paragraph shall be effectuated no later than ten days from the day when the court clerk received the original copy of the judgment.
Where an appeal may be taken from a judgment, the period of time within which an appeal may be taken, and the court to which the appeal pleading shall be submitted, shall be indicated in the

authenticated copy of the judgment to be served upon the parties.

第 230 條(判決正本及節本之程式)

判決之正本或節本，應分別記明之，由法院書記官簽名並蓋法院印。

Article 230

Every authenticated or excerpted copy of a judgment shall be denominated as such, signed by the court clerk and impressed with the seal of the court.

第 231 條(判決羈束力之發生)

判決經宣示後，為該判決之法院受其羈束；不宣示者，經公告後受其羈束。

判決宣示或公告後，當事人得不待送達，本於該判決為訴訟行為。

Article 231

The court rendering the judgment becomes self-bound after the judgment is announced; in cases where no announcement is made, it becomes self-bound after the judgment is published.

After a judgment is announced or published, the parties may, without waiting for its service, conduct acts of litigation on the basis of such judgment.

第 232 條(判決之更正)

判決如有誤寫、誤算或其他類此之顯然錯誤者，法院得依聲請或依職權以裁定更正；其正本與原本不符者，亦同。

前項裁定，附記於判決原本及正本；如正本已經送達，不能附記者，應製作該裁定之正本送達。

對於更正或駁回更正聲請之裁定，得為抗告。但對於判決已合法上訴者，不在此限。

Article 232

In case of any clerical or mathematical mistakes, or other similar obvious mistakes in the judgment, the court may, on motion or on its own initiative, correct such mistakes by a ruling; the same principle will apply to a discrepancy, if any, between the original copy and the authenticated copy.

The ruling provided in the preceding paragraph is to be added to the original and authenticated copy of the judgment; in cases where the original copy has been served and the remedial ruling cannot be added, an original copy of such ruling shall be made and served on the parties.

An interlocutory appeal may be taken from a ruling making a correction or a ruling denying the motion for correction, except where an appeal has been legally taken from the judgment.

第 233 條(判決之補充)

訴訟標的之一部或訴訟費用，裁判有脫漏者，法院應依聲請或依職權以判決補充之。

當事人就脫漏部分聲明不服者，以聲請補充判決論。

脫漏之部分已經辯論終結者，應即為判決；未終結者，審判長應速定言詞辯論期日。

因訴訟費用裁判脫漏所為之補充判決，於本案判決有合法之上訴時，上訴審法院應與本案訴訟同為裁判。

駁回補充判決之聲請，以裁定為之。

Article 233

Where there is any omission in the decision either with regard to a part of the claim or with regard to litigation expenses, the court shall, on motion or on its own initiative, supplement its decision by another judgment.

An appeal against the omission in the judgment shall be deemed a motion for a supplemental judgment.

Where the oral argument concerning the omitted part has been concluded, the court shall promptly enter a supplemental judgment; where such oral argument has not been concluded, the presiding judge shall promptly designate a date for the relevant oral argument.

In case of a supplemental judgment entered for the omission of a decision on litigation expenses, where an appeal has been legally taken from a judgment on the merits, the appellate court shall adjudicate the supplemental judgment and the judgment on the merits jointly.

A ruling shall be issued when denying a motion for a supplemental judgment.

第 234 條(裁定之審理 - 不採言詞辯論主義)

裁定得不經言詞辯論為之。
裁定前不行言詞辯論者，除別有規定外，得命關係人以書狀或言詞為陳述。

Article 234

A ruling may be made without oral argument.
Except as otherwise provided, where a ruling is made without oral argument, the court may order the persons concerned to present their statements by pleadings or orally.

第 235 條(裁定之宣示)

經言詞辯論之裁定，應宣示之；終結訴訟之裁定，不經言詞辯論者，應公告之。

Article 235

A ruling made with oral argument shall be announced. A ruling which concludes an action without oral argument shall be published.

第 236 條(裁定之送達)

不宣示之裁定，應為送達。
已宣示之裁定得抗告者，應為送達。

Article 236

A ruling which is not announced shall be served.
A ruling from which an appeal may be taken shall be served.

第 237 條(應附理由之裁定)

駁回聲明或就有爭執之聲明所為裁定，應附理由。

Article 237

A ruling denying a motion or with regard to a disputed motion shall state the reason therefor.

第 238 條(裁定羈束力之發生)

裁定經宣示後，為該裁定之法院、審判長、受命法官或受託法官受其羈束；不宣示者，經公告或送達後受其羈束。但關於指揮訴訟或別有規定者，不在此限。

Article 238

The court, the presiding judge, commissioned judge or assigned judge who enters a ruling becomes self-bound after such ruling is announced; in cases where a ruling is not announced, it becomes self-bound after such ruling is published or served. Notwithstanding, the above principle does not apply to a ruling concerning the direction of proceedings or cases for which it has been otherwise provided.

第 239 條(裁定準用判決之規定)

第二百二十一條第二項、第二百二十三條第二項及第三項、第二百二十四條第二項、第二百二十五條、第二百二十七條至第二百三十條、第二百三十一條第二項、第二百三十二條及第二百三十三條之規定，於裁定準用之。

Article 239

The provisions of the second paragraph of Article 221, the second and the third paragraphs of Article 223, the second paragraph of Article 224, Article 225, Article 227 to Article 230 inclusive, the second paragraph of Article 231, Articles 232 and Article 233 shall apply mutatis mutandis to rulings.

第 240 條(書記官處分之送達及異議)

法院書記官所為之處分，應依送達或其他方法通知關係人。
對於法院書記官之處分，得於送達後或受通知後十日內提出異議，由其所屬法院裁定。

Article 240

A measure taken by the court clerk shall be notified to the persons concerned by service of process or other means.
An objection to a measure taken by the court clerk may be raised within ten days from the day following the service or receipt of the notification thereof, and the court to which the court clerk belongs shall rule on the objection.

第六節之一 司法事務官之處理程序

Section 6-1 Court Administrator Proceeding

第 240-1 條(司法事務官處理事件之適用規定)

本法所定事件，依法律移由司法事務官處理者，除別有規定外，適用本節之規定。

Article 240- 1

Except as otherwise provided, the provisions of this Section shall apply to the matters prescribed in this Code and transferred to the court administrator pursuant to the applicable laws.

第 240-2 條(處理移轉事件作成文書之內容及製作程序)

司法事務官處理事件作成之文書，其名稱及應記載事項各依有關法律之規定。

前項文書之正本或節本由司法事務官簽名，並蓋法院印。

司法事務官在地方法院簡易庭處理事件時，前項文書之正本或節本得僅蓋簡易庭關防。

Article 240- 2

Titles and required entries of documents produced by the court administrator in the course of performing his/her functions shall be in accordance with the applicable laws.

The authenticated or excerpted copy of the documents provided in the preceding paragraph shall be signed by the court administrator and impressed with the court's seal.

The authenticated or excerpted copy of the document provided in the preceding paragraph produced on matters handled by the court administrator performing his/her function in the summary court of the district court may be impressed with only the summary court's official seal.

第 240-3 條(處理事件所為處分之效力)

司法事務官處理事件所為之處分，與法院所為者有同一之效力。

Article 240- 3

The measures taken by the court administrator in performing his/her functions shall take the same effect as it were made by the court.

第 240-4 條(異議之提出及處理)

當事人對於司法事務官處理事件所為之終局處分，得於處分送達後十日之不變期間內，以書狀向司法事務官提出異議。但支付命令之異議仍適用第五百十八條及第五百十九條之規定。

司法事務官認前項異議有理由時，應另為適當之處分；認異議為無理由者，應送請法院裁定之。

法院認第一項之異議為有理由時，應為適當之裁定；認異議為無理由者,應以裁定駁回之。

前項裁定，應敘明理由，並送

Article 240- 4

A party may, by submitting a pleading to the court administrator, object to the final measure taken by the court administrator in performing his/her functions within the ten-day peremptory period from the day following the service of the measure. Notwithstanding, Article 518 and Article 519 shall still apply to an objection to a payment order.

Where the court administrator considers the objection provided in the preceding paragraph to be meritorious, he/she shall take appropriate measures; where he/she considers the objection meritless, it shall forward the objection to the court for a ruling.

Where the court considers the objection provided in the first paragraph to be meritorious, it shall make an appropriate ruling; where it considers the objection meritless, it shall overrule the objection by a ruling.

The ruling provided in the preceding paragraph shall state with particularity the reasons for the ruling and shall be served upon the parties.

達於當事人。

第七節 訴訟卷宗 Section 7 Court Dossiers

第 241 條(訴訟文書之保存) **Article 241**

當事人書狀、筆錄、裁判書及其他關於訴訟事件之文書，法院應保存者，應由書記官編為卷宗。

Pleadings presented by the parties, transcripts, decisions, and other documents concerning the action which the court maintains shall be compiled by the court clerk as a dossier.

卷宗滅失事件之處理，另以法律定之。

The destruction or loss of a dossier shall be handled in accordance with another law.

第 242 條(訴訟文書之利用) **Article 242**

當事人得向法院書記官聲請閱覽、抄錄或攝影卷內文書，或預納費用聲請付與繕本、影本或節本。

A party may apply to the court clerk for inspection of, copying of, or photographing the documents included in the dossier, or for a written copy, photocopy, or excerpted copy thereof with expenses advanced.

第三人經當事人同意或釋明有法律上之利害關係，而為前項之聲請者,應經法院裁定許可。

Where a third party files the application provided in the preceding paragraph with the parties?consent, or with a preliminary showing of his/her legal interests concerned, the court must decide the application.

卷內文書涉及當事人或第三人隱私或業務秘密，如准許前二項之聲請，有致其受重大損害之虞者，法院得依聲請或依職權裁定不予准許或限制前二項之行為。

Where the documents in the dossier involve the privacy or business secret of the party or a third person and a grant of the application provided in the two preceding paragraphs will likely result in material harm to such person, the court may, on motion or on its own initiative, render a ruling to deny the application or to restrict the acts provided in the two preceding paragraphs.

前項不予准許或限制裁定之原因消滅者，當事人或第三人得聲請法院撤銷或變更該裁定。

When the cause for the ruling of denial or restriction provided in the preceding paragraph vanishes, a party or third person may move the court to revoke or amend the ruling.

前二項裁定得為抗告。於抗告中，第一項、第二項之聲請不予准許；其已准許之處分及前項撤銷或變更之裁定，應停止執行。

An appeal may be taken from the ruling provided in the two preceding paragraphs. Pending such appeal, no application provided in the first and the second paragraphs is to be granted; the execution of any measure granted and the ruling of revocation or amendment provided in the preceding paragraph shall be stayed.

當事人、訴訟代理人、參加人及其他經許可之第三人之閱卷規則，由司法院定之。

The Judicial Yuan shall prescribe the rules governing the inspection of the dossier by parties, their advocates, interveners and other persons with permission.

第 243 條(訴訟文書利用之限制) **Article 243**

裁判草案及其準備或評議文件，除法律別有規定外，不得交當事人或第三人閱覽、抄錄、攝影或付與繕本、影本或節本；裁判書在宣示或公告前,或未經法官簽名者,亦同。

Except as otherwise provided by law, the draft of a decision, or any document concerning its preparation or conference may not be inspected, copied, photographed by parties or a third person, nor may any written copy, photocopy or excerpted copy thereof be given. The same shall apply to a decision that has not be announced, published or signed by the judge.

第二編 第一審程序 PART II PROCEDURE IN THE FIRST INSTANCE

第一章 通常訴訟程序 CHAPTER I ORDINARY PROCEEDING

第一節 起訴 Section 1 Initiation of An Action

第 244 條(起訴之程式) **Article 244**

起訴，應以訴狀表明下列各款事項，提出於法院為之：
一、當事人及法定代理人。
二、訴訟標的及其原因事實。
三、應受判決事項之聲明。
訴狀內宜記載因定法院管轄及其適用程序所必要之事項。
第二百六十五條所定準備言詞辯論之事項，宜於訴狀內記載之。
第一項第三款之聲明，於請求金錢賠償損害之訴，原告得在第一項第二款之原因事實範圍內，僅表明其全部請求之最低金額，而於第一審言詞辯論終結前補充其聲明。其未補充者，審判長應告以得為補充。
前項情形，依其最低金額適用訴訟程序。

To initiate an action, a complaint shall be submitted to the court and indicate the following matters:
1. The parties and their statutory agents;
2. The claim and the transaction or occurrence giving rise to such claim; and
3. The demand for judgment for the relief sought.
It is advisable to indicate in the complaint all matters necessary for determining the competent court to exercise jurisdiction and the applicable proceeding.
It is advisable to indicate in the complaint matters in preparation of oral argument as provided in Article 265.
In an action demanding monetary damages, the plaintiff may, within the scope of the transaction or occurrence giving rise to such claim provided in the second subparagraph of the first paragraph, only indicate the minimum amount claimed with regard to the demand provided in the third subparagraph of the first paragraph and increase the amount claimed before the conclusion of the oral argument in the first instance. Where the plaintiff does not increase the amount accordingly, the presiding judge shall inform him/her of the availability of such an opportunity to increase the amount.
In the case provided in the preceding paragraph, the applicable proceeding shall be determined according to the minimum amount claimed.

第 245 條(保留關於於給付範圍之聲明) **Article 245**

以一訴請求計算及被告因該法律關係所應為之給付者，得於被告為計算之報告前，保留關於給付範圍之聲明。

In an action demanding the computation and payment for which a defendant is obliged to perform under certain legal relations, the plaintiff may reserve his/her demand with regard to the scope of such payment until the defendant produces the report of its computation.

第 246 條(將來給付之訴之要件) **Article 246**

請求將來給付之訴，以有預為請求之必要者為限，得提起之。

An action demanding future performance may not be initiated unless it is necessary to make such demand in advance.

第 247 條(提起確認之訴之條件) **Article 247**

確認法律關係之訴，非原告有即受確認判決之法律上利益

An action for a declaratory judgment confirming a legal relation may not be initiated unless the plaintiff has immediate legal interests

者，不得提起之；確認證書真偽或為法律關係基礎事實存否之訴，亦同。

in demanding such judgment. The same rule shall apply to an action for a declaratory judgment confirming the authenticity of a certificate or the existence or nonexistence of the facts from which a legal relation arises.

前項確認法律關係基礎事實存否之訴，以原告不能提起他訴訟者為限。

A declaratory judgment action confirming the existence or nonexistence of facts from which a legal relation arises provided in the preceding paragraph may not be initiated unless no action of any other kind can satisfy the same purpose.

前項情形，如得利用同一訴訟程序提起他訴訟者，審判長應闡明之；原告因而為訴之變更或追加時，不受第二百五十五條第一項前段規定之限制。

In the case provided in the preceding paragraph, if another claim may be asserted within the same proceeding, the presiding judge shall elucidate on it; if the plaintiff amends the claim or raises additional claims as a result of such assertion, the restriction provided in the first sentence of the first paragraph of Article 255 will not apply.

第 248 條(客觀訴之合併)

對於同一被告之數宗訴訟，除定有專屬管轄者外，得向就其中一訴訟有管轄權之法院合併提起之。但不得行同種訴訟程序者，不在此限。

Article 248

Except for a claim which may not be adjudicated in the same proceeding, multiple claims against the same defendant may be asserted concurrently by initiating the action in any court which has jurisdiction over one of the claims insofar as it does not intrude on another court's exclusive jurisdiction.

第 249 條（訴訟要件之審查及補正）

Article 249

原告之訴，有下列各款情形之一者，法院應以裁定駁回之。但其情形可以補正者，審判長應定期間先命補正：

In case of any of the following, the court shall dismiss the plaintiff's action by a ruling, but where the defect is rectifiable, the presiding judge shall order rectification within a designated period of time:

一訴訟事件不屬普通法院之權限者。

1. Where the civil court does not have subject matter jurisdiction over the action;

二訴訟事件不屬受訴法院管轄而不能為第二十八條之裁定者。

2. Where the court in which the action is pending does not have territorial jurisdiction over the action and cannot issue a ruling provided in Article 28;

三原告或被告無當事人能力者。

3. Where the plaintiff or defendant lacks the capacity to be a party;

四原告或被告無訴訟能力，未由法定代理人合法代理者。

4. Where the plaintiff or defendant lacks the capacity to litigate and is not legally represented by his/her statutory agent;

五由訴訟代理人起訴，而其代理權有欠缺者。

5. Where an advocate initiates the action and the advocate lacks authority;

六起訴不合程式或不備其他要件者。

6. Where the action is not initiated in accordance with the prescribed formality, or lacks other requirements;

七起訴違背第二百五十三條、第二百六十三條第二項之規定，或其訴訟標的為確定判決之效力所及者。

7. Where the action is initiated in violation of either the provisions of Article 253 or the second paragraph of Article 263, or its claim has been adjudicated by a final judgment with binding effect.

原告之訴，依其所訴之事實，在法律上顯無理由者，法院得不經言詞辯論，逕以判決駁回之。

Where the plaintiff's claim, given the facts that he/she alleges, is manifestly without legal grounds, the court may, without oral argument, issue a judgment dismissing the action with prejudice.

前項情形，法院得處原告新臺幣六萬元以下之罰鍰。
前項裁定得為抗告，抗告中應停止執行。

In the case provided in the preceding paragraph, the court may impose on the plaintiff a fine not exceeding NTD 60,000.
An appeal may be taken from the ruling provided in the preceding paragraph; the execution shall be stayed pending such appeal.

第 249 條 (99 年現行規定)

原告之訴，有下列各款情形之一，法院應以裁定駁回之。但其情形可以補正者，審判長應定期間先命補正：
一、訴訟事件不屬普通法院之權限，不能依第三十一條之二第二項規定移送者。
二、訴訟事件不屬受訴法院管轄而不能為第二十八條之裁定者。
三、原告或被告無當事人能力者。
四、原告或被告無訴訟能力，未由法定代理人合法代理者。
五、由訴訟代理人起訴，而其代理權有欠缺者。
六、起訴不合程式或不備其他要件者。
七、起訴違背第三十一條之一第二項、第二百五十三條、第二百六十三條第二項之規定，或其訴訟標的為確定判決之效力所及者。
原告之訴，依其所訴之事實，在法律上顯無理由者，法院得不經言詞辯論，逕以判決駁回之。
前項情形，法院得處原告新臺幣六萬元以下之罰鍰。
前項裁定得為抗告，抗告中應停止執行。

第 250 條(言詞辯論期日之指定) **Article 250**

法院收受訴狀後，審判長應速定言詞辯論期日。但應依前條之規定逕行駁回，或依第二十八條之規定移送他法院，或須行書狀先行程序者,不在此限。

After the court receives the complaint, the presiding judge shall promptly designate a date for the oral-argument session, except where the action shall be forthwith dismissed in accordance with the provision of the preceding article, or where the action shall be transferred to another court in accordance with the provision of Article 28, or where a preparatory proceeding by exchange of pleadings shall be conducted.

第 251 條(言詞辯論期日通知 **Article 251**

書之送達及就審期間)

訴狀，應與言詞辯論期日之通知書，一併送達於被告。
前項送達，距言詞辯論之期日，至少應有十日為就審期間。但有急迫情形者，不在此限。
曾行準備程序之事件，前項就審期間至少應有五日。

The complaint shall be served upon the defendant along with the summons for the oral-argument session.
Except in urgent cases, there shall be a preparation period scheduled for at least ten days between the day of service provided in the preceding paragraph and the day scheduled for the oral-argument session.
In an action where a preparatory proceeding has been conducted, the preparation period provided in the preceding paragraph shall be no less than five days.

第 252 條(言詞辯論期日通知書之記載) **Article 252**

言詞辯論期日之通知書，應記載到場之日、時及處所。除向律師為送達者外，並應記載不到場時之法定效果。

The summons for the oral-argument session shall indicate the hour, date, and the place of appearance. Except where it is served upon an attorney, the summons shall also indicate the legal consequences of a failure to appear.

第 253 條(一事不再理) **Article 253**

當事人不得就已起訴之事件，於訴訟繫屬中，更行起訴。

A party may not reinitiate an action which has been initiated during its pendency.

第 254 條(當事人恆定原則) **Article 254**

訴訟繫屬中為訴訟標的之法律關係，雖移轉於第三人，於訴訟無影響。但第三人如經兩造同意，得聲請代當事人承當訴訟。
前項但書情形，僅他造不同意者，移轉之當事人或第三人得聲請法院以裁定許第三人承當訴訟。
前項裁定，得為抗告。

法院知悉訴訟標的有移轉者，應即以書面將訴訟繫屬之事實通知第三人。
第一項為訴訟標的之權利，其取得、設定、喪失或變更，依法應登記者，於起訴後，受訴法院得依當事人之聲請發給已起訴之證明，由當事人持向該管登記機關請求將訴訟繫屬之事實予以登記。訴訟終結後，當事人或利害關係人得聲請法院發給證明，持向該管登記機關請求塗銷該項登記。

No action will be affected by the fact that the legal relation of the subject matter of the claim has been transferred to a third person pending such action. Notwithstanding, subject to the consent of both parties, the third person may move for assuming the action for a party.
In cases provided in the proviso of the preceding paragraph, if only the opposing party disagrees, either the transferor party or the third person may move the court for a ruling to permit the third party to assume the action.
An interlocutory appeal may be taken from the ruling provided in the preceding paragraph.
When the court knows that the claim has been transferred, it shall immediately notify the third party in writing the fact that the action has been transferred.
Where the acquisition, creation, loss or alternation of a claimed right must be registered pursuant to the applicable laws, after the action is initiated, the court in which the action is pending may, upon a party's motion, issue a certificate of fact that the action has been initiated so that the party may request the registrar agency to register such fact. After the action is concluded, an interested party or person may move the court to issue a certificate to request the registrar agency to deregister such fact.

第 255 條(訴之變更或追加限 **Article 255**

制之例外)

訴狀送達後，原告不得將原訴變更或追加他訴。但有下列各款情形之一者，不在此限：
一、被告同意者。
二、請求之基礎事實同一者。
三、擴張或減縮應受判決事項之聲明者。
四、因情事變更而以他項聲明代最初之聲明者。
五、該訴訟標的對於數人必須合一確定時，追加其原非當事人之人為當事人者。
六、訴訟進行中，於某法律關係之成立與否有爭執，而其裁判應以該法律關係為據，並求對於被告確定其法律關係之判決者。
七、不甚礙被告之防禦及訴訟之終結者。
被告於訴之變更或追加無異議，而為本案之言詞辯論者，視為同意變更或追加。

After the service of the complaint, the plaintiff may not amend his/her claim or raise additional claims, except in case of any of the following circumstances:
1. Where the defendant agrees;
2. Where the amendment or addition of the claim is based on the same transaction or occurrence;
3. Where only the demand for judgment for the relief sought is expanded or reduced;
4. Where the change of circumstances makes it necessary to replace the original claim with another claim;
5. Where the claim shall be adjudicated jointly with regard to several persons and one or several such persons who are not parties are joined as parties;
6. Where the existence or nonexistence of a certain legal relation, based upon which relation the case shall be decided, becomes disputed in the course of the proceeding and an additional claim for a declaratory judgment confirming such legal relation against the defendant is raised;
7. Where it would neither severely obstruct the defendant's defense nor delay litigation.
Where the defendant proceeds orally on the merits without objecting to the amendment or addition of claims, he/she shall be deemed to have agreed to such amendment or addition.

第 256 條(訴之變更或追加)

不變更訴訟標的，而補充或更正事實上或法律上之陳述者，非為訴之變更或追加。

Article 256

Supplementing or rectifying factual or legal statements without changing the claim shall not be deemed an amendment or addition of claims.

第 257 條(訴之變更或追加之禁止)

訴之變更或追加，如新訴專屬他法院管轄或不得行同種之訴訟程序者，不得為之。

Article 257

No claim may be amended, nor may an additional claim be raised, if the amendment or the addition of the claim is subject to another court's exclusive jurisdiction or cannot be adjudicated in the same proceeding.

第 258 條(訴之變更或追加之判決)

法院因第二百五十五條第一項但書規定，而許訴之變更或追加，或以訴為非變更或無追加之裁判，不得聲明不服。
因不備訴之追加要件而駁回其追加之裁定確定者，原告得於該裁定確定後十日內聲請法院就該追加之訴為審判。

Article 258

The decision allowing the amendment or addition of the claim in accordance with the proviso of the first paragraph of Article 255, or determining that there is no amendment or addition, is not reviewable.
Where a ruling denying the addition of claims becomes final and binding by reason of a failure to meet the relevant requirements, the plaintiff may, within ten days from the day when the ruling becomes final and binding, move the court to adjudicate such additional claim.

第 259 條(反訴之提起)

被告於言詞辯論終結前，得在本訴繫屬之法院，對於原告及就訴訟標的必須合一確定之人提起反訴。

Article 259

The defendant may, prior to the conclusion of the oral argument, raise a counterclaim against the plaintiff and the persons with regard to whom the counterclaim shall be adjudicated jointly in the court where the plaintiff's claim is pending.

第 260 條(反訴之限制)

反訴之標的，如專屬他法院管轄，或與本訴之標的及其防禦方法不相牽連者，不得提起。

反訴，非與本訴得行同種之訴訟程序者，不得提起。

當事人意圖延滯訴訟而提起反訴者，法院得駁回之。

Article 260

No counterclaim may be raised if it is subject to the exclusive jurisdiction of another court or if it is neither related to the plaintiff's claim nor related to the defendant's means of defense.

No counterclaim may be raised if it cannot be adjudicated in the same proceeding with the plaintiff's claim.

The court may dismiss a counterclaim without prejudice where it is raised by a party for purposes of delaying litigation.

第 261 條(訴之變更追加及提起反訴之程序)

訴之變更或追加及提起反訴，得於言詞辯論時為之。

於言詞辯論時所為訴之變更、追加或提起反訴，應記載於言詞辯論筆錄；如他造不在場，應將筆錄送達。

Article 261

A claim may be amended, and an additional claim and counterclaim may be raised in the oral-argument sessions.

The amendment or addition of claims, or counterclaims made in the oral-argument sessions shall be indicated in the oral-argument transcript. The transcript shall be served on the opposing party when the opposing party was not present.

第 262 條(訴訟撤回之要件及程序)

原告於判決確定前，得撤回訴之全部或一部。但被告已為本案之言詞辯論者，應得其同意。

訴之撤回應以書狀為之。但於期日，得以言詞向法院或受命法官為之。

以言詞所為訴之撤回，應記載於筆錄，如他造不在場，應將筆錄送達。

訴之撤回，被告於期日到場，未為同意與否之表示者，自該期日起；其未於期日到場或係以書狀撤回者，自前項筆錄或撤回書狀送達之日起，十日內未提出異議者，視為同意撤回。

Article 262

The plaintiff may, before the judgment becomes final and binding, voluntarily dismiss the action in whole or in part, and except where the defendant has proceeded orally on the merits, such dismissal shall be subject to his/her consent.

A voluntary dismissal shall be made by pleadings. Notwithstanding, it may be made orally before the court or the commissioned judge in the court session.

A voluntary dismissal made orally shall be indicated in the transcript and in the case where the opposing party was not present, such transcript shall be served on the opposing party.

The defendant is deemed to have agreed to the voluntary dismissal if he/she does not object to such dismissal within ten days from the day of the court session in the case where he/she appeared and did not express whether he/she agreed or disagreed, or from the day of service of the transcript provided in the preceding paragraph or the dismissal pleading in case where he/she failed to appear in the court session or where the dismissal is made by pleadings.

第 263 條(訴之撤回效力)

訴經撤回者，視同未起訴。但反訴不因本訴撤回而失效力。

於本案經終局判決後將訴撤回

Article 263

An action dismissed voluntarily is deemed an action never initiated. Notwithstanding, no voluntary dismissal of the plaintiff's claim will render a counterclaim inoperative.

An action may not be re-initiated if it is dismissed voluntarily after a

者，不得復提起同一之訴。 final judgment has been entered.

第 264 條(反訴之撤回) **Article 264**

本訴撤回後，反訴之撤回，不須得原告之同意。 Where the plaintiff's claim has been dismissed voluntarily, the voluntary dismissal of a counterclaim is not subject to the plaintiff's consent.

第二節 言詞辯論之準備 Section 2 Preparation for Oral Argument

第 265 條(當事人準備書狀之記載及提出) **Article 265**

當事人因準備言詞辯論之必要，應以書狀記載其所用之攻擊或防禦方法，及對於他造之聲明並攻擊或防禦方法之陳述，提出於法院，並以繕本或影本直接通知他造。

For purposes of oral argument preparation, parties shall submit to the court a pleading which indicates his/her means of attack or defense, and his/her responses to the opposing party's statements and means of attack or defense, and send a written copy or photocopy of the same directly to the opposing party.

他造就曾否受領前項書狀繕本或影本有爭議時，由提出書狀之當事人釋明之。

When the opposing party disputes the successful delivery of a written copy or photocopy of the pleading provided in the preceding paragraph, the party submitting the pleading shall make a preliminary showing thereof.

第 266 條(原告準備書狀之記載事項) **Article 266**

原告準備言詞辯論之書狀，應記載下列各款事項：

The plaintiff's pleading made in preparation for oral argument shall indicate the following:

一、請求所依據之事實及理由。

1. The facts and reasons on which his/her claim is based;

二、證明應證事實所用之證據。如有多數證據者，應全部記載之。

2. The evidence proving the disputed facts; in case of multiple evidence, all of them;

三、對他造主張之事實及證據為承認與否之陳述；如有爭執，其理由。

3. A statement either admitting or denying the facts and evidence alleged by the opposing party; in the case of denial, the reasons therefor.

被告之答辯狀，應記載下列各款事項：

The defendant's answer shall indicate the following:

一、答辯之事實及理由。

1. The facts and reasons of his/her defenses;

二、前項第二款及第三款之事項。

2. The matters provided in the second and third subparagraphs of the preceding paragraph.

前二項各款所定事項，應分別具體記載之。

The matters provided in each subparagraph of the two preceding paragraphs shall be specified with particularity.

第一項及第二項之書狀，應添具所用書證之影本，提出於法院，並以影本直接通知他造。

A photocopy of all documentary evidence referred to in the pleadings provided in the first and the second paragraphs shall be submitted to the court with a photocopy of the pleadings sent directly to the opposing party.

第 267 條(被告答辯狀之提出時期) **Article 267**

被告於收受訴狀後，如認有答 The defendant shall, if he/she considers it necessary to do so, submit

辯必要，應於十日內提出答辯狀於法院，並以繕本或影本直接通知原告；如已指定言詞辯論期日者，至遲應於該期日五日前為之。

his/her answer to the court, with a written copy or photocopy thereof sent directly to the plaintiff within ten days after receiving the complaint, and no later than five days prior to the oral-argument session if one has been designated.

應通知他造使為準備之事項，有未記載於訴狀或答辯狀者，當事人應於他造得就該事項進行準備所必要之期間內，提出記載該事項之準備書狀於法院，並以繕本或影本直接通知他造；如已指定言詞辯論期日者，至遲應於該期日五日前為之。

Where any matter which should be notified to the opposing party in preparation of the case is not indicated in the complaint or answer, the parties shall submit to the court a preparatory pleading indicating such matter with a written copy or photocopy thereof sent directly to the opposing party within the period which the opposing party needs to prepare for such matter, and no later than five days prior to the oral-argument session if one has been designated.

對於前二項書狀所記載事項再為主張或答辯之準備書狀，當事人應於收受前二項書狀後五日內提出於法院，並以繕本或影本直接通知他造；如已指定言詞辯論期日者，至遲應於該期日三日前為之。

The parties shall submit to the court the preparatory pleading, if any, to dispute or respond to the matters indicated in the pleadings provided in the two preceding paragraphs with a written copy or photocopy thereof sent directly to the opposing party within five days after receiving such pleadings as provided in the two preceding paragraphs, and no later than three days prior to the oral-argument session if one has been designated.

第 268 條(言詞辯論準備未充足之處置) **Article 268**

審判長如認言詞辯論之準備尚未充足，得定期間命當事人依第二百六十五條至第二百六十七條之規定，提出記載完全之準備書狀或答辯狀，並得命其就特定事項詳為表明或聲明所用之證據。

The presiding judge may, if he/she is of the opinion that the preparation for oral argument has not been completed, order the parties to submit a preparatory pleading or answer with complete indications in accordance with the provisions of Article 265 to Article 267 inclusive, within the period of time such judge designates, and may also order them to specify or state in detail the evidence which they propose to use with regard to a certain matter.

第 268-1 條(摘要書狀之提出) **Article 268- 1**

依前二條規定行書狀先行程序後，審判長或受命法官應速定言詞辯論期日或準備程序期日。

After a preparatory proceeding by exchange of pleadings has been completed in accordance with the provisions of the two preceding articles, the presiding judge or the commissioned judge shall promptly designate a date for the oral-argument session or the preparatory session.

法院於前項期日，應使當事人整理並協議簡化爭點。

The court shall require the parties to formulate and agree on simplifying the issues.

審判長於必要時，得定期間命當事人就整理爭點之結果提出摘要書狀。

The presiding judge may, if necessary, order the parties to submit a pleading summarizing the result of the formulation of the issues within the period of time to be designated by the judge.

前項書狀，應以簡明文字，逐項分段記載，不得概括引用原有書狀或言詞之陳述。

The pleading provided in the preceding paragraph shall be made in concise writing, in orderly itemized paragraphs, and must not make general reference to the previous statements presented in pleadings or orally.

第 268-2 條(書狀之說明) **Article 268- 2**

當事人未依第二百六十七條、第二百六十八條及前條第三項之規定提出書狀或聲明證據者，法院得依聲請或依職權命該當事人以書狀說明其理由。
當事人未依前項規定說明者，法院得準用第二百七十六條之規定，或於判決時依全辯論意旨斟酌之。

Where a party either fails to submit pleadings or to state evidence in accordance with the provisions of Articles 267 and 268, and the third paragraph of the preceding article, the court may, on motion or on its own initiative, order such party to explain the reasons by pleadings.
Where the party fails to explain in accordance with the provision of the preceding paragraph, the court may apply the provision of Article 276 mutatis mutandis or take such fact as part of the entire import of oral argument in forming its decision.

第 269 條(法院於言詞辯論前得為之處置) **Article 269**

法院因使辯論易於終結，認為必要時，得於言詞辯論前，為下列各款之處置：
一、命當事人或法定代理人本人到場。
二、命當事人提出文書、物件。
三、通知證人或鑑定人及調取或命第三人提出文書、物件。
四、行勘驗、鑑定或囑託機關、團體為調查。
五、使受命法官或受託法官調查證據。

The court may, prior to the oral argument, take the following measures if it considers it necessary to do so in order to expedite the closing of oral argument:
1. To order the parties or their statutory agents to appear in person;
2. To order the parties to produce documents and objects;
3. To notify witnesses or expert witnesses, and to send for documents or objects, or order a third person to produce documents or objects;
4. To conduct inspections, or order expert testimony, or request an agency or organization to conduct an investigation;
5. To require a commissioned judge or an assigned judge to take evidence.

第 270 條(準備程序) **Article 270**

行合議審判之訴訟事件，法院於必要時以庭員一人為受命法官，使行準備程序。
準備程序，以闡明訴訟關係為止。但另經法院命於準備程序調查證據者，不在此限。

命受命法官調查證據，以下列情形為限：
一、有在證據所在地調查之必要者。
二、依法應在法院以外之場所調查者。
三、於言詞辯論期日調查，有致證據毀損、滅失或礙難使用之虞，或顯有其他困難者。
四、兩造合意由受命法官調查者。
第二百五十一條第一項、第二項之規定，於行準備程序準用之。

In an action adjudicated by judges sitting in council, the court may, if necessary, appoint one of the judges to be the commissioned judge to conduct the preparatory proceeding.
The preparatory proceeding shall not proceed beyond the clarification of the relations involved in the action, except where the court has ordered that evidence be taken in the preparatory proceeding.
The commissioned judge may not be ordered to take evidence except in the following cases:
1. If it is necessary to take the evidence at the place where such evidence is located;
2. The evidence shall be taken outside the courthouse pursuant to the applicable laws;
3. Taking the evidence in the oral-argument sessions may result in the destruction or loss of such evidence or the obstruction of its use, or it is manifestly difficult to do so;
4. Both parties agree to have the evidence taken by the commissioned judge.
The provisions of the first and the second paragraphs of Article 251 shall apply mutatis mutandis to the preparatory proceeding.

第 270-1 條(闡明訴訟關係之程 **Article 270- 1**

序)

受命法官為闡明訴訟關係，得為下列各款事項，並得不用公開法庭之形式行之：
一、命當事人就準備書狀記載之事項為說明。
二、命當事人就事實或文書、物件為陳述。
三、整理並協議簡化爭點。
四、其他必要事項。
受命法官於行前項程序認為適當時，得暫行退席或命當事人暫行退庭，或指定七日以下之期間命當事人就雙方主張之爭點，或其他有利於訴訟終結之事項，為簡化之協議，並共同向法院陳明。但指定期間命當事人為協議者，以二次為限。
當事人就其主張之爭點，經依第一項第三款或前項為協議者，應受其拘束。但經兩造同意變更，或因不可歸責於當事人之事由或依其他情形協議顯失公平者，不在此限。

For the purpose of clarifying the relations involved in the action, the commissioned judge may conduct the following activities without holding a session in public:
1. To order the parties to explain the matters indicated in the preparatory pleadings;
2. To order the parties to make statements with regard to the facts, documents, or objects;
3. To formulate and simplify the issues;
4. Other necessary matters.
In conducting the proceeding provided in the preceding paragraph, the commissioned judge may excuse himself/herself or a party from the proceeding temporarily if he/she considers it appropriate to do so, or order the parties to reach an agreement, within a period of not more than seven days as he/she may designate, on simplifying the issues alleged or other matters which can expedite the litigation and make a joint report to the court. Notwithstanding, the parties shall be ordered no more than two times to reach such an agreement.
The parties shall be bound by their agreement reached, if any, in accordance with the provisions of subparagraph of the preceding paragraph with regard to the issues they alleged, except where they have agreed on an amendment to said agreement, or where reasons exist not imputable to the parties, or other circumstances render such binding agreement manifestly unfair.

第 271 條(準備程序筆錄之記載) **Article 271**

準備程序筆錄應記載下列各款事項：
一、各當事人之聲明及所用之攻擊或防禦方法。
二、對於他造之聲明及攻擊或防禦方法之陳述。
三、前條第一項所列各款事項及整理爭點之結果。

The transcript of the preparatory proceeding shall indicate the following matters:
1. Each party's statements and the means of attack or defense he/she uses;
2. Reponses to the opposing party's statements and means of attack or defense;
3. The matters listed in each subparagraph of the first paragraph of the preceding article and the conclusion to formulating the issues.

第 271-1 條(獨任審判之訴訟事件之準用) **Article 271- 1**

前二條之規定，於行獨任審判之訴訟事件準用之。

The provisions of the two preceding articles shall apply mutatis mutandis to cases which are adjudicated by a single judge.

第 272 條(受命法官行準備程序之準用) **Article 272**

第四十四條之四、第四十九條、第六十八條第一項至第三項、第七十五條第一項、第七十六條、第七十七條之一第三項、第九十四條之一第一項前段、第一百二十條第一項、第

The provisions of Article 44-4, Article 49, the first to the third paragraphs inclusive of Article 68, the first paragraph of Article 75, Article 76, the third paragraph of Article 77-1, the first sentence of the first paragraph of Article 94, the first paragraph of Article 120, the first and the second paragraphs of Article 121, Article 132, Article 198 to Article 200 inclusive, Article 203, Article 207, Article

一百二十一條第一項、第二項、第一百三十二條、第一百九十八條至第二百條、第二百零三條、第二百零七條、第二百零八條、第二百十三條第二項、第二百十三條之一、第二百十四條、第二百十七條、第二百四十九條第一項但書、第二百五十四條第四項、第二百六十八條、第二百六十八條之一第三項、第二百六十八條之二第一項、第二百六十九條第一款至第四款、第三百七十一條第一項、第二項及第三百七十二條關於法院或審判長權限之規定，於受命法官行準備程序時準用之。

208, the second paragraph of Article 213, Article 213-1, Article 214, Article 217, the proviso of the first paragraph of Article 249, the fourth paragraph of Article 254, Article 268, the third paragraph of Article 268-1, the first paragraph of Article 268-2, the first to the fourth subparagraphs inclusive of Article 269, the first and the second paragraphs of Article 371 and Article 372 with regard to the authorities of the court or the presiding judge, shall apply mutatis mutandis to the commissioned judge in conducting the preparatory proceeding.

第九十六條第一項及第九十九條關於法院權限之規定，於受命法官行準備程序時，經兩造合意由受命法官行之者，準用之。

The provisions of the first paragraph of Article 96 and Article 99 with regard to the authorities of the court shall apply mutatis mutandis to cases where the commissioned judge is to conduct the preparatory proceeding and the parties consent to the exercise of such authorities by the commissioned judge.

第 273 條(當事人一造不到場之處置) **Article 273**

當事人之一造，於準備程序之期日不到場者，應對於到場之一造，行準備程序，將筆錄送達於未到場人。

Where a party does not appear in the preparatory session, the preparatory proceeding nevertheless shall be conducted for the appearing party and the transcript shall be served upon the party who failed to appear.

前項情形，除有另定新期日之必要者外，受命法官得終結準備程序。

In the case provided in the preceding paragraph, unless it is necessary to designate another session, the commissioned judge may conclude the preparatory proceeding.

第 274 條(準備程序之終結及再開) **Article 274**

準備程序至終結時，應告知當事人，並記載於筆錄。

The conclusion of the preparatory proceeding shall be notified to the parties and indicated in the transcript.

受命法官或法院得命再開已終結之準備程序。

The commissioned judge or the court may order the reopening of a preparatory proceeding which has been concluded.

第 275 條(言詞辯論時應踐行之程序) **Article 275**

於準備程序後行言詞辯論時，當事人應陳述準備程序之要領。但審判長得令書記官朗讀準備程序筆錄代之。

The parties shall state the purport of the preparatory proceeding in the oral-argument sessions following the preparatory proceeding. Notwithstanding, the presiding judge may order the court clerk to read aloud the preparatory proceeding transcript instead.

第 276 條(準備程序之效果) **Article 276**

未於準備程序主張之事項，除

Except for the following, no matter that has never been alleged in the

有下列情形之一者外，於準備程序後行言詞辯論時，不得主張之：
一、法院應依職權調查之事項。
二、該事項不甚延滯訴訟者。
三、因不可歸責於當事人之事由不能於準備程序提出者。
四、依其他情形顯失公平者。

前項第三款事由應釋明之。

preparatory proceeding may be alleged in the oral-argument session following the preparatory proceeding:

1. Matters which the court shall investigate on its own initiative;
2. Matters which will not delay the litigation;
3. Matters which could not be alleged in the preparatory proceeding due to reasons not imputable to the parties;
4. Matters which must be alleged or it would be manifestly unfair under the circumstances.

A preliminary showing shall be made as to the reasons provided in the third subparagraph of the preceding paragraph.

第三節 證據 Section 3 Evidence

第一目 通則 Item 1 General Provisions

第 277 條(舉證責任分配之原則) **Article 277**

當事人主張有利於己之事實者，就其事實有舉證之責任。但法律別有規定，或依其情形顯失公平者，不在此限。

A party bears the burden of proof with regard to the facts which he/she alleges in his/her favor, except either where the law provides otherwise or where the circumstances render it manifestly unfair.

第 278 條(舉證責任之例外(一)－顯著或已知之事實) **Article 278**

事實於法院已顯著或為其職務上所已知者，無庸舉證。

前項事實，雖非當事人提出者，亦得斟酌之。但裁判前應令當事人就其事實有辯論之機會。

A fact need not be proved if it is generally known or known to the court in the course of performing its function.

Any fact provided in the preceding paragraph may be taken into consider-ation by the court even if it is not alleged by either party. Notwithstanding, the parties shall be accorded an opportunity to present their argument regarding such facts before the decision is rendered.

第 279 條(舉證責任之例外－自認) **Article 279**

當事人主張之事實，經他造於準備書狀內或言詞辯論時或在受命法官、受託法官前自認者，無庸舉證。

當事人於自認有所附加或限制者，應否視有自認，由法院審酌情形斷定之。

自認之撤銷，除別有規定外，以自認人能證明與事實不符或經他造同意者，始得為之。

A fact need not be proved if it is alleged by a party and admitted by the opposing party in the preparatory pleadings, in the oral-argument sessions, or before the commissioned judge or the assigned judge.

Where a party makes an addition to or limitation on his/her admission, the court shall, taking all circumstances into consideration, determine whether an admission has been made.

Except as otherwise provided, no admission may be withdrawn unless the party making such admission either proves that such admission is contrary to the truth or the opposing party agrees to such withdrawal.

第 280 條(舉證責任之例外－視同自認) **Article 280**

當事人對於他造主張之事實，於言詞辯論時不爭執者，視同自認。但因他項陳述可認為爭執者，不在此限。
當事人對於他造主張之事實，為不知或不記憶之陳述者，應否視同自認，由法院審酌情形斷定之。
當事人對於他造主張之事實，已於相當時期受合法之通知，而於言詞辯論期日不到場，亦未提出準備書狀爭執者，準用第一項之規定。但不到場之當事人係依公示送達通知者，不在此限。

A fact shall be deemed admitted where a party does not dispute a fact alleged by the opposing party in oral argument, except where a party has already made other statements which may be considered to dispute such fact.
Where a party states that he/she has no knowledge or memory with regard to a fact alleged by the opposing party, the court shall, taking all circumstances into consideration, determine whether such statement constitutes an admission.
The first paragraph shall apply mutatis mutandis to cases where a party who has been timely and legally notified of a fact alleged by the opposing party neither appears in the oral-argument sessions nor submits a preparatory pleading to dispute such fact, except where the party failing to appear is notified by constructive notice.

第 281 條(舉證責任之例外(四) - 法律上推定之事實) **Article 281**

法律上推定之事實無反證者，無庸舉證。

A fact presumed de jure need not be proved absent proof to the contrary.

第 282 條(舉證責任之例外(五) - 事實之推定) **Article 282**

法院得依已明瞭之事實，推定應證事實之真偽。

The court may presume the truth of a disputed fact by drawing inferences from the facts already established.

第 282-1 條(當事人不正當妨礙舉證之處置) **Article 282- 1**

當事人因妨礙他造使用，故意將證據滅失、隱匿或致礙難使用者，法院得審酌情形認他造關於該證據之主張或依該證據應證之事實為真實。
前項情形，於裁判前應令當事人有辯論之機會。

Where a party intentionally destroys or hides a piece of evidence, or makes it difficult to use, for the purpose of obstructing the use of such evidence by the opposing party, the court may, in its discretion, take as the truth the opposing party's allegation with regard to such evidence or the disputed fact to be proved by such evidence.
In the case provided in the preceding paragraph, the parties shall be accorded an opportunity to present their arguments.

第 283 條(為法院不知之習慣、地方法規及外國法令之舉證) **Article 283**

習慣、地方制定之法規及外國法為法院所不知者，當事人有舉證之責任。但法院得依職權調查之。

A party has the burden of proof with regard to customs, local ordinances, and foreign laws which are unknown to the court. Notwithstanding, the court may investigate on its own initiative.

第 284 條(事實之釋明) **Article 284**

釋明事實上之主張者，得用可使法院信其主張為真實之一切證據。但依證據之性質不能即時調查者，不在此限。

To make a preliminary showing of a factual allegation, all kinds of evidence may be used to establish the truth of such allegation to the belief of the court, except for the kind of evidence which cannot be submitted immediately.

第 285 條(證據之聲明)
聲明證據，應表明應證事實。

聲明證據，於言詞辯論期日前，亦得為之。

Article 285
A disputed fact to be proved by evidence shall be specified when such evidence is introduced.
Evidence may also be introduced before the oral-argument sessions.

第 286 條(證據之調查)
當事人聲明之證據，法院應為調查。但就其聲明之證據中認為不必要者，不在此限。

Article 286
The court shall accept evidence introduced by the parties, except for evidence which is considered by the court to be unnecessary.

第 287 條(定調查期間)
因有窒礙不能預定調查證據之時期者，法院得依聲請定其期間。但期間已滿而不致延滯訴訟者，仍應為調查。

Article 287
In the case of any obstacle that makes it impossible to designate the time in advance for taking evidence, the court may, on motion, designate a period of time within which the evidence shall be taken. Notwithstanding, the evidence shall still be taken after such period expires insofar as the litigation will not be delayed as a result.

第 288 條(依職權調查)
法院不能依當事人聲明之證據而得心證，為發現真實認為必要時，得依職權調查證據。
依前項規定為調查時，應令當事人有陳述意見之機會。

Article 288
When the court cannot obtain conviction from the evidence introduced by the parties, the court may take evidence on its own initiative if such is necessary for finding the truth.
In taking evidence in accordance with the provision of the preceding paragraph, the parties shall be accorded an opportunity to be heard.

第 289 條(囑託調查)
法院得囑託機關、學校、商會、交易所或其他團體為必要之調查；受託者有為調查之義務。

法院認為適當時，亦得商請外國機關、團體為必要之調查。

Article 289
The court may request an agency, a school, a chamber of commerce, an exchange or any other organization to conduct a necessary investigation; the requested organization is under a duty to conduct such investigation.
Where the court considers it appropriate, it may also request a foreign agency or organization to conduct a necessary investigation.

第 290 條(囑託調查)
法院於認為適當時，得囑託他法院指定法官調查證據。

Article 290
Where the court considers it appropriate, it may request another court to appoint a judge to take evidence.

第 291 條(囑託調查時對當事人之告知)
囑託他法院法官調查證據者，審判長應告知當事人，得於該法院所在地指定應受送達之處所，或委任住居該地之人為訴訟代理人，陳報受囑託之法院。

Article 291
In requesting the judge of another court to take evidence, the presiding judge shall notify the parties that they may designate a place for service of process at the place where the requested court is located or retain an advocate who domiciles/resides at such place and notify the requested court of such fact.

第 292 條(代囑託他法院調查)
受託法院如知應由他法院調查證據者，得代為囑託該法院。

Article 292
If the requested court knows that the evidence should be taken by another court, it may request such court to take such evidence on its

behalf.

前項情形，受託法院應通知其事由於受訴法院及當事人。

In the case provided in the preceding paragraph, the requested court shall notify such fact to both the court in which the action is pending and the parties.

第 293 條(代囑託他法院調查) **Article 293**

受訴法院、受命法官或受託法官於必要時，得在管轄區域外調查證據。

Either the court in which the action is pending, the commissioned judge, or the assigned judge may, if necessary, take evidence outside the jurisdictional boundaries of the court.

第 294 條(調查證據筆錄) **Article 294**

受訴法院於言詞辯論前調查證據，或由受命法官、受託法官調查證據者，法院書記官應作調查證據筆錄。

Where the court in which the action is pending takes evidence prior to the oral-argument sessions, or the evidence is taken by the commissioned judge or the assigned judge, the court clerk shall make a transcript of such evidence-taking.

第二百十二條、第二百十三條、第二百十三條之一及第二百十五條至第二百十九條之規定，於前項筆錄準用之。

The provisions of Articles 212, 213, 213-1, and Articles 215 to 219 inclusive shall apply mutatis mutandis to the transcript provided in the preceding paragraph.

受託法官調查證據筆錄，應送交受訴法院。

The transcript of the evidence-taking conducted by the commissioned judge shall be forwarded to the court in which the action is pending.

第 295 條(於外國調查) **Article 295**

應於外國調查證據者，囑託該國管轄機關或駐在該國之中華民國大使、公使、領事或其他機構、團體為之。

Where the evidence is to be taken in a foreign country, the evidence-taking shall be entrusted to be conducted by the competent jurisdictional authorities of such country or the relevant R.O.C. ambassador/minister envoy/consul or other institution or organization in that country authorized to do so.

外國機關調查證據，雖違背該國法律，如於中華民國之法律無違背者，仍有效力。

The evidence-taking conducted by a foreign authority shall take effect insofar as it is not contrary to the laws of the R.O.C. irrespective of the contravention, if any, with the laws of the country of such foreign authority.

第 296 條(當事人不到場時之調查) **Article 296**

調查證據，於當事人之一造或兩造不到場時，亦得為之。

Evidence may be taken irrespective of the absence of either party or both parties.

第 296-1 條(訴訟有關爭點之曉諭) **Article 296- 1**

法院於調查證據前，應將訴訟有關之爭點曉諭當事人。

The court shall, before taking evidence, clarify to the parties the issues involved in the action.

法院訊問證人及當事人本人，應集中為之。

The court shall examine the witnesses and the parties in person in a consecutive manner.

第 297 條(調查證據後法院應為之處置) **Article 297**

調查證據之結果，應曉諭當事

The parties shall be directed to present argument on the outcome of

人為辯論。
於受訴法院外調查證據者，當事人應於言詞辯論時陳述其調查之結果。但審判長得令書記官朗讀調查證據筆錄或其他文書代之。

evidence-taking.
Where the evidence is taken outside the court in which the action is pending, the parties shall state the outcome of such evidence-taking in the oral-argument sessions. Notwithstanding, the presiding judge may order the court clerk to read aloud the evidence-taking transcript or other documents instead.

第二目 人證 Item 2 Examination of Witnesses

第 298 條(人證之聲明) **Article 298**

聲明人證，應表明證人及訊問之事項。
證人有二人以上時，應一併聲明之。

The identity of a witness and the matters to be examined shall be specified when such witness is introduced.
Where there are two or more witnesses, they shall be introduced jointly.

第 299 條(通知證人到場之程式) **Article 299**

通知證人，應於通知書記載下列各款事項：
一、證人及當事人。
二、證人應到場之日、時及處所。
三、證人不到場時應受之制裁。
四、證人請求日費及旅費之權利。
五、法院。
審判長如認證人非有準備不能為證言者，應於通知書記載訊問事項之概要。

To summon a witness, the summons shall indicate the following matters:
1.The identity of the witness and the parties;
2.The hour/date when the witness shall appear and the place where he/she shall appear;
3.The sanctions to be imposed on the witness if he/she fails to appear;
4.The rights of the witness to claim daily fees and travel expenses; and
5.The court.
If the presiding judge considers that the witness cannot testify without preparation, the summons shall indicate the gist of the matters to be examined.

第 300 條(通知現役軍人為證人) **Article 300**

通知現役軍人為證人者，審判長應併通知該管長官令其到場。
被通知者如礙難到場，該管長官應通知其事由於法院。

Where a solider is summoned as a witness, the presiding judge shall at the same time notify his/her superior officer concerned to order such solider to appear.
Where the solider summoned cannot appear, the superior officer concerned shall notify the court of the reasons.

第 301 條(通知在監所人為證人) **Article 301**

通知在監所或其他拘禁處所之人為證人者，審判長應併通知該管長官提送到場或派員提解到場。
前條第二項之規定，於前項情形準用之。

Where an incarcerated person is summoned as a witness, the presiding judge shall at the same time notify the officer of the prison or place of detention concerned to escort such person or to assign staff to escort such person to appear.
The second paragraph of the preceding article shall apply mutatis mutandis to the case provided in the preceding paragraph.

第 302 條(作證義務)

除法律別有規定外，不問何人，於他人之訴訟，有為證人之義務。

Article 302

Except as otherwise provided by the laws, every person is under a general duty to testify in an action between others.

第 303 條(證人不到場之處罰)

證人受合法之通知，無正當理由而不到場者，法院得以裁定處新台幣三萬元以下罰鍰。

證人已受前項裁定，經再次通知，仍不到場者，得再處新台幣六萬元以下罰鍰，並得拘提之。

拘提證人，準用刑事訴訟法關於拘提被告之規定；證人為現役軍人者，應以拘票囑託該管長官執行。

處證人罰鍰之裁定，得為抗告；抗告中應停止執行。

Article 303

Where a witness who has been legally summoned fails to appear without giving a justifiable reason, the court may by a ruling impose a fine not exceeding NTD 30,000.

Where a witness who has been fined in accordance with the provision of the preceding paragraph, and if summoned again still fails to appear, he/she may be again be fined not exceeding NTD 60,000 and may also be apprehended to appear.

The provisions of the Code of Criminal Procedure pertaining to the apprehension of a defendant shall apply mutatis mutandis to the apprehension of a witness. Where the witness is a solider, the apprehension shall be executed by the superior officer concerned requested to do so by a warrant.

An interlocutory appeal may be taken from a ruling imposing a fine upon a witness; the execution of such ruling shall be stayed pending such appeal.

第 304 條(元首為證人之詢問)

元首為證人者，應就其所在詢問之。

Article 304

Where the witness is the President of the country, the examination shall be conducted at the place of his/her location.

第 305 條(證人之訊問)

遇證人不能到場，或有其他必要情形時,得就其所在訊問之。

證人須依據文書、資料為陳述，或依事件之性質、證人之狀況，經法院認為適當者，得命兩造會同證人於公證人前作成陳述書狀。

經兩造同意者，證人亦得於法院外以書狀為陳述。

依前二項為陳述後，如認證人之書狀陳述須加說明，或經當事人聲請對證人為必要之發問者，法院仍得通知該證人到場陳述。

證人所在與法院間有聲音及影像相互傳送之科技設備而得直接訊問，並經法院認為適當者，得以該設備訊問之。

證人以書狀為陳述者，仍應具結，並將結文附於書狀，經公證人認證後提出。其以科技設

Article 305

Where a witness cannot appear, or there exist other circumstances which make it necessary not to appear, the witness may be examined at the place of his/her location. The court may order both parties to make statements and record such statements in a pleading in conjunction with the witness before a notary where either a witness makes statements by referencing documents or materials, or the court considers it appropriate when taking into consideration the nature of the case and the situation of the witness.

A witness may, by consent of the parties, also make statements by pleadings outside the court.

If a statement is made in accordance with the provisions of the two preceding paragraphs, and if the court considers it necessary for the witness to explain his/her statements in the pleading, or if a party moves for conducting a necessary examination of the witness, the court may still summon the witness to appear to testify in person.

The court may examine a witness directly between the location of a witness and the court by using any available technological audio/visual device if the court considers it appropriate to do so.

When a witness makes statements by a pleading, he/she shall still sign the written oath, annex it to the pleading, have the same notarized by a notary and submit it to the court. Where the witness is examined via a technological device, he/she shall still sign a

備為訊問者，亦應於訊問前或訊問後具結。

written oath before or after such examination

證人得以電信傳真或其他科技設備將第二項、第三項及前項文書傳送於法院，效力與提出文書同。

A witness may transmit the documents provided in the second paragraph, the third paragraph, and the preceding paragraph to the court via telefax or other technological devices, and documents so transmitted shall operate the same as those submitted in writing.

第五項證人訊問、第六項證人具結及前項文書傳送之辦法，由司法院定之。

The Judicial Yuan shall prescribe regulations governing the examination of witnesses provided in the fifth paragraph, the written oath provided in the sixth paragraph, and the transmission of documents provided in the preceding paragraph.

第 306 條(公務員為證人)

以公務員或曾為公務員之人為證人，而就其職務上應守秘密之事項訊問者，應得該監督長官之同意。

前項同意，除經釋明有妨害國家之利益者外，不得拒絕。

Article 306

Where a witness is or was a public officer and is to be examined with regard to the matter which he/she is obliged to keep confidential by virtue of his/her duties, he/she shall be examined with the permission of his/her supervising officer.

The permission provided in the preceding paragraph may not be withheld except where a preliminary showing has been made that such examination will encumber national interests.

第 307 條(得拒絕證言之事由)

證人有下列各款情形之一者，得拒絕證言：

一、證人為當事人之配偶、前配偶、未婚配偶或四親等內之血親、三親等內之姻親或曾有此親屬關係者。

二、證人所為證言，於證人或與證人有前款關係之人，足生財產上之直接損害者。

三、證人所為證言，足致證人或與證人有第一款關係或有監護關係之人受刑事訴追或蒙恥辱者。

四、證人就其職務上或業務上有秘密義務之事項受訊問者。

五、證人非洩漏其技術上或職業上之秘密不能為證言者。

得拒絕證言者，審判長應於訊問前或知有前項情形時告知之。

Article 307

A witness may refuse to testify in case of any of the following:

1. Where the witness is the spouse, former spouse, or the betrothed, or the witness is or was a relative by blood within the fourth degree or a relative by marriage within the third degree to a party;
2. Where the testimony of the witness will result in a direct property loss to himself/herself or anyone who has such relationship with him/her as provided in the preceding subparagraph;
3. Where the testimony of the witness will sufficiently expose to criminal prosecution or embarrassment such witness or anyone who has such relationship with him/her as provided in the first subparagraph or a person who relates to him/her by guardianship;
4. Where the witness is to be examined with regard to a matter which he/she is obliged to keep confidential in the course of performing his/her official duties or conducting business;
5. Where the witness cannot testify without divulging his/her technical or professional secrets.

Where the witness may be permitted to refuse to testify, the presiding judge shall so inform such witness before the examination or at the time when such case as provided in the preceding paragraph, if any, is known to the presiding judge.

第 308 條(不得拒絕證言之事由)

證人有前條第一項第一款或第二款情形者，關於下列各款事項，仍不得拒絕證言：

一、同居或曾同居人之出生、

Article 308

A witness may not refuse to testify on any of the following matters despite the existence of the situation provided in the first or the second subparagraph of the first paragraph of the preceding article:

1. The birth, death, marriage, or other matters relating to the

死亡、婚姻或其他身分上之事項。
二、因親屬關係所生財產上之事項。
三、為證人而知悉之法律行為之成立及其內容。
四、為當事人之前權利人或代理人，而就相爭之法律關係所為之行為。
證人雖有前條第一項第四款情形，如其秘密之責任已經免除者，不得拒絕證言。

identification of a person who cohabits or used to cohabit with the witness;
2. Property matters arising from a family relationship;
3. The existence and content of a juridical act known to him/her in the capacity of a witness; or
4. An act relating to the legal relation in dispute, which he/she conducted in the capacity of the predecessor in right or as an agent of a party.
Despite the existence of the circumstance provided in the fourth subparagraph of the first paragraph of the preceding article, a witness may not refuse to testify if he/she is relieved from the confidentiality obligation.

第 309 條(拒絕證言之程序)

證人拒絕證言，應陳明拒絕之原因、事實，並釋明之。但法院酌量情形，得令具結以代釋明。

證人於訊問期日前拒絕證言者，毋庸於期日到場。

前項情形，法院書記官應將拒絕證言之事由，通知當事人。

Article 309

Where a witness refuses to testify, he/she shall specify the reason and the facts giving rise to such refusal and make a preliminary showing thereof. Notwithstanding, the court may, in its discretion, order the witness to submit a written oath in lieu of making a preliminary showing.
A witness need not appear in the session if the witness has expressed his/her refusal to testify prior to the session designated for examination.
In the case provided in the preceding paragraph, the court clerk shall notify the parties of the fact of the witness's refusal to testify.

第 310 條(拒絕證言當否之裁定)

拒絕證言之當否，由受訴法院於訊問到場之當事人後裁定之。
前項裁定，得為抗告，抗告中應停止執行。

Article 310

The court in which the action is pending shall, after questioning the party who appears, rule on whether the witness's refusal to testify is justifiable.
An interlocutory appeal may be taken from the ruling provided in the preceding paragraph; the execution of the ruling shall be stayed pending such appeal.

第 311 條(拒絕證書之處罰)

證人不陳明拒絕之原因、事實而拒絕證言，或以拒絕為不當之裁定已確定而仍拒絕證言者，法院得以裁定處新台幣三萬元以下罰鍰。
前項裁定，得為抗告；抗告中應停止執行。

Article 311

Where a witness refuses to testify without specifying the reason and the facts giving rise to his/her refusal, or continues to refuse to testify after the ruling denying his/her refusal has become final and binding, the court may by a ruling impose upon him/her a fine not exceeding NTD 30,000.
An interlocutory appeal may be taken from the ruling provided in the preceding paragraph; the execution of the ruling shall be stayed pending such appeal.

第 312 條(具結之證人)

審判長於訊問前，應命證人各別具結。但其應否具結有疑義者，於訊問後行之。

Article 312

The presiding judge shall order each witness to sign a written oath prior to examination. Notwithstanding, where it cannot be ascertained in advance that a witness will need to sign a written

oath, such proceeding shall be conducted after examination.

審判長於證人具結前，應告以具結之義務及偽證之處罰。

Before the witness signs the written oath, the presiding judge shall inform the witness of his/her obligation to sign a written oath and of the penalty of perjury.

證人以書狀為陳述者，不適用前二項之規定。

The provisions of the two preceding paragraphs do not apply to the case where a witness makes statements by pleadings.

第 313 條(具結之程序)

Article 313

證人具結，應於結文內記載當據實陳述，其於訊問後具結者，應於結文內記載係據實陳述，並均記載決無匿、飾、增、減，如有虛偽陳述，願受偽證之處罰等語。

The witness shall indicate in his/her written oath signed before examination that he/she will tell the truth; where the witness signs the written oath after examination, he/she shall indicate that he/she has told the truth; in both of the previous cases, the witness shall indicate in the signed written oath that he/she has not in any way hidden the truth, qualified his/her answer without noting it, added any misleading statement, or diminished the truth, and that he/she is willing to be punished for perjury for any false statement given.

證人應朗讀結文，如不能朗讀者，由書記官朗讀，並說明其意義。

The witness shall read aloud the written oath; if he/she is unable to do so, the court clerk shall read it for him/her and explain the meaning.

結文應命證人簽名，其不能簽名者，由書記官代書姓名，並記明其事由，命證人蓋章或按指印。

The written oath must be signed by the witness; if he/she is unable to do so, the court clerk shall write his/her full name for him/her, make a note of such fact, and have the witness impress his/her seal or fingerprint.

第 313-1 條(證人以書狀為陳述之具結)

Article 313- 1

證人以書狀為陳述者，其具結應於結文內記載係據實陳述並無匿、飾、增、減，如有虛偽陳述，願受偽證之處罰等語，並簽名。

Where a witness makes statements by pleadings, the witness shall indicate in his/her signed written oath that he/she has told the truth and has not in any way hidden the truth, qualified his/her answer without noting it, added any misleading statement, or diminished the truth and that he/she is willing to be punished for perjury for any false statement given.

第 314 條(不得令具結者)

Article 314

以未滿十六歲或因精神障礙不解具結意義及其效果之人為證人者，不得令其具結。

Where a witness is under the age of sixteen or is mentally disabled to understand the meaning and the effect of a written oath, he/she shall not be ordered to sign a written oath.

以下列各款之人為證人者，得不令其具結：

The court may exempt a witness from signing a written oath if the witness is one of the following:

一、有第三百零七條第一項第一款至第三款情形而不拒絕證言者。

1.A person who may refuse to testify in accordance with the provisions of the first to the third subparagraphs inclusive of the first paragraph of Article 307, but does not do so;

二、當事人之受僱人或同居人。

2.An employee or cohabitant of a party;

三、就訴訟結果有直接利害關係者。

3.A person who has direct interests in the outcome of the action.

第 315 條(拒絕具結之處罰)

Article 315

第三百十一條之規定，於證人拒絕具結者準用之。

The provisions of Article 311 shall apply mutatis mutandis to cases where a witness refuses to sign a written oath.

第 316 條(隔別訊問與對質)

訊問證人，應與他證人隔別行之。但審判長認為必要時，得命與他證人或當事人對質。

證人在期日終竣前，非經審判長許可，不得離去法院或其他訊問之處所。

Article 316

Witnesses shall be examined separately. Notwithstanding, where the presiding judge considers it necessary, he/she may order a witness to be confronted by another witness or a party.

A witness, without the permission of the presiding judge, may not leave the courthouse or other place of examination before the conclusion of the session.

第 317 條(人別訊問)

審判長對於證人，應先訊問其姓名、年齡、職業及住、居所；於必要時，並應訊問證人與當事人之關係及其他關於證言信用之事項。

Article 317

In examining a witness, the presiding judge shall first question his/her full name, age, occupation and domicile/residence; if necessary, the presiding judge shall also question the relationship between the witness and the parties and other matters with regard to the credibility of the witness.

第 318 條(連續陳述)

審判長應命證人就訊問事項之始末，連續陳述。

證人之陳述，不得朗讀文件或用筆記代之。但經審判長許可者，不在此限。

Article 318

The presiding judge shall order a witness to state fully and consecutively the matter questioned.

A witness may not read aloud documents or make reference to his/her notes in lieu of making oral statements, except in the case where the presiding judge has permitted him/her to do so.

第 319 條(法院之發問權)

審判長因使證人之陳述明瞭完足，或推究證人得知事實之原因，得為必要之發問。

陪席法官告明審判長後，得對於證人發問。

Article 319

In order to make a witness state clearly and fully, or to clarify the reasons why a witness learned of the facts, the presiding judge may conduct any necessary examination.

The associate judge, after informing the presiding judge, may examine a witness.

第 320 條(當事人之聲請發問及自行發問)

當事人得聲請審判長對於證人為必要之發問，或向審判長陳明後自行發問。

前項之發問，亦得就證言信用之事項為之。

前二項之發問，與應證事實無關、重複發問、誘導發問、侮辱證人或有其他不當情形，審判長得依聲請或依職權限制或禁止之。

關於發問之限制或禁止有異議者，法院應就其異議為裁定。

Article 320

A party may move the presiding judge to conduct a necessary examination of a witness or, after informing the presiding judge, conduct such examination himself/herself.

The examination provided in the preceding paragraph may be directed to matters concerning the witness's credibility.

In the examination provided in the two preceding paragraphs, the presiding judge may, on motion or its own initiative, limit or prohibit questions which are irrelevant to the disputed facts, repetitious, leading, insulting, or involving other inappropriate circumstances.

The court shall rule on an objection raised with regard to the limitation placed on or prohibition of the examination.

第 321 條(命當事人及旁聽人退庭訊問)

法院如認證人在當事人前不能盡其陳述者，得於其陳述時命

Article 321

The court may order a party to vacate the courtroom during a witness?testimony when it determines that a witness cannot make

當事人退庭。
但證人陳述畢後，審判長應命當事人入庭，告以陳述內容之要旨。
法院如認證人在特定旁聽人前不能盡其陳述者，得於其陳述時命該旁聽人退庭。

statements freely in front of a party. Notwithstanding, after the witness finishes his/her statements, the presiding judge shall call back the party and inform him/her of the nature of the statements.

Where the court determines that a witness cannot make statements freely in front of a specific person attending the session, it may order that person to vacate the courtroom when the witness makes statements.

第 322 條(受命受託法官訊問證人之權限) **Article 322**

受命法官或受託法官訊問證人時，與法院及審判長有同一之權限。

In examining a witness, the commissioned judge or the assigned judge has the same authority as the court and the presiding judge.

第 323 條 (證人法定日費及旅費之請求權) **Article 323**

證人得請求法定之日費及旅費。但被拘提或無正當理由拒絕具結或證言者，不在此限。
前項請求，應於訊問完畢後十日內為之。

關於第一項請求之裁定，得為抗告。
證人所需之旅費，得依其請求預行酌給之。

A witness may claim the prescribed daily fees and travel expenses, except for those who are apprehended to appear, or refuse to sign a written oath or testify without giving a justifiable reason.
The claim provided in the preceding paragraph shall be made within ten days from the day following the completion of the examination of the witness.
An interlocutory appeal may be taken from a ruling on the claim provided in the first paragraph.
A witness's necessary travel expenses may be paid in advance upon request.

第三目 鑑定 **Item 3 Expert Testimony**

第 324 條(準用人證之規定) **Article 324**

鑑定，除本目別有規定外，準用關於人證之規定。

Except as otherwise provided in this Item, the provisions regarding examination of witnesses shall apply mutatis mutandis to expert testimony.

第 325 條(鑑定之聲請) **Article 325**

聲請鑑定，應表明鑑定之事項。

The matter for which expert testimony is sought shall be specified in the motion for taking expert testimony.

第 326 條(鑑定人之選任及撤換) **Article 326**

鑑定人由受訴法院選任，並定其人數。

法院於選任鑑定人前，得命當事人陳述意見；其經當事人合意指定鑑定人者，應從其合意選任之。但法院認其人選顯不

An expert witness shall be appointed by the court in which the action is pending and the number of expert witnesses shall also be determined by the court.
Before appointing an expert witness, the court may accord the parties an opportunity to be heard; where the parties have agreed on the designation of an expert witness, the court shall appoint such expert witness as agreed-upon by the parties, except where the court

適當時，不在此限。
已選任之鑑定人，法院得撤換之。

considers that such expert witness is manifestly inappropriate.
The court may replace an appointed expert witness.

第 327 條(受命或受託法官行鑑定之權限)

有調查證據權限之受命法官或受託法官依鑑定調查證據者，準用前條之規定。但經受訴法院選任鑑定人者，不在此限。

Article 327

The provision of the preceding article shall apply mutatis mutandis to the taking of expert testimony conducted by a commissioned judge or assigned judge who has authority to take evidence, except where the court in which the action is pending has appointed an expert witness.

第 328 條(為鑑定人之義務)

具有鑑定所需之特別學識經驗，或經機關委任有鑑定職務者，於他人之訴訟，有為鑑定人之義務。

Article 328

The person who has special knowledge or experience needed for giving expert testimony or who has been commissioned by a government agency to perform the function of giving expert opinion is under a duty to give expert testimony in an action between others.

第 329 條(拘提之禁止)

鑑定人不得拘提。

Article 329

No expert witness may be apprehended.

第 330 條(不得為鑑定人或免除鑑定義務)

有第三十二條第一款至第五款情形之一者，不得為鑑定人。但無其他適當之人可為選任或經當事人合意指定時，不在此限。
鑑定人拒絕鑑定，雖其理由不合於第三百零七條第一項之規定，如法院認為正當者，亦得免除其鑑定義務。

Article 330

Any person who falls within one of the cases provided in the first to the fifth subparagraphs inclusive of Article 32 cannot act as an expert witness, except where no other appropriate person may be appointed or such person has been designated by the parties by agreement.
Where an expert witness refuses to give expert testimony for whatever reason other than those provided in the first paragraph of Article 307, the court may relieve him/her from the duty to act as an expert witness if the court considers the reason given to be justifiable.

第 331 條(鑑定人之拒卻)

當事人得依聲請法官迴避之原因拒卻鑑定人。但不得以鑑定人於該訴訟事件曾為證人或鑑定人為拒卻之原因。
除前條第一項情形外，鑑定人已就鑑定事項有所陳述或已提出鑑定書後，不得聲明拒卻。但拒卻之原因發生在後或知悉在後者，不在此限。

Article 331

A party may move for the rejection of an expert witness on the same grounds as for moving for the disqualification of a judge; however, the fact that an expert witness has acted as a witness or expert witness in the same action is not an appropriate reason.
Except in the case provided in the first paragraph of the preceding article, no party may move for the rejection of an expert witness after such expert witness has made statements or presented his/her written expert testimony with regard to the matter for which expert testimony is sought, unless the reason for rejection occurs or becomes known thereafter.

第 332 條(拒卻鑑定人之程序)

聲明拒卻鑑定人，應舉其原因，向選任鑑定人之法院或法

Article 332

A motion to reject an expert witness shall specify the supporting reasons to the court or the judge who appoints such expert witness.

官為之。
前項原因及前條第二項但書之事實，應釋明之。

A preliminary showing shall be made with regard to the reasons provided in the preceding paragraph and the facts provided in the proviso of the second paragraph of the preceding article.

第 333 條(拒卻鑑定人裁定之抗告) **Article 333**

拒卻鑑定人之聲明經裁定為不當者，得為抗告；其以聲明為正當者，不得聲明不服。

An interlocutory appeal may be taken from a ruling denying the motion for rejection of an expert witness; a ruling granting such motion is not reviewable.

第 334 條(鑑定人具結之程式) **Article 334**

鑑定人應於鑑定前具結，於結文內記載必為公正、誠實之鑑定，如有虛偽鑑定，願受偽證之處罰等語。

Before giving expert testimony, an expert witness shall sign a written oath indicating that he/she will give just and truthful expert testimony and is willing to be punished for perjury if he/she gives any false statement.

第 335 條(鑑定人陳述之義務及方法) **Article 335**

受訴法院、受命法官或受託法官得命鑑定人具鑑定書陳述意見。
前項情形，依前條規定具結之結文，得附於鑑定書提出。

鑑定書須說明者，得命鑑定人到場說明。

The court in which the action is pending, the commissioned judge, or the assigned judge may order an expert witness to state his/her opinion by presenting written expert testimony.
In the case provided in the preceding paragraph, the written oath signed in accordance with the provision of the preceding article may be submitted along with the written expert testimony.
Where the written expert testimony needs to be explained, the expert witness may be ordered to appear to provide an explanation.

第 336 條(多數鑑定人陳述意見之方法) **Article 336**

鑑定人有數人者，得命其共同或各別陳述意見。

Where there are multiple expert witnesses, they may be ordered to state their opinions jointly or separately.

第 337 條(鑑定人之職權) **Article 337**

鑑定所需資料在法院者，應告知鑑定人准其利用。法院於必要時，得依職權或依聲請命證人或當事人提供鑑定所需資料。
鑑定人因行鑑定，得聲請調取證物或訊問證人或當事人，經許可後，並得對於證人或當事人自行發問；當事人亦得提供意見。

Where the material needed for giving expert testimony is held by the court, the expert witness shall be informed that he/she may use such material. If necessary, the court may, on motion or its own initiative, order a witness or a party to provide material needed by the expert witness for preparing expert testimony.
For the purpose of giving expert testimony, an expert witness may move to subpoena tangible evidence or to examine a witness or a party and may, with the court's permission, examine a witness or a party himself/herself; a party may also be heard on such matters.

第 338 條(鑑定人法定費用及報酬之請求權) **Article 338**

鑑定人於法定之日費、旅費

An expert witness may claim reasonable compensation in addition

外，得請求相當之報酬。
鑑定所需費用，得依鑑定人之請求預行酌給之。

to the prescribed daily fees and travel expenses.
Upon the request of the expert witness, the expenses needed for giving expert testimony may be paid in advance.

第 339 條(鑑定證人)
訊問依特別知識得知已往事實之人者，適用關於人證之規定。

Article 339
The provisions regarding the examination of witnesses shall apply to the examination of persons who have past factual knowledge by reason of special knowledge.

第 340 條(囑託鑑定)
法院認為必要時，得囑託機關、團體或商請外國機關、團體為鑑定或審查鑑定意見。其須說明者，由該機關或團體所指定之人為之。
本目關於鑑定人之規定，除第三百三十四條及第三百三十九條外，於前項情形準用之。

Article 340
Where the court considers it necessary, the court may request any agency, organization, or a foreign agency or organization to give expert testimony or to review the expert testimony given. Where an explanation is needed, such explanation shall be provided by the person appointed by such agency or organization.
Except for Articles 334 and 339, the provisions of this Item regarding expert witness testimony shall apply mutatis mutandis to the situations provided in the preceding paragraph.

第四目 書證

Item 4 Documentary Evidence

第 341 條(聲明書證)
聲明書證，應提出文書為之。

Article 341
A document must be produced when it is identified to be introduced as documentary evidence.

第 342 條(聲明書證)
聲明書證，係使用他造所執之文書者，應聲請法院命他造提出。
前項聲請，應表明下列各款事項：
一、應命其提出之文書。
二、依該文書應證之事實。
三、文書之內容。
四、文書為他造所執之事由。
五、他造有提出文書義務之原因。
前項第一款及第三款所列事項之表明顯有困難時，法院得命他造為必要之協助。

Article 342
Where the document identified to be introduced as documentary evidence is in the opposing party's possession, a party shall move the court to order the opposing party to produce such document.
The motion provided in the preceding paragraph shall specify the following matters:
1. The identification of document requested to be produced;
2. The disputed fact to be proved by such document;
3. The content of such document;
4. The fact that such document is in the opposing party's possession; and
5. The reason why the opposing party has a duty to produce such document.
Where there exists manifest difficulty in specifying the matters provided in the first and the third subparagraphs of the preceding paragraph, the court may order the opposing party to provide necessary assistance.

第 343 條(命他造提出文書之裁定)
法院認應證之事實重要，且舉證人之聲請正當者，應以裁定命他造提出文書。

Article 343
Where the court considers that the disputed fact is material and that the motion is just, it shall order the opposing party to produce the document by a ruling.

第 344 條(當事人有提出義務之文書) **Article 344**

下列各款文書，當事人有提出之義務：
一、該當事人於訴訟程序中曾經引用者。
二、他造依法律規定，得請求交付或閱覽者。
三、為他造之利益而作者。
四、商業帳簿。
五、就與本件訴訟有關之事項所作者。
前項第五款之文書內容，涉及當事人或第三人之隱私或業務秘密，如予公開，有致該當事人或第三人受重大損害之虞者，當事人得拒絕提出。但法院為判斷其有無拒絕提出之正當理由，必要時，得命其提出，並以不公開之方式行之。

A party has the duty to produce the following documents:
1. Documents to which such party has made reference in the course of the litigation proceeding;
2. Documents which the opposing party may require the delivery or an inspection thereof pursuant to the applicable laws;
3. Documents which are created in the interests of the opposing party;
4. Commercial accounting books;
5. Documents which are created regarding matters relating to the action.
Where the content of a document provided in the fifth subparagraph of the preceding paragraph involves the privacy or business secret of a party or a third person and the resulting disclosure may result in material harm to such party or third person, the party may refuse to produce such document. Notwithstanding, in order to determine whether the party has a justifiable reason to refuse the production of the document, the court, if necessary, may order the party to produce the document and examine it in private.

第 345 條(當事人違背提出文書命令之效果) **Article 345**

當事人無正當理由不從提出文書之命者，法院得審酌情形認他造關於該文書之主張或依該文書應證之事實為真實。
前項情形，於裁判前應令當事人有辯論之機會。

Where a party disobeys an order to produce documents without giving a justifiable reason, the court may, in its discretion, take as the truth the opposing party's allegation with regard to such document or the fact to be proved by such document.
In the case provided in the preceding paragraph, the parties shall be accorded an opportunity to present their arguments.

第 346 條(聲請命第三人提出文書) **Article 346**

聲明書證係使用第三人所執之文書者，應聲請法院命第三人提出，或定由舉證人提出之期間。

第三百四十二條第二項及第三項之規定，於前項聲請準用之。

文書為第三人所執之事由及第三人有提出義務之原因，應釋明之。

Where a document identified to be introduced as documentary evidence is in a third person's possession, a party may move the court either to order such third person to produce such document or to designate a period of time within which the party who intends to introduce it as evidence shall produce such document.
The provisions of the second paragraph and the third paragraph of Article 342 shall apply mutatis mutandis to the motion provided in the preceding paragraph.
A preliminary showing shall be made with regard to the fact that the document is in a third person's possession and the reason why the third person has the duty to produce such document.

第 347 條(命第三人提出文書之裁定) **Article 347**

法院認應證之事實重要且舉證人之聲請正當者，應以裁定命第三人提出文書或定由舉證人

Where the court considers that the disputed fact is material and that the motion is just, it may order, by a ruling, the third person to produce the document or to designate a period of time within which

提出文書之期間。

the party who intends to introduce it as evidence shall produce such document.

法院為前項裁定前，應使該第三人有陳述意見之機會。

Before making the ruling provided in the preceding paragraph, the court shall accord the third person an opportunity to be heard.

第 348 條(第三人提出文書義務之範圍)

Article 348

關於第三人提出文書之義務，準用第三百零六條至第三百十條、第三百四十四條第一項第二款至第五款及第二項之規定。

With regard to a third person's duty to produce documents, the provisions of Articles 306 to 310 inclusive, the second to the fifth subparagraphs inclusive of the first paragraph and the second paragraph of Article 344 shall apply mutatis mutandis.

第 349 條(第三人不從提出文書命令之制裁)

Article 349

第三人無正當理由不從提出文書之命者，法院得以裁定處新台幣三萬元以下罰鍰；於必要時,並得以裁定命為強制處分。

Where a third person disobeys an order to produce documents without giving a justifiable reason, the court may by a ruling impose a fine not exceeding NTD 30,000; where necessary, the court may also by a ruling order compulsory measures to be taken.

前項強制處分之執行，準用強制執行法關於物之交付請求權執行之規定。

The provisions of the Code of Compulsory Execution relating to the execution of a claim for the surrender of objects shall apply mutatis mutandis to the execution of the compulsory measures provided in the preceding paragraph.

第一項裁定，得為抗告；處罰鍰之裁定,抗告中應停止執行。

An interlocutory appeal may be taken from the ruling provided in the first paragraph; the execution of the ruling imposing a fine shall be stayed pending such appeal.

第 350 條(書證之調取)

Article 350

機關保管或公務員執掌之文書，不問其有無提出之義務，法院得調取之。

The court may subpoena a document which is in a government agency's custody or in a public officer's possession irrespective of whether such government agency or public officer has the duty to produce such document.

第三百零六條之規定，於前項情形準用之。但法院為判斷其有無拒絕提出之正當理由，必要時，得命其提出，並以不公開之方式行之。

The provision of Article 306 shall apply mutatis mutandis to the case provided in the preceding paragraph. Notwithstanding, in order to determine whether the agency or officer has a justifiable reason to refuse the production, the court, if necessary, may order such agency or official to produce the document and examine it in private.

第 351 條(第三人之權利)

Article 351

第三人得請求提出文書之費用。但有第三百四十九條第一項之情形者，不在此限。

A third person may claim its expenses for producing documents, except in the case provided in the first paragraph of Article 349.

第三百二十三條第二項至第四項之規定,於前項情形準用之。

The provisions of the second paragraph to the fourth paragraph inclusive of Article 323 shall apply mutatis mutandis to the case provided in the preceding paragraph.

第 352 條(文書之提出方法)

Article 352

公文書應提出其原本或經認證之繕本或影本。

A public document shall be produced in its original copy or in a notarized written copy or photocopy form.

A private document shall be produced in its original copy.

私文書應提出其原本。但僅因文書之效力或解釋有爭執者，得提出繕本或影本。
前二項文書，法院認有送達之必要時，得命當事人提出繕本或影本。

Notwithstanding, where only the effect or explanation of such document is disputed, it may be produced in a written copy or photocopy form.
Where the court considers it necessary to serve the document provided in the two preceding paragraphs, it may order the party to provide written copies or photocopies of the document.

第 353 條(原本之提出及繕本證據力之斷定)

Article 353

法院得命提出文書之原本。

不從前項之命提出原本或不能提出者，法院依其自由心證斷定該文書繕本或影本之證據力。

The court may order the production of the original copy of a document.
Where the order for production of the original copy is disobeyed or the original copy cannot be produced, the court may determine the evidentiary weight of the written copy or photocopy of the document as produced by free evaluation.

第 354 條(調查文書證據之筆錄)

Article 354

使受命法官或受託法官就文書調查證據者，受訴法院得定其筆錄內應記載之事項及應添附之文書。

Where the court in which the case is pending makes the commissioned judge or the assigned judge take documentary evidence, it may specify the matters to be indicated in the transcript and the documents to be annexed.

第 355 條(文書之證據力(一) - 公文書)

Article 355

文書，依其程式及意旨得認作公文書者，推定為真正。
公文書之真偽有可疑者，法院得請作成名義之機關或公務員陳述其真偽。

A document, which by formality and tenor may be considered a public document, is presumed to be authentic.
Where there is doubt with regard to the authenticity of a public document, the court may request the government agency or public officer in whose name such document is issued to make a statement.

第 356 條(文書之證據力 - 外國公文書)

Article 356

外國之公文書，其真偽由法院審酌情形斷定之。但經駐在該國之中華民國大使、公使、領事或其他機構證明者，推定為真正。

The court, in its discretion, can determine the authenticity of a foreign public document. Notwithstanding, where the document has been certified by the R.O.C. ambassador/minister envoy/consul or other authorized institution in that country, it shall be presumed to be authentic.

第 357 條(文書之證據力(三) - 私文書)

Article 357

私文書應由舉證人證其真正。但他造於其真正無爭執者，不在此限。

Except in the case where the opposing party does not dispute the authenticity of the document, the party who introduces a private document shall prove its authenticity.

第 357-1 條(就真正文書故意爭執之處罰)

Article 357- 1

當事人或代理人就真正之文書，故意爭執其真正者，法院

Where a party or his/her agent in bad faith disputes the authenticity of an authentic document, the court may impose a fine not

得以裁定處新台幣三萬元以下罰鍰。
exceeding NTD 30,000 by a ruling.

前項裁定，得為抗告；抗告中應停止執行。
An interlocutory appeal may be taken from the ruling provided in the preceding paragraph; the execution of such ruling shall be stayed pending such appeal.

第一項之當事人或代理人於第二審言詞辯論終結前，承認該文書為真正者，訴訟繫屬之法院得審酌情形撤銷原裁定。
If the party or agent provided in the first paragraph admits to the authenticity of the document before the oral argument in the second instance is concluded, the court in which the case is pending may revoke the original ruling in its discretion.

第 358 條(文書之證據力 - 私文書) **Article 358**

私文書經本人或其代理人簽名、蓋章或按指印或有法院或公證人之認證者,推定為真正。
A private document is presumed to be authentic if it is signed by the person in whose name the document is issued or by his/her agent; or is imprinted with the seal or fingerprint of such person or agent; or bears the notarization by the court or a notary.

當事人就其本人之簽名、蓋章或按指印為不知或不記憶之陳述者，應否推定為真正，由法院審酌情形斷定之。
Where a party states that he/she has no knowledge or memory with regard to whether he/she signed or impressed his/her seal or fingerprint in the document, the court may in its discretion, determine whether such document should be presumed to be authentic.

第 359 條(文書真偽之辨別) **Article 359**

文書之真偽，得依核對筆跡或印跡證之。
The authenticity of a document may be proved by comparing the handwriting or the impression of seals.

法院得命當事人或第三人提出可供核對之文書。
The court may order the parties or a third person to produce documents which may be used for making the comparison.

核對筆跡或印跡，適用關於勘驗之規定。
The provisions regarding inspection shall apply to any comparison of handwriting or seal impressions.

第 360 條(鑑別筆跡之方法與違背書寫命令之效果) **Article 360**

無適當之筆跡可供核對者，法院得指定文字，命該文書之作成名義人書寫，以供核對。
Where there is no suitable handwriting available for comparison, the court may order the person in whose name the document is issued to write the words designated by the court for purposes of comparison.

文書之作成名義人無正當理由不從前項之命者，準用第三百四十五條或第三百四十九條之規定。
Where the person in whose name a document is issued disobeys the order provided in the preceding paragraph without giving a justifiable reason, the provisions of Article 345 or Article 349 shall apply mutatis mutandis.

因供核對所寫之文字，應附於筆錄；其他供核對之文件不須發還者亦同。
The words written for purposes of comparison shall be annexed to the transcript; the same applies to other documents which are produced for purposes of comparison and need not be returned.

第 361 條(文書之發還及保管) **Article 361**

提出之文書原本須發還者，應將其繕本、影本或節本附卷。
Where the original copy of a document produced must be returned, a written copy, photocopy, or excerpt copy thereof shall be included in the dossier.

提出之文書原本，如疑為偽造或變造者，於訴訟未終結前，
Where the original copy of a document as produced is suspected to be forged or altered, it shall be kept by the court before the

應由法院保管之。但應交付其他機關者，不在此限。

conclusion of the action, except where it shall be handed over to other government agencies.

第 362 條

(刪除)

Article 362

(Repealed.)

第 363 條(準文書)

本目規定，於文書外之物件有與文書相同之效用者準用之。

文書或前項物件，須以科技設備始能呈現其內容或提出原件有事實上之困難者，得僅提出呈現其內容之書面並證明其內容與原件相符。

前二項文書、物件或呈現其內容之書面，法院於必要時得命說明之。

Article 363

The provisions of this Item shall apply mutatis mutandis to non-documentary objects which operate as documents.

Where the content of a document or an object provided in the preceding paragraph is accessible only through technological devices or it is practically difficult to produce its original version, a writing representing its content along with a proof of the content represented as being true to the original will be acceptable.

The court may, if necessary, order an explanation of the document, object, or writing representing the content thereof provided in the two preceding paragraphs.

第五目 勘驗

Item 5 Inspection

第 364 條(勘驗之聲請)

聲請勘驗，應表明勘驗之標的物及應勘驗之事項。

Article 364

The object to be inspected and the matter for which the inspection is sought shall be specified in a motion for inspection.

第 365 條(勘驗之實施)

受訴法院、受命法官或受託法官於勘驗時得命鑑定人參與。

Article 365

The court in which the action is pending, the commissioned judge, or the assigned judge may order an expert witness to participate in the inspection.

第 366 條(勘驗筆錄)

勘驗，於必要時，應以圖畫或照片附於筆錄；並得以錄音、錄影或其他有關物件附於卷宗。

Article 366

Where necessary, the inspection shall be represented in drawings or pictures which shall be annexed to the transcript; tapes, videotapes, or other relevant objects in connection with the inspection may be annexed to the dossier.

第 367 條(準用書證提出之規定)

第三百四十一條、第三百四十二條第一項、第三百四十三條至第三百四十五條、第三百四十六條第一項、第三百四十七條至第三百五十一條及第三百五十四條之規定，於勘驗準用之。

Article 367

The provisions of Article 341, the first paragraph of Article 342, Articles 343 to 345 inclusive, the first paragraph of Article 346, Articles 347 to 351 inclusive and Article 354 shall apply mutatis mutandis to inspection.

第五目之一 當事人訊問

Item 5-1 Examination of Parties

第 367-1 條(當事人訊問)

Article 367- 1

法院認為必要時，得依職權訊問當事人。
前項情形，審判長得於訊問前或訊問後命當事人具結，並準用第三百十二條第二項、第三百十三條及第三百十四條第一項之規定。
當事人無正當理由拒絕陳述或具結者，法院得審酌情形，判斷應證事實之真偽。
當事人經法院命其本人到場，無正當理由而不到場者，視為拒絕陳述。但命其到場之通知書係寄存送達或公示送達者，不在此限。
法院命當事人本人到場之通知書，應記載前項不到場及第三項拒絕陳述或具結之效果。
前五項規定，於當事人之法定代理人準用之。

The court may examine the parties on its own initiative when it considers it necessary.
In the case provided in the preceding paragraph, the presiding judge may, either before or after the examination, order the examined party to sign a written oath, and in such case the provisions of the second paragraph of Article 312, Article 313, and the first paragraph of Article 314 shall apply mutatis mutandis.
Where a party refuses to state or sign a written oath without giving a justifiable reason, the court may take such refusal into consideration in finding the truth of the disputed fact.
Where a party has been ordered by the court to appear in person and he/she fails to appear without giving a justifiable reason, he/she shall be deemed to have refused to testify, except in cases where the summons is served by deposit or constructive notice.
The summons ordering a party to appear in person shall indicate the consequences of a failure to appear as provided in the preceding paragraph and a refusal to state or sign a written oath as provided in the third paragraph.
The provisions of the five preceding paragraphs shall apply mutatis mutandis to the statutory agents of the parties.

第 367-2 條(虛偽陳述之制裁)

依前條規定具結而故意為虛偽陳述，足以影響裁判之結果者，法院得以裁定處新臺幣三萬元以下之罰鍰。
前項裁定，得為抗告；抗告中應停止執行。

第一項之當事人或法定代理人於第二審言詞辯論終結前，承認其陳述為虛偽者，訴訟繫屬之法院得審酌情形撤銷原裁定。

Article 367- 2

Where a party, after signing a written oath in accordance with the provision of the preceding article, intentionally makes false statements which will affect the outcome of decision, the court by a ruling may impose a fine not exceeding NTD 30,000.
An interlocutory appeal may be taken from the ruling provided in the preceding paragraph; the execution of such ruling shall be stayed pending such appeal.
Where the party or statutory agent provided in the first paragraph confesses that his/her statements are false before the conclusion of the oral argument in the second instance, the court in which the action is pending may, in its discretion, revoke the original ruling.

第 367-3 條(準用人證提出之規定)

第三百條、第三百零一條、第三百零四條、第三百零五條第一項、第五項、第三百零六條、第三百零七條第一項第三款至第五款、第二項、第三百零八條第二項、第三百零九條、第三百十條、第三百十六條第一項、第三百十八條至第三百二十二條之規定，於訊問當事人或其法定代理人時準用之。

Article 367- 3

The provisions of Article 300, Article 301, Article 304, the first paragraph and the fifth paragraph of Article 305, Article 306, the third to the fifth subparagraphs inclusive of the first paragraph and the second paragraph of Article 307, the second paragraph of Article 308, Article 309, Article 310, the first paragraph of Article 316 and Articles 318 to 322 inclusive shall apply mutatis mutandis to the examination of parties or their statutory agents.

第六目 證據保全 Item 6 Perpetuation of Evidence

第 368 條(聲請證據保全之要件) **Article 368**

證據有滅失或礙難使用之虞，或經他造同意者，得向法院聲請保全；就確定事、物之現狀有法律上利益並有必要時，亦得聲請為鑑定、勘驗或保全書證。

Where it is likely that evidence may be destroyed or its use in court may be difficult, or with the consent of the opposing party, the party may move the court for perpetuation of such evidence; where necessary, the party who has legal interests in ascertaining the status quo of a matter or object may move for expert testimony, inspection or perpetuation of documentary evidence.

前項證據保全，應適用本節有關調查證據方法之規定。

The perpetuation of evidence provided in the preceding paragraph shall be governed by the provisions of this Section relating to evidence-taking.

第 369 條(管轄法院) **Article 369**

保全證據之聲請，在起訴後，向受訴法院為之；在起訴前，向受訊問人住居地或證物所在地之地方法院為之。

Where the action has been initiated, the motion for perpetuation of evidence shall be made in the court in which the case is pending; where the action has not been initiated, such motion shall be made in the district court at the place either where the person to be examined domiciles/resides or where the tangible evidence is located.

遇有急迫情形時，於起訴後，亦得向前項地方法院聲請保全證據。

In urgent cases, a motion for perpetuation of evidence may be made, even if the action has been initiated, in the district court provided in the preceding paragraph.

第 370 條(聲請保全證據應記載之事項) **Article 370**

保全證據之聲請，應表明下列各款事項：

A motion for perpetuation of evidence shall specify the following matters:

一、他造當事人，如不能指定他造當事人者，其不能指定之理由。

1.The identity of the opposing party or the reason if the opposing party cannot be identified;

二、應保全之證據。

2.The evidence to be perpetuated;

三、依該證據應證之事實。

3.The disputed fact to be proved by such evidence; and

四、應保全證據之理由。

4.The reason why the evidence must be perpetuated.

前項第一款及第四款之理由，應釋明之。

A preliminary showing shall be made with regard to the reasons provided in the first to the fourth subparagraphs inclusive of the preceding paragraph.

第 371 條(聲請之裁定) **Article 371**

保全證據之聲請，由受聲請之法院裁定之。

The court where the motion for perpetuation of evidence was filed shall rule on the motion.

准許保全證據之裁定，應表明該證據及應證之事實。

A ruling granting the perpetuation of evidence shall specify the evidence and any disputed fact to be proved by such evidence.

駁回保全證據聲請之裁定，得為抗告，准許保全證據之裁定，不得聲明不服。

An appeal may be taken from a ruling denying the motion for the perpetuation of evidence; a ruling granting the perpetuation of evidence is not reviewable.

第 372 條(依職權保全證據) **Article 372**

法院認為必要時，得於訴訟繫屬中，依職權為保全證據之裁定。

Where the court considers it necessary, the court may, on its own initiative, render a ruling to perpetuate evidence pending an action.

第 373 條(調查證據期日之通知) **Article 373**

調查證據期日，應通知聲請人，除有急迫或有礙證據保全情形外，並應於期日前送達聲請書狀或筆錄及裁定於他造當事人而通知之。

The date designated for taking evidence shall be notified to the movant; except in cases of urgency or the existence of circumstances which will obstruct the perpetuation of evidence, the opposing party shall also be notified by being served with the motion pleading or transcript and the ruling prior to the designated date.

當事人於前項期日在場者，得命其陳述意見。

Parties who appear on the date provided in the preceding paragraph may be ordered to state their opinions.

第 374 條(選任特別代理人) **Article 374**

他造當事人不明或調查證據期日不及通知他造者，法院因保護該當事人關於調查證據之權利，得為選任特別代理人。

Where the opposing party either is unknown or cannot be notified prior to the date designated for taking evidence, the court may appoint a special representative for such party for purposes of protecting his/her rights with regard to the evidence-taking.

第五十一條第三項至第五項之規定，於前項特別代理人準用之。

The provisions of the third paragraph to the fifth paragraph inclusive of Article 51 shall apply mutatis mutandis to the special representative provided in the preceding paragraph.

第 375 條(調查證據筆錄之保管) **Article 375**

調查證據筆錄，由命保全證據之法院保管。但訴訟繫屬他法院者，應送交該法院。

The evidence-taking transcript shall be kept by the court which orders the perpetuation of evidence. Notwithstanding, where the action has been initiated in another court, the transcript should be forwarded to such court.

第 375-1 條(聲請再為訊問) **Article 375- 1**

當事人就已於保全證據程序訊問之證人，於言詞辯論程序中聲請再為訊問時，法院應為訊問。但法院認為不必要者，不在此限。

Where a party, in the oral-argument sessions, moves for the reexamination of a witness who has been examined in the perpetuation of evidence proceeding, the court shall examine such witness, except where the court considers it unnecessary.

第 376 條(保全證據程序之費用) **Article 376**

保全證據程序之費用，除別有規定外，應作為訴訟費用之一部定其負擔。

Except as otherwise provided, the expenses for preserving evidence shall be included in the litigation expenses, and the responsibility for those expenses shall be decided accordingly.

第 376-1 條(協議筆錄) **Article 376- 1**

本案尚未繫屬者，於保全證據程序期日到場之兩造，就訴訟標的、事實、證據或其他事項成立協議時，法院應將其協議

Before an action is initiated, when both parties appear on the date designated for the perpetuation of evidence and reach an agreement with regard to the claim, the facts, the evidence or other matters, then the court shall make a note of such agreement in the transcript.

記明筆錄。
前項協議係就訴訟標的成立者，法院並應將協議之法律關係及爭議情形記明筆錄。依其協議之內容，當事人應為一定之給付者，得為執行名義。

Where the agreement provided in the preceding paragraph is reached with regard to the claim, the court shall also make a note in the transcript of the agreed legal responsibility and the circumstances under which the dispute arose. Where a party shall tender a specific performance according to the agreement, the transcript may serve as a writ of execution.

協議成立者，應於十日內以筆錄正本送達於當事人。
Where an agreement has been reached, the authenticated copy of the transcript shall be served upon parties within ten days.

第二百十二條至第二百十九條之規定，於前項筆錄準用之。
The provisions of Articles 212 to 219 inclusive shall apply mutatis mutandis to the transcript provided in the preceding paragraph.

第 376-2 條(保全證據程序尚未繫屬之處置) **Article 376- 2**

保全證據程序終結後逾三十日，本案尚未繫屬者，法院得依利害關係人之聲請，以裁定解除因保全證據所為文書、物件之留置或為其他適當之處置。

Where the action is not initiated after a thirty-day period has lapsed from the day following the conclusion of the perpetuation of evidence proceeding, the court may, on motion by an interested person, release the document or object retained for purposes of its perpetuation or take other appropriate measures.

前項期間內本案尚未繫屬者，法院得依利害關係人之聲請，命保全證據之聲請人負擔程序費用。

Where the action is not initiated within the period provided in the preceding paragraph, the court may, on motion by an interested person, order the movant to bear the expenses for the proceeding.

前二項裁定得為抗告。
An appeal may be taken from the ruling provided in the two preceding paragraphs.

第四節 和解 Section 4 Settlement

第 377 條(試行和解) **Article 377**

法院不問訴訟程度如何，得隨時試行和解。受命法官或受託法官亦得為之。

The court may seek settlement at any time irrespective of the phase of the proceeding reached. A commissioned judge or an assigned judge is also authorized to do so.

第三人經法院之許可，得參加和解。法院認為必要時，亦得通知第三人參加。

A third person may, with the court's permission, participate in a settlement. Where the court considers it necessary, the court may also instruct a third person to participate in the settlement.

第 377-1 條(兩造當事人聲請和解及和解方案之訂定) **Article 377- 1**

當事人和解之意思已甚接近者，兩造得聲請法院、受命法官或受託法官於當事人表明之範圍內，定和解方案。

Where both parties are close to agreeing on a settlement, they may move the court, the commissioned judge or the assigned judge for a settlement proposal within the scope specified by the parties.

前項聲請，應以書狀表明法院得定和解方案之範圍及願遵守所定之和解方案。

In making the motion provided in the preceding paragraph, the parties shall submit pleadings to the court specifying the scope within which the settlement proposal may be designed and a statement to the effect that they are willing to adhere to the settlement proposed.

法院、受命法官或受託法官依
The court, the commissioned judge, or the assigned judge shall take

第一項定和解方案時，應斟酌一切情形，依衡平法理為之；並應將所定和解方案，於期日告知當事人，記明筆錄，或將和解方案送達之。

all circumstances into consideration and follow the principle of equity when designing a settlement proposal in accordance with the provision of the first paragraph; and it shall notify the parties of the settlement proposal at the relevant court session and make a note of such proposal in the transcript or have the settlement proposal served upon the parties.

當事人已受前項告知或送達者，不得撤回第一項之聲請。

A party who has been notified or served in accordance with the provision of the preceding paragraph cannot withdraw the motion provided in the first paragraph.

兩造當事人於受第三項之告知或送達時，視為和解成立。

Settlement shall be deemed reached upon the notification or service upon all parties effected in accordance with the provision of the third paragraph.

依前條第二項規定參加和解之第三人，亦得與兩造為第一項之聲請，並適用前四項之規定。

A third person who participates in settlement in accordance with the provision of the second paragraph of the preceding article may join the parties to make the motion provided in the first paragraph, and in such case the provisions of the four preceding paragraphs shall apply.

第 377-2 條(當事人一造聲請和解及和解方案之提出)

Article 377- 2

當事人有和解之望，而一造到場有困難時，法院、受命法官或受託法官得依當事人一造之聲請或依職權提出和解方案。

Where there is a prospect for the parties to reach settlement, but a party has difficulty to appear in person, the court, the commissioned judge, or the assigned judge may, on motion or on its own initiative, make a settlement proposal.

前項聲請，宜表明法院得提出和解方案之範圍。

For purposes of the motion provided in the preceding paragraph, it is advisable to specify the scope within which the court may make the settlement proposal.

依第一項提出之和解方案，應送達於兩造，並限期命為是否接受之表示；如兩造於期限內表示接受時，視為已依該方案成立和解。

The settlement proposal provided in accordance with the provision of the first paragraph shall be served upon all parties and the parties shall be ordered to express within a designated period of time whether such proposal is accepted; if both parties express acceptance within the designated period, settlement is deemed reached according to the settlement proposal.

前項接受之表示，不得撤回。

The expression of acceptance provided in the preceding paragraph may not be withdrawn.

第 378 條(試行和解之處置)

Article 378

因試行和解或定和解方案，得命當事人或法定代理人本人到場。

For purposes of seeking settlement or designing a settlement proposal, the parties or their statutory agents may be ordered to appear in person.

第 379 條(和解筆錄)

Article 379

試行和解而成立者，應作成和解筆錄。

Where settlement is reached, a settlement transcript shall be made.

第二百十二條至第二百十九條之規定，於前項筆錄準用之。

The provisions of Articles 212 to 219 inclusive shall apply mutatis mutandis to the transcript provided in the preceding paragraph.

和解筆錄，應於和解成立之日起十日內，以正本送達於當事人及參加和解之第三人。

Within ten days from the day when settlement is reached, an authenticated copy of the settlement transcript shall be served upon the parties and any third party who participates in the settlement.

依第三百七十七條之一或第三百七十七條之二視為和解成立者，應於十日內將和解內容及成立日期以書面通知當事人及參加和解之第三人，該通知視為和解筆錄。

Where settlement is deemed to be reached in accordance with the provisions of Article 377-1 or Article 377-2, the parties and any third party who participates in settlement shall be notified in writing of the terms of the settlement and the date when the settlement was reached. Such written notice shall be deemed to be the settlement transcript.

第 380 條(和解之效力與繼續審判之請求)

Article 380

和解成立者，與確定判決有同一之效力。

和解有無效或得撤銷之原因者，當事人得請求繼續審判。

第五百條至第五百零二條及第五百零六條之規定，於前項情形準用之。

A final settlement shall have the same effect as a final judgment with binding effect.

Where grounds exist for nullifying or revoking the settlement, a party may move for continuing the proceeding of the action.

The provisions of Articles 500 to 502 inclusive and Article 506 shall apply mutatis mutandis to the case provided in the preceding paragraph.

第 380-1 條(得為執行名義之要件)

Article 380- 1

當事人就未聲明之事項或第三人參加和解成立者，得為執行名義。

With regard to a claim not raised by the parties in the action or with a third person's participation, where settlement is reached such settlement may by served as a writ of execution.

第五節 判決

Section 5 Judgments

第 381 條(終局判決)

Article 381

訴訟達於可為裁判之程度者，法院應為終局判決。

命合併辯論之數宗訴訟，其一達於可為裁判之程度者，應先為終局判決。但應適用第二百零五條第三項之規定者，不在此限。

Where an action is mature for decision, the court shall enter a final judgment.

Where one of several actions ordered to be argued jointly is mature for decision, a final judgment shall be entered with regard to such action first, except in cases to which the provision of the third paragraph of Article 205 shall apply.

第 382 條(一部終局判決)

Article 382

訴訟標的之一部或以一訴主張之數項標的，其一達於可為裁判之程度者，法院得為一部之終局判決；本訴或反訴達於可為裁判之程度者亦同。

Where part of a claim or one of several claims raised in the action is mature for decision, the court may enter a partial final judgment. The same applies to cases where either the plaintiff's claim or defendant's counterclaim is mature for decision.

第 383 條(中間判決)

Article 383

各種獨立之攻擊或防禦方法，達於可為裁判之程度者，法院得為中間判決。請求之原因及數額俱有爭執時，法院以其原因為正當者，亦同。

訴訟程序上之中間爭點，達於

Where one of the grounds of attack or defense presented separately is mature for decision, the court may enter an interlocutory judgment. The same applies to cases where the ground and amount of a claim are both disputed and the court finds the ground just.

Where an interlocutory issue relating to the litigation proceedings is

可為裁判之程度者，法院得先為裁定。

mature for a decision, the court may first enter a ruling on such issue.

第 384 條(捨棄認諾判決)

當事人於言詞辯論時為訴訟標的之捨棄或認諾者，應本於其捨棄或認諾為該當事人敗訴之判決。

Article 384

Where a party has either abandoned or admitted the claim during oral argument, the court shall, based on such abandonment or admission, enter a judgment against such party.

第 384-1 條(中間判決或捨棄認諾判決之判決書之製作程式)

中間判決或捨棄、認諾判決之判決書，其事實及理由得合併記載其要領。

法院亦得於宣示捨棄或認諾判決時，命將判決主文所裁判之事項及理由要領，記載於言詞辯論筆錄，不另作判決書。其筆錄正本或節本之送達，與判決正本之送達,有同一之效力。

第二百三十條之規定，於前項筆錄準用之。

Article 384- 1

The gist of the facts and the reasons for an interlocutory judgment and those of a judgment entered based on a party's abandonment or admission of the claim may be indicated jointly.

Without producing a separate written judgment, the court, upon announcing a judgment, may order that the oral-argument transcript indicate the matter decided and the gist of the reasons for the judgment entered based on a party's abandonment or admission of the claim. The service of an authenticated or extracted copy of such transcript will have the same effect as the service of an authenticated copy of the written judgment.

The provision of Article 230 shall apply mutatis mutandis to the transcript provided in the preceding paragraph.

第 385 條(一造辯論判決)

言詞辯論期日，當事人之一造不到場者，得依到場當事人之聲請，由其一造辯論而為判決；不到場之當事人，經再次通知而仍不到場者，並得依職權由一造辯論而為判決。

前項規定，於訴訟標的對於共同訴訟之各人必須合一確定者，言詞辯論期日，共同訴訟人中一人到場時，亦適用之。

如以前已為辯論或證據調查或未到場人有準備書狀之陳述者,為前項判決時,應斟酌之；未到場人以前聲明證據，其必要者，並應調查之。

Article 385

Where one of the parties fails to appear at the oral-argument session, the court may, on the appearing party's motion, enter a default judgment based on the appearing party's arguments; where the party who fails to appear is summoned and fails to appear again, the court may also on its own initiative enter a default judgment based on the appearing party's arguments.

The provision of the preceding paragraph shall also apply to cases where the claims must be adjudicated jointly with regard to all co-parties and one of the co-parties appears in the oral-argument session.

In entering a judgment provided in the preceding paragraph, the court shall take into consideration any argument made, evidence-taking conducted, or the preparatory pleading submitted by the party who fails to appear; if necessary, the evidence stated by the party who fails to appear shall also be taken.

第 386 條(不得一造辯論判決之情形)

有下列各款情形之一者，法院應以裁定駁回前條聲請，並延展辯論期日：

一、不到場之當事人未於相當時期受合法之通知者。

二、當事人之不到場，可認為

Article 386

In case of any of the following, the court shall deny the motion provided in the preceding article by a ruling and postpone the oral-argument session:

1. Where the party who fails to appear has not been legally summoned within a reasonable period of time;

2. Where there is reason to believe that the failure of a party to

係因天災或其他正當理由者。
三、到場之當事人於法院應依職權調查之事項，不能為必要之證明者。
四、到場之當事人所提出之聲明、事實或證據，未於相當時期通知他造者。

appear is due to force majeure or other justifiable reasons;
3. Where the appearing party cannot provide necessary proof for the matters which the court shall investigate on its own initiative;
4. Where the statements, facts or evidence presented by the appearing party have not been notified to the opposing party within a reasonable period of time.

第 387 條(不到場之擬制)
當事人於辯論期日到場不為辯論者，視同不到場。

Article 387
Where a party refuses to present any argument in the oral-argument session, such refusal shall be deemed a failure to appear.

第 388 條(判決之範圍)
除別有規定外，法院不得就當事人未聲明之事項為判決。

Article 388
Except as otherwise provided, the court may not enter any judgment on claims which are not raised by parties.

第 389 條(應依職權宣告假執行之判決)
下列各款之判決，法院應依職權宣告假執行：
一、本於被告認諾所為之判決。
二、命履行扶養義務之判決。但以起訴前最近六個月分及訴訟中履行期已到者為限。
三、就第四百二十七條第一項至第四項訴訟適用簡易程序所為被告敗訴之判決。
四、(刪除)
五、所命給付之金額或價額未逾新臺幣五十萬元之判決。
計算前項第五款價額，準用關於計算訴訟標的價額之規定。
第一項第五款之金額或價額，準用第四百二十七條第七項之規定。

Article 389
The court shall on its own initiative declare a provisional execution to the following judgments:
1.A judgment which is entered based on the defendant's admission of the claim;
2.A judgment which orders the performance of a maintenance obligation insofar as such performance became due within the six months prior to the initiation of the action or during the pendency of the action;
3.A judgment against the defendant on an action entered under summary proceeding in accordance with the provisions of the first to the fourth paragraphs inclusive of Article 427;
4.(Repealed.)
5.A judgment which orders a performance, the price or value of which is not more than NTD 500,000.
The provisions with regard to the accounting of the claim's value shall apply mutatis mutandis to the accounting of the value provided in the fifth subparagraph of the preceding paragraph.
The provision of the seventh paragraph of Article 427 shall apply mutatis mutandis to the price or value provided in the fifth subparagraph of the first paragraph.

第 390 條(應依聲請宣告假執行之判決)
關於財產權之訴訟，原告釋明在判決確定前不為執行，恐受難於抵償或難於計算之損害者，法院應依其聲請，宣告假執行。
原告陳明在執行前可供擔保而聲請宣告假執行者，雖無前項釋明，法院應定相當之擔保

Article 390
In an action concerning proprietary rights, where the plaintiff makes a preliminary showing that he/she will suffer damage which is difficult to compensate for or calculate without execution of the final judgment before it becomes final with binding effects, the court shall on the plaintiff's motion declare provisional execution.
Where the plaintiff makes a motion for provisional execution by stating that he/she is willing to provide security before the execution is performed, the court shall, despite the absence of the preliminary

額，宣告供擔保後，得為假執行。

showing provided in the preceding paragraph, designate a reasonable amount of security and then declare the judgment to be provisionally executed upon provision of such security.

第 391 條(宣告假執行之障礙)

被告釋明因假執行恐受不能回復之損害者，如係第三百八十九條情形，法院應依其聲請宣告不准假執行；如係前條情形，應宣告駁回原告假執行之聲請。

Article 391

Where the defendant makes a preliminary showing that he/she will suffer irreparable harm from the provisional execution, the court shall, in the case provided in the Article 389, on the defendant's motion declare that no provisional execution shall be granted and, in the case provided in the preceding article, declare that the plaintiff's motion for provisional execution is denied.

第 392 條(附條件之假執行或免為假執行之宣告)

法院得宣告非經原告預供擔保，不得為假執行。

法院得依聲請或依職權，宣告被告預供擔保，或將請求標的物提存而免為假執行。

依前項規定預供擔保或提存而免為假執行，應於執行標的物拍定、變賣或物之交付前為之。

Article 392

The court may declare that the judgment may not be provisionally executed unless the plaintiff provides security in advance.

The court may, on motion or on its own initiative, declare that the defendant may be exempted from the provisional execution if he/she provides security in advance or lodge the object claimed.

The security or the object lodged for purposes of being exempted from provisional execution in accordance with the provision of the preceding paragraph shall be provided before the object of execution is auctioned, sold, or surrendered.

第 393 條(假執行之聲請時期及裁判)

關於假執行之聲請，應於言詞辯論終結前為之。

關於假執行之裁判，應記載於裁判主文。

Article 393

Any motion with regard to provisional execution shall be made before the oral argument is concluded.

The decision with regard to provisional execution shall be indicated in the main text of the decision.

第 394 條(補充假執行判決)

法院應依職權宣告假執行而未為宣告，或忽視假執行或免為假執行之聲請者，準用第二百三十三條之規定。

Article 394

The provision of Article 233 shall apply mutatis mutandis to cases where the court fails to declare provisional execution which it shall declare on its own initiative or disregards a motion for provisional execution or exemption of provisional execution.

第 395 條(假執行宣告之失效)

假執行之宣告，因就本案判決或該宣告有廢棄或變更之判決，自該判決宣示時起，於其廢棄或變更之範圍內，失其效力。

法院廢棄或變更宣告假執行之本案判決者，應依被告之聲明，將其因假執行或因免假執行所為給付及所受損害，於判決內命原告返還及賠償，被告未聲明者，應告以得為聲明。

Article 395

Where a judgment is entered to reverse or to amend the judgment on the merits to which provisional execution is declared, or the declaration of provisional execution itself, such declaration of provisional execution shall be inoperative to the extent of such reversal or amendment upon the announcement of such judgment.

Where the court reverses or amends the judgment on the merits to which provisional execution is declared, it shall, pursuant to the defendant's claim, order the plaintiff to return the performance effected by the defendant and compensate for the damage that resulted from the provisional execution or exemption of the provisional execution by the judgment entered; where the defendant

does not make such claim, the court shall inform him/her that he/she may do so.

僅廢棄或變更假執行之宣告者，前項規定，於其後廢棄或變更本案判決之判決適用之。

Where only the declaration of provisional execution is reversed or amended, the provision of the preceding paragraph shall apply to the subsequent judgment which reverses or amends the judgment on the merits.

第 396 條(定履行期間及分次履行之判決)

Article 396

判決所命之給付，其性質非長期間不能履行，或斟酌被告之境況，兼顧原告之利益，法院得於判決內定相當之履行期間或命分期給付。經原告同意者，亦同。

Where the performance ordered by a judgment is of the nature that it cannot be effectuated within a short period of time, or after taking into consideration the defendant's condition and the plaintiff's interest, the court may reasonably extend the time period within which such performance shall be effectuated or permit performance by installment of the judgment entered. The same shall apply to the case where the plaintiff has given his/her consent.

法院依前項規定，定分次履行之期間者，如被告遲誤一次履行，其後之期間視為亦已到期。

Where the court permits performance by installment in accordance with the provision of the preceding paragraph, all subsequent installments of performance shall become due upon defendant's default of performance of an installment.

履行期間，自判決確定或宣告假執行之判決送達於被告時起算。

The time within which performance shall be effectuated starts to run from the time when the final judgment becomes binding or the final judgment to which provisional execution is declared is served upon the defendant.

法院依第一項規定定履行期間或命分期給付者，於裁判前應令當事人有辯論之機會。

Where the court extends the time period of performance or permits performance by installment, the parties shall be accorded an opportunity to present their arguments before the decision is rendered.

第 397 條(情事變更法則)

Article 397

確定判決之內容如尚未實現，而因言詞辯論終結後之情事變更，依其情形顯失公平者，當事人得更行起訴，請求變更原判決之給付或其他原有效果。但以不得依其他法定程序請求救濟者為限。

Where the performance ordered by a final and binding judgment has not been effectuated, and a change of circumstance after the conclusion of the oral argument renders such performance manifestly unfair, one of the parties may reinitiate an action to claim that the performance or other effects ordered by the original judgment shall be amended insofar as no remedy provided by other legal proceedings is available.

前項規定，於和解、調解或其他與確定判決有同一效力者準用之。

The provision of the preceding paragraph shall apply mutatis mutandis to settlement, mediation, or anything with the same effect as a final and binding judgment.

第 398 條(判決確定之時期)

Article 398

判決，於上訴期間屆滿時確定。但於上訴期間內有合法之上訴者，阻其確定。

A final judgment becomes binding upon the expiration of the period of time for taking an appeal from a judgment. Notwithstanding, a timely appeal taken from a final judgment in conformity with the law shall prevent that judgment from becoming binding.

不得上訴之判決，於宣示時確定；不宣示者，於公告時確定。

A final judgment from which no appeal may be taken becomes binding upon its announcement, or, if it is not announced, upon its publication.

第 399 條(判決確定證明書)

當事人得聲請法院，付與判決確定證明書。

判決確定證明書，由第一審法院付與之。但卷宗在上級法院者，由上級法院付與之。

判決確定證明書，應於聲請後七日內付與之。

前三項之規定，於裁定確定證明書準用之。

Article 399

A party may move to the court for issuing a certificate to the effect that the judgment has become final and binding.

The certificate to the effect that the judgment has become final and binding shall be issued by the court of the first instance. Notwithstanding, where the dossier is possessed by a superior court, such superior court shall issue the certificate.

The certificate to the effect that the judgment has become final and binding shall be issued within seven days after the motion is made.

The provisions of the three preceding paragraphs shall apply mutatis mutandis to the certificate to the effect that the ruling has become final and binding.

第 400 條(既判力之客觀範圍)

除別有規定外，確定之終局判決就經裁判之訴訟標的，有既判力。

主張抵銷之請求，其成立與否經裁判者，以主張抵銷之額為限，有既判力。

Article 400

Except as otherwise provided, res judicata exists as to a claim adjudicated in a final judgment with binding effect.

Where a demand of offset has been adjudicated, res judicata exists as to the offset amount to be applied for offset as demanded.

第 401 條(既判力之主觀範圍)

確定判決，除當事人外，對於訴訟繫屬後為當事人之繼受人者，及為當事人或其繼受人占有請求之標的物者,亦有效力。

對於為他人而為原告或被告者之確定判決，對於該他人亦有效力。

前二項之規定，於假執行之宣告準用之。

Article 401

In addition to all parties, a final and binding judgment is binding on a person who becomes a party's successor after the initiation of the action and on a person who possesses the claimed object for the parties or their successors.

A final and binding judgment to which a party has acted as the plaintiff or the defendant for another person is also binding on such other person.

The provisions of the two preceding paragraphs shall apply mutatis mutandis to the declaration of provisional execution.

第 402 條(外國法院確定判決之效力)

外國法院之確定判決，有下列各款情形之一者，不認其效力：

一、依中華民國之法律，外國法院無管轄權者。

二、敗訴之被告未應訴者。但開始訴訟之通知或命令已於相當時期在該國合法送達，或依中華民國法律上之協助送達者，不在此限。

三、判決之內容或訴訟程序，有背中華民國之公共秩序或善良風俗者。

四、無相互之承認者。

前項規定，於外國法院之確定

Article 402

A final and binding judgment rendered by a foreign court shall be recognized, except in case of any of the following circumstances:

1. Where the foreign court lacks jurisdiction pursuant to the R.O.C. laws;

2. Where a default judgment is rendered against the losing defendant, except in the case where the notice or summons of the initiation of action had been legally served in a reasonable time in the foreign country or had been served through judicial assistance provided under the R.O.C. laws;

3. Where the performance ordered by such judgment or its litigation procedure is contrary to R.O.C. public policy or morals;

4. Where there exists no mutual recognition between the foreign country and the R.O.C.

The provision of the preceding paragraph shall apply mutatis

裁定準用之。

mutandis to a final and binding ruling rendered by a foreign court.

第二章 調解程序

CHAPTER II MEDIATION PROCEEDING

第 403 條 （強制調解之事件）

下列事件，除有第四百零六條第一項各款所定情形之一者外，於起訴前，應經法院調解：

一 不動產所有人或地上權人或其他利用不動產之人相互間因相鄰關係發生爭執者。

二 因定不動產之界線或設置界標發生爭執者。

三 不動產共有人間因共有物之管理、處分或分割發生爭執者。

四 建築物區分所有人或利用人相互間因建築物或其共同部分之管理發生爭執者。

五 因增加或減免不動產之租金或地租發生爭執者。

六 因定地上權之期間、範圍、地租發生爭執者。

七 因道路交通事故或醫療糾紛發生爭執者。

八 雇用人與受雇人間因僱傭契約發生爭執者。

九 合夥人間或隱名合夥人與出名營業人間因合夥發生爭執者。

一○ 配偶、直系親屬、四親等內之旁系血親、三親等內之旁系姻親、家長或家屬相互間因財產權發生爭執者。

一一 其他因財產權發生爭執，其標的之金額或價額在新台幣十萬元以下者。

前項第十一款所定數額，司法院得因情勢需要，以命令減至新台幣五萬元或增至十五萬元。

Article 403

Except in cases provided in the subparagraphs of the first paragraph of Article 406, the following matters shall be subject to mediation by the court before the relevant action is initiated:

1. Disputes arising from a relationship of adjacency between real property owners or superficiaries, or other persons using the real property;

2. Disputes arising from the determination of boundaries or demarcation of real property;

3. Disputes among co-owners of real property arising from the management, disposition, or partition of a real property held in undivided condition;

4. Disputes arising from the management of a building or of a common part thereof among the owners of the dividedly-shared title or persons using the building;

5. Disputes arising from an increment or reduction/exemption of the rental of real property;

6. Disputes arising from the determination of the term, scope and rental of a superficies;

7. Disputes arising from a traffic accident or medical treatment;

8. Disputes arising from an employment contract between an employer and an employee;

9. Disputes arising from a partnership between the partners, or between the undisclosed partners and the nominal business operator;

10. Disputes arising from proprietary rights between spouses, lineal relatives by blood, collateral relatives by blood within the fourth degree of relationship, collateral relatives by marriage within the third degree of relationship, or head of the house or members of the house;

11. Other disputes arising from proprietary rights where the price or value of the object in dispute is less than NTD 100,000.

The Judicial Yuan may, where necessary, order the amount provided in the eleventh subparagraph of the preceding paragraph to be reduced to NTD 50,000 or increased to NTD 150,000.

第 403 條 (99 年現行規定)

下列事件，除有第四百零六條第一項各款所定情形之一者外，於起訴前，應經法院調解：

一、不動產所有人或地上權人或其他利用不動產之人相互間

因相鄰關係發生爭執者。
二、因定不動產之界線或設置界標發生爭執者。
三、不動產共有人間因共有物之管理、處分或分割發生爭執者。
四、建築物區分所有人或利用人相互間因建築物或其共同部分之管理發生爭執者。
五、因增加或減免不動產之租金或地租發生爭執者。
六、因定地上權之期間、範圍、地租發生爭執者。
七、因道路交通事故或醫療糾紛發生爭執者。
八、雇用人與受雇人間因僱傭契約發生爭執者。
九、合夥人間或隱名合夥人與出名營業人間因合夥發生爭執者。
十、配偶、直系親屬、四親等內之旁系血親、三親等內之旁系姻親、家長或家屬相互間因財產權發生爭執者。
十一、其他因財產權發生爭執，其標的之金額或價額在新臺幣五十萬元以下者。
前項第十一款所定數額，司法院得因情勢需要，以命令減至新臺幣二十五萬元或增至七十五萬元。

第 404 條(聲請調解之事件)

不合於前條規定之事件，當事人亦得於起訴前，聲請調解。
有起訴前應先經法院調解之合意，而當事人逕行起訴者，經他造抗辯後，視其起訴為調解之聲請。但已為本案之言詞辯論者，不得再為抗辯。

Article 404

In matters not provided in the preceding paragraph, a party may apply for mediation before initiating the relevant action.
In cases where the parties have agreed to refer their dispute to court mediation before initiating the relevant action, an action initiated by one party shall be deemed an application for mediation by that party upon the objection of the opposing party. Notwithstanding, where the parties have proceeded orally on the merits, no such objection may be raised.

第 405 條(聲請調解之程式)

調解，依當事人之聲請行之。
前項聲請，應表明為調解標的之法律關係及爭議之情形。有文書為證據者，並應提出其原本或影本。
聲請調解之管轄法院，準用第

Article 405

The mediation shall be initiated on a party's application.
The application provided in the preceding paragraph shall specify the legal relation in dispute with a description of the dispute. The original copy or a photocopy of the documentary evidence, if any, shall be produced.
The court having jurisdiction over an application for mediation shall

一編第一章第一節之規定。

be determined in accordance with the provisions of Section 1, Chapter I of Part I which shall apply mutatis mutandis.

第 406 條(聲請調解之裁定)

法院認調解之聲請有下列各款情形之一者，得逕以裁定駁回之：

一、依法律關係之性質，當事人之狀況或其他情事可認為不能調解或顯無調解必要或調解顯無成立之望者。

二、經其他法定調解機關調解未成立者。

三、因票據發生爭執者。

四、係提起反訴者。

五、送達於他造之通知書，應為公示送達或於外國為送達者。

六、金融機構因消費借貸契約或信用卡契約有所請求者。

前項裁定，不得聲明不服。

Article 406

In case of any of the following, a court may by a ruling immediately dismiss the application for mediation:

1. Where, according to the nature of the legal relation, the status of the parties, or other circumstances, the mediation is considered infeasible or plainly and manifestly unnecessary, or there is clearly no prospect of a successful mediation;
2. Where mediation by another legally authorized mediatory agency has been sought with no successful result;
3. Where the dispute arises from negotiable instruments;
4. Where the dispute is raised by a counterclaim;
5. Where the notification to be served upon the opposing party should be effectuated either by constructive notice or in a foreign country; or
6. Where the dispute arises from a claim by a financial institution based upon a loan contract or credit card contract.

The ruling provided in the preceding paragraph is not reviewable.

第 406-1 條 （調解委員之選任）

調解程序,由簡易庭法官行之。調解由法官選任調解委員一人至三人先行調解，俟至相當程度有成立之望或其他必要情形時，再報請法官到場。但兩造當事人合意或法官認為適當時，亦得逕由法官行之。

當事人對於前項調解委員人選有異議或兩造合意選任其他適當之人者，法官得另行選任或依其合意選任之。

Article 406- 1

A summary court judge shall conduct the mediation proceeding. The mediation shall be attempted in advance by one to three mediators appointed by the judge. The judge will appear in such mediation session when the mediation has reached a stage with prospect shown for a successful mediation or the circumstances require the judge's presence. Notwithstanding, mediation may be conducted immediately by the judge upon the parties?agreement to do so or where the judge considers it appropriate to do so.

In cases where a party has objected to any of the appointed mediators provided in the preceding paragraph, or where the parties have agreed to appoint other appropriate persons, the judge may re-appoint or appoint such persons as agreed-upon by the parties.

第 406-1 條 (99 年現行規定)

調解程序，由簡易庭法官行之。但依第四百二十條之一第一項移付調解事件，得由原法院、受命法官或受託法官行之。調解由法官選任調解委員一人至三人先行調解，俟至相當程度有成立之望或其他必要情形時，再報請法官到場。但兩造當事人合意或法官認為適當時，亦得逕由法官行之。

當事人對於前項調解委員人選

有異議或兩造合意選任其他適當之人者，法官得另行選任或依其合意選任之。

第 406-2 條(地方法院調解委員之列冊、選任) **Article 406- 2**

地方法院應將其管轄區域內適於為調解委員之人選列冊，以供選任；其人數、資格、任期及其聘任、解任等事項，由司法院定之。

The district court shall prepare a list of candidates within its jurisdictional boundaries who are suitable to be appointed and act as mediators. The Judicial Yuan shall prescribe the number, qualification, term of office, and the appointment or dismissal of such candidates and other relevant matters.

法官於調解事件認有必要時，亦得選任前項名冊以外之人為調解委員。

A judge may, where he/she considers it necessary to do so, appoint persons to act as mediators irrespective of the list provided in the preceding paragraph.

第 407 條(調解期日之指定與通知書之送達) **Article 407**

調解期日，由法官依職權定之，其續行之調解期日，得委由主任調解委員定之；無主任調解委員者，得委由調解委員定之。

The judge shall designate the mediation session on his/her own initiative. The subsequent mediation session may be designated by the chief mediator or, absent a chief mediator, by the authorized mediator.

第一百五十六條、第一百五十九條之規定，於法官定調解期日準用之。

The provisions of Article 156 and Article 159 shall apply mutatis mutandis to a judge's designation of a mediation session.

聲請書狀或言詞聲請之筆錄應與調解期日之通知書，一併送達於他造。

The pleading for the mediation application or the court record of an oral application shall be served upon the opposing party along with the notice of a mediation session.

前項通知書，應記載不到場時之法定效果。

The notice provided in the preceding paragraph shall bear a note on the legal effect of a failure to appear.

第 407-1 條(調解程序之指揮) **Article 407- 1**

調解委員行調解時，由調解委員指揮其程序，調解委員有二人以上時，由法官指定其中一人為主任調解委員指揮之。

Where the mediation is conducted by a mediator, its proceeding shall be directed by such mediator. Where there are two or more mediators, the judge shall appoint one as the chief mediator to direct the proceeding.

第 408 條(命當事人或法定代理人到場) **Article 408**

法官於必要時，得命當事人或法定代理人本人於調解期日到場；調解委員認有必要時，亦得報請法官行之。

The judge may, where necessary, order the parties or their statutory agents to appear in person at the mediation session. Where necessary, the mediators may request the judge to issue such an order.

第 409 條(違背到場義務之處罰) **Article 409**

當事人無正當理由不於調解期日到場者，法院得以裁定處新台幣三千元以下之罰鍰；其有

In cases where a party has failed to appear at the mediation session without just cause, the court may by a ruling impose a fine not exceeding NTD 30,000 on such party. The same principle shall

代理人到場而本人無正當理由不從前條之命者亦同。

apply even if the agent of a party has appeared but the party disobeys the order provided in the preceding article without giving a justifiable reason.

前項裁定得為抗告，抗告中應停止執行。

An appeal may be taken from the ruling provided in the preceding paragraph; the execution of the ruling shall be stayed pending such appeal.

第 409-1 條(聲請命他造為一定之行為或不行為及提供擔保)

Article 409- 1

為達成調解目的之必要，法院得依當事人之聲請，禁止他造變更現狀、處分標的物，或命為其他一定行為或不行為；於必要時，得命聲請人供擔保後行之。

For the purpose of the mediation, the court may, on a party's motion, prohibit the opposing party from altering the status quo or disposing of the object in dispute, or order such party to perform or refrain from performing specific acts. Where necessary, the court may order the movant to provide a security.

關於前項聲請之裁定，不得抗告。

No appeal may be taken from the ruling on the motion provided in the preceding paragraph.

法院為第一項處置前，應使當事人有陳述意見之機會。但法院認為不適當或經通知而不為陳述者，不在此限。

The court shall, before taking the measures provided in the first paragraph, accord the parties an opportunity to be heard, except in cases where the court considers it inappropriate to do so or the party has failed to present any statement after being so notified.

第一項之處置，不得作為執行名義，並於調解事件終結時失其效力。

The measures provided in the first paragraph cannot be used as a writ of execution and shall be inoperative upon conclusion of the mediation proceeding.

當事人無正當理由不從第一項處置之命者，法院得以裁定處新台幣三萬元以下之罰鍰。

In cases where a party has disobeyed the order for the measures provided in the first paragraph without giving a justifiable reason, the court may by a ruling impose on such party a fine not to exceed NTD 30,000.

前項裁定得為抗告，抗告中應停止執行。

An appeal may be taken from the ruling provided in the preceding paragraph; the execution of the ruling shall be stayed pending such appeal.

第 410 條(調解處所)

Article 410

調解程序於法院行之，於必要時，亦得於其他適當處所行之。調解委員於其他適當處所行調解者，應經法官之許可。

The mediation proceeding shall be conducted in a courtroom or, where necessary, at another appropriate place. The mediators shall obtain the judge's permission in order to conduct the mediation proceeding at another appropriate place.

前項調解，得不公開。

The mediation provided in the preceding paragraph may be conducted without being open to the public.

第 410-1 條(報請法官處理調解之裁定)

Article 410- 1

調解委員認調解有第四百零六條第一項各款所定情形之一者，報請法官處理之。

In cases where the mediators find the existence of one of the circumstances provided in the subparagraphs of the first paragraph of Article 406, they shall report such fact to the judge for disposition.

第 411 條(調解委員之報酬)

Article 411

調解委員行調解，得支領日

The mediators may receive daily fees, travel expenses, and

費、旅費，並得酌支報酬；其計算方法及數額由司法院定之。
前項日費、旅費及報酬，由國庫負擔。

appropriate compensation for conducting the mediation. The Judicial Yuan shall prescribe the accounting and the rates of such expenses and compensation.
The daily fees, travel expenses, and compensation provided in the preceding paragraph shall be borne by the national treasury.

第 412 條(參加調解)
就調解事件有利害關係之第三人，經法官之許可，得參加調解程序；法官並得將事件通知之，命其參加。

Article 412
A third person having an interest in the subject matter of the mediation may, with the permission of the judge, intervene in the mediation proceeding. The judge may notify the third party of the mediation proceeding and order him/her to intervene.

第 413 條(審究爭議之所在)
行調解時，為審究事件關係及兩造爭議之所在，得聽取當事人、具有專門知識經驗或知悉事件始末之人或其他關係人之陳述，察看現場或調解標的物之狀況；於必要時，得由法官調查證據。

Article 413
For purposes of clarifying the relationships and the issues in dispute, the parties or persons who have the relevant special knowledge/experience or who know the whole story about the subject matter, or other interested persons may be heard, and an on-site inspection or inspection of the object of mediation may be conducted during the mediation process. The judge may take evidence where necessary.

第 414 條(調解之態度)
調解時應本和平懇切之態度，對當事人兩造為適當之勸導，就調解事件酌擬平允方案，力謀雙方之和諧。

Article 414
The mediation shall be conducted peacefully and sincerely. Appropriate mediation/guidance shall be provided to the parties. An appropriate proposal should be recommended with a view to a fair and amicable resolution acceptable to the parties.

第 415 條
(刪除)

Article 415
(Repealed.)

第 415-1 條(調解條款及調解程序筆錄)
關於財產權爭議之調解，經兩造同意，得由調解委員酌定解決事件之調解條款。
前項調解條款之酌定，除兩造另有約定外，以調解委員過半數定之。
調解委員不能依前項規定酌定調解條款時，法官得於徵詢兩造同意後，酌定調解條款，或另定調解期日，或視為調解不成立。
調解委員酌定之調解條款，應作成書面，記明年月日，或由書記官記明於調解程序筆錄，由調解委員簽名後，送請法官審核；其經法官核定者，視為調解成立。

Article 415- 1
In the mediation of disputes over proprietary rights, with the consent of both parties, the mediators may, in their discretion, propose the terms of mediation.
Except as otherwise agreed-upon by the parties, the terms of a mediation provided in the preceding paragraph shall be determined by the majority of the mediators.
Where the mediators are unable to determine the proposed terms of the mediation in accordance with the preceding paragraph, the judge may, with the consent of both parties, determine the proposed terms or designate another mediation session or deem the mediation unsuccessful.
The terms of the mediation proposed by the mediators shall be made either in a writing bearing the date, or shall be indicated in the mediation proceeding transcript by the court clerk, signed by the mediators, and forwarded to the judge for review and approval. After the judge approves the proposed terms, the mediation shall be deemed successful.

前項經核定之記載調解條款之書面，視為調解程序筆錄。

The writing of the approved proposed terms of the mediation provided in the preceding paragraph shall serve as the mediation proceeding transcript.

法官酌定之調解條款，於書記官記明於調解程序筆錄時，視為調解成立。

Where the judge proposes the mediation terms, the mediation shall be deemed successful upon entry of such terms in the mediation proceeding transcript by the court clerk.

第 416 條(調解成立之效力與調解無效或撤銷)

Article 416

調解經當事人合意而成立；調解成立者，與訴訟上和解有同一之效力。

A successful mediation is reached upon the agreement of the parties. A successful mediation shall take the same effect as a settlement in litigation.

調解有無效或得撤銷之原因者，當事人得向原法院提起宣告調解無效或撤銷調解之訴。

Where grounds exist for nullifying or revoking the mediation, the party may initiate an action for a nullification declaration or for revoking the mediation in the original court.

前項情形，原調解事件之聲請人，得就原調解事件合併起訴或提起反訴，請求法院於宣告調解無效或撤銷調解時合併裁判之。並視為自聲請調解時，已經起訴。

In the case provided in the preceding paragraph, the mediation applicant may consolidate his/her claim arising from the subject matter of the mediation or interpose a counterclaim and request the court to adjudicate such claim jointly upon entering a decision declaring the nullification of or revoking the mediation. In such cases, the action shall be deemed to have been initiated upon the filing of the application for mediation.

第五百條至第五百零二條及第五百零六條之規定，於第二項情形準用之。

The provisions of Article 500 to Article 502 inclusive and Article 506 shall apply mutatis mutandis to the cases provided in the second paragraph.

調解不成立者，法院應付與當事人證明書。

In case of an unsuccessful mediation, the court shall issue a certificate thereof to the parties.

第 417 條(依職權為解決事件之方案)

Article 417

關於財產權爭議之調解，當事人不能合意但已甚接近者，法官應斟酌一切情形，其有調解委員者，並應徵詢調解委員之意見，求兩造利益之平衡，於不違反兩造當事人之主要意思範圍內，以職權提出解決事件之方案。

In cases of a mediation of disputes over proprietary rights, where the parties are unable but are close to reach an agreement, the judge shall take all circumstances into consideration, consult with the mediators, balance the interests of the parties, and thereafter, subject to the main intent expressed by the parties, propose a resolution on its own initiative.

前項方案，應送達於當事人及參加調解之利害關係人。

The proposed resolution provided in the preceding paragraph shall be served upon the parties and the interested persons who have intervened.

第 418 條(對解決事件方案之異議與調解成立、不成立之擬制)

Article 418

當事人或參加調解之利害關係人對於前條之方案，得於送達後十日之不變期間內，提出異議。

A party to the mediation or an interested person who has intervened may object to the proposed resolution provided in the preceding article within a ten-day peremptory period following the service thereof.

於前項期間內提出異議者，視為調解不成立；其未於前項期間內提出異議者，視為已依該方案成立調解。

The mediation shall be deemed unsuccessful upon an objection raised to it within the period provided in the preceding paragraph. In cases where no objection is raised within the period provided in the preceding paragraph, the mediation shall be deemed successful in accordance with that proposed resolution.

第一項之異議，法院應通知當事人及參加調解之利害關係人。

The court shall notify the parties and the interested persons who have intervened of the objection raised in accordance with the provision of the first paragraph of this article.

第 419 條(調解不成立之效果)

當事人兩造於期日到場而調解不成立者，法院得依一造當事人之聲請，按該事件應適用之訴訟程序，命即為訴訟之辯論。但他造聲請延展期日者，應許可之。

前項情形，視為調解之聲請人自聲請時已經起訴。

當事人聲請調解而不成立，如聲請人於調解不成立證明書送達後十日之不變期間內起訴者，視為自聲請調解時，已經起訴；其於送達前起訴者，亦同。

以起訴視為調解之聲請或因債務人對於支付命令提出異議而視為調解之聲請者，如調解不成立，除調解當事人聲請延展期日外，法院應按該事件應適用之訴訟程序，命即為訴訟之辯論，並仍自原起訴或支付命令聲請時，發生訴訟繫屬之效力。

Article 419

In cases of an unsuccessful mediation after both parties have appeared at the mediation session, the court may, on motion by one party, order an immediate oral argument in accordance with the litigation proceeding applicable to the subject matter. Notwithstanding, where the opposing party has moved for a continuance, the court shall so grant the motion.

In the case provided in the preceding paragraph, the action shall be deemed to have been initiated upon the filing of the application for mediation.

In cases of an unsuccessful mediation, where the applicant for mediation initiates the action within the ten-day peremptory period following service of the certificate of unsuccessful mediation, such action shall be deemed to have been initiated upon the filing of the application for mediation. The same shall apply where such action has been initiated before the certificate is served.

In cases where the mediation is deemed applied for by initiating the action or by the debtor's objection to a payment order and if the mediation is unsuccessful, the court shall order immediate oral argument in accordance with the litigation proceeding applicable to the subject matter, except where the party has moved for continuance. In such case, all effects resulting from the original initiation of action or the application for issuance of a payment order shall remain operative.

第 420 條(當事人不到場之效果)

當事人兩造或一造於期日不到場者，法官酌量情形，得視為調解不成立或另定調解期日。

Article 420

In cases where one or both parties have failed to appear at the session, the judge may, in his/her discretion, deem the mediation as unsuccessful or designate another mediation session.

第 420-1 條 （移付調解）

第一審訴訟繫屬中，得經兩造合意將事件移付調解。

前項情形，訴訟程序停止進行。調解成立時，訴訟終結。調解不成立時，訴訟程序繼續進行。

依第一項規定移付調解而成立

Article 420- 1

An action pending in the court of first instance may, with the consent of both parties, be referred to mediation.

In the case provided in the preceding paragraph, the litigation proceeding shall be stayed. Where a successful mediation is reached, the action is concluded accordingly. Where the mediation fails, the litigation proceeding shall resume accordingly.

In cases of a successful mediation after the action was referred to

者，原告得於調解成立之日起三個月內聲請退還已繳裁判費二分之一。

mediation in accordance with the provision of the first paragraph, the plaintiff may move for the return of one half of the court costs paid within three months from the day of the successful mediation.

第 420-1 條 (99 年現行規定)

第一審訴訟繫屬中，得經兩造合意將事件移付調解。

前項情形，訴訟程序停止進行。調解成立時，訴訟終結。調解不成立時，訴訟程序繼續進行。

依第一項規定移付調解而成立者，原告得於調解成立之日起三個月內聲請退還已繳裁判費三分之二。

第 421 條(調解筆錄)

法院書記官應作調解程序筆錄，記載調解成立或不成立及期日之延展或訴訟之辯論。但調解委員行調解時，得僅由調解委員自行記錄調解不成立或延展期日情形。

第四百十七條之解決事件之方案，經法官當場宣示者，應一併記載於筆錄。

調解成立者，應於十日內以筆錄正本，送達於當事人及參加調解之利害關係人。

第二百十二條至第二百十九條之規定，於第一項、第二項筆錄準用之。

Article 421

The court clerk shall maintain the mediation proceeding transcript, make a note of a successful or unsuccessful mediation, and of a continuance or of the oral argument. Notwithstanding, where the mediation is conducted by mediators, such mediators themselves may take note of an unsuccessful mediation or a continuance.

Where the proposed resolution provided in Article 417 is announced by the judge at the mediation session, such fact shall be indicated in the transcript.

Within ten days of a successful mediation, an authenticated copy of the transcript shall be served upon the parties and the interested persons who have intervened.

The provisions of Article 212 to Article 219 inclusive shall apply mutatis mutandis to the transcript provided in the first and the second paragraphs.

第 422 條(調解之陳述或讓步不得為裁判之基礎)

調解程序中，調解委員或法官所為之勸導及當事人所為之陳述或讓步，於調解不成立後之本案訴訟，不得採為裁判之基礎。

Article 422

No mediation/guidance provided by the mediators or the judge, and no representations or concessions made by the parties during the mediation proceeding may be admitted as the basis for making decisions in an action initiated as a result of an unsuccessful mediation.

第 423 條(調解不成立費用之負擔)

調解不成立後起訴者，其調解程序之費用，應作為訴訟費用之一部；不起訴者，由聲請人負擔。

第八十四條之規定，於調解成立之情形準用之。

Article 423

In cases where an action is initiated as a result of an unsuccessful mediation, the expenses for the mediation proceeding shall be included as a part of the litigation expenses. Where no such action is initiated, the applicant shall bear the expenses.

The provision of Article 84 shall apply mutatis mutandis to a successful mediation.

第 424 條(簡易程序訴狀之表明事項)

第四百零三條第一項之事件，如逕向法院起訴者，宜於訴狀內表明其具有第四百零六條第一項所定事由，並添具釋明其事由之證據。其無該項所定事由而逕行起訴者，視為調解之聲請。

以一訴主張數項標的，其一部非屬第四百零三條第一項之事件者，不適用前項視為調解聲請之規定。

Article 424

In cases where the action is initiated promptly for any of the disputes provided in the first paragraph of Article 403, it is advisable that the complaint specify the existence of one of the grounds provided in the first paragraph of Article 406 and annex such evidence as a preliminary showing thereof. Absent existence of such a ground, the action will be deemed an application for mediation.

Where multiple claims have been raised in the action, and part of such claims did not arise from the disputes provided in the first paragraph of Article 403, the provision of the preceding paragraph with regard to an action being deemed an application for mediation shall not apply.

第 425 條 （調解費用(二)-經撤回之負擔）

調解之聲請經撤回者，視為未聲請調解。但聲請人應負擔因聲請所生之全部費用。

第 425 條 (99 年現行規定)

調解之聲請經撤回者，視為未聲請調解。

第八十三條第一項之規定，於前項情形準用之。

Article 425

In cases where the application for mediation is voluntarily withdrawn, such application shall be deemed not to have been filed. Notwithstanding, the applicant shall bear all the expenses incurred by the application.

第 426 條(調解事件之保密)

法官、書記官及調解委員因經辦調解事件，知悉他人職務上、業務上之秘密或其他涉及個人隱私之事項,應保守秘密。

Article 426

The judge, the court clerk, and the mediators shall keep in confidence all information with regard to another person's professional or business secrets or other matters involving another person's privacy learned by them in the course of handling mediation cases.

第三章 簡易訴訟程序 CHAPTER III SUMMARY PROCEEDING

第 427 條(簡易訴訟程序之標的)

關於財產權之訴訟，其標的之金額或價額在新台幣五十萬元以下者，適用本章所定之簡易程序。

下列各款訴訟，不問其標的金額或價額一律適用簡易程序：

一、因建築物或其他工作物定期租賃或定期借貸關係所生之爭執涉訟者。

Article 427

A summary proceeding as provided in this Chapter shall apply to actions with regard to proprietary rights where the price or claim's value of claim is not more than NTD 500,000.

A summary proceeding shall apply to the following actions irrespective of the price or value of the claim:

1. Actions arising from disputes over a fixed-term lease of a building or other object of work, or from a fixed-term lender-borrower relationship;

二、雇用人與受雇人間，因僱傭契約涉訟，其僱傭期間在一年以下者。
2. Actions between an employer and an employee arising from an employment contract with an employment term of less than one year;

三、旅客與旅館主人、飲食店主人或運送人間，因食宿、運送費或因寄存行李、財物涉訟者。
3. Actions between a guest and the owner of a hotel or the owner of a food and beverage store, or a carrier arising from food/accommodation, freight costs or deposit of baggage or money/property;

四、因請求保護占有涉訟者。
4. Actions arising from the protection of possessions;

五、因定不動產之界線或設置界標涉訟者。
5. Actions arising from the fixing of the boundaries or the demarcation of a real property;

六、本於票據有所請求而涉訟者。
6. Actions arising from claims in a negotiable instrument;

七、本於合會有所請求而涉訟者。
7. Actions arising from claims in a cooperative association;

八、因請求利息、紅利、租金、贍養費、退職金或其他定期給付涉訟者。
8. Actions arising from claims in interest, bonus, rent, alimony, retirement/severance payment, or other periodical payments;

九、因動產租賃或使用借貸關係所生之爭執涉訟者。
9. Actions arising from the lease of personal property or a lender-borrower relationship with respect to the use of personal property;

一○、因第一款至第三款、第六款至第九款所定請求之保證關係涉訟者。
10. Actions arising from the guarantee for the claims provided in the first to the third subparagraphs inclusive and the sixth to the ninth subparagraphs inclusive.

不合於前二項規定之訴訟，得以當事人之合意，適用簡易程序，其合意應以文書證之。
In actions not provided in the two preceding paragraphs, the parties may agree to apply a summary proceeding and such agreement must be evidenced in writing.

不合於第一項及第二項之訴訟，法院適用簡易程序，當事人不抗辯而為本案之言詞辯論者，視為已有前項之合意。
In cases where the court has adopted a summary proceeding to an action which is not provided in the first and the second paragraphs and the parties to such action have proceeded orally on the merits without raising objections, the parties shall be deemed to have reached the agreement provided in the preceding paragraph.

第二項之訴訟，案情繁雜或其訴訟標的金額或價額逾第一項所定額數十倍以上者，法院得依當事人聲請，以裁定改用通常訴訟程序，並由原法官繼續審理。
In the action provided in the second paragraph, where the dispute is complicated or where the price or the claim value exceeds the amount provided in the first paragraph by ten times or more, the court may, on motion, switch to the ordinary proceeding by a ruling and the same judge shall continue adjudicating the case.

前項裁定，不得聲明不服。
The ruling provided in the preceding paragraph is not reviewable.

第一項所定數額，司法院得因情勢需要，以命令減至新台幣二十五萬元，或增至七十五萬元。
Where necessary, the Judicial Yuan may order a reduction in the amount provided in the first paragraph to NTD 250,000 or increase it to NTD 750,000.

第 427-1 條(同一地方法院之事務分配) **Article 427- 1**

同一地方法院適用簡易程序審理之事件，其事務分配辦法由司法院定之。
The Judicial Yuan shall prescribe rules governing the assignment of cases which shall be adjudicated by summary proceeding in the same district court.

第 428 條(言詞起訴) **Article 428**

第二百四十四條第一項第二款所定事項，原告於起訴時得僅表明請求之原因事實。

In initiating an action, the plaintiff may indicate only the transactions or occurrences giving rise to the claim with regard to the matter provided in the second subparagraph of the first paragraph of Article 244.

起訴及其他期日外之聲明或陳述，概得以言詞為之。

Initiation of the action and other statements or representations not presented at court sessions may be made orally.

第 429 條(言詞起訴之送達與就審期間) **Article 429**

以言詞起訴者，應將筆錄與言詞辯論期日之通知書，一併送達於被告。

Where the action is initiated orally, the transcript together with the summons for the oral-argument session shall be served upon the defendant.

就審期間，至少應有五日。但有急迫情形者，不在此限。

The preparation period for the first oral argument session shall be at least five days, except in urgent cases.

第 430 條(通知書應為特別之表明) **Article 430**

言詞辯論期日之通知書，應表明適用簡易訴訟程序，並記載當事人務於期日攜帶所用證物及偕同所舉證人到場。

The summons for the oral-argument session shall indicate that the summary proceeding shall apply to the action and that the parties must appear at the session with the tangible evidence to be introduced and the witnesses to be examined.

第 431 條(準備書狀) **Article 431**

當事人於其聲明或主張之事實或證據，以認為他造非有準備不能陳述者為限，應於期日前提出準備書狀，並得直接通知他造；其以言詞為陳述者，由法院書記官作成筆錄，送達於他造。

The party shall submit and may directly send to the opposing party preparatory pleadings prior to the session with respect to such statements or alleged facts or evidence to which the opposing party cannot respond without preparation; where such statement or allegation is made orally, the court clerk shall prepare a transcript to be served upon the opposing party.

第 432 條(當事人之自行到庭) **Article 432**

當事人兩造於法院通常開庭之日，得不待通知，自行到場，為訴訟之言詞辯論。

The parties may, without waiting for a summons and on their own initiative, appear before the court together during the ordinary court day to present their oral arguments.

前項情形，其起訴應記載於言詞辯論筆錄，並認當事人已有第四百二十七條第三項適用簡易程序之合意。

In the case provided in the preceding paragraph, the initiation of the action shall be indicated in the oral-argument transcript and the parties shall be deemed to have agreed to apply for a summary proceeding as provided in the third paragraph of Article 427.

第 433 條(通知書應為特別之表明) **Article 433**

通知證人或鑑定人，得不送達通知書，依法院認為便宜之方法行之。但證人或鑑定人如不於期日到場，仍應送達通知書。

The court may, in a way which it considers convenient and appropriate, notify the witness or expert witness without serving them with a summons except in cases where such witness or expert witness has failed to appear at the session.

第 433-1 條(簡易訴訟案件之言詞辯論次數) **Article 433- 1**

簡易訴訟程序事件，法院應以一次期日辯論終結為原則。

In actions to which a summary proceeding applies, the court shall in general conclude the oral argument within one single session.

第 433-2 條(言詞辯論之筆錄)

言詞辯論筆錄，經法院之許可，得省略應記載之事項。但當事人有異議者，不在此限。

前項規定，於言詞辯論程式之遵守、捨棄、認諾、撤回、和解、自認及裁判之宣示，不適用之。

Article 433- 2

With the permission of the court, the oral-argument transcript may omit some matters which should be indicated in the ordinary proceeding, except where the party has raised an objection to such omission.

The provision of the preceding paragraph does not apply to such matters as: observance of the oral argument procedure; abandonment of claims; admission of claims; voluntary dismissal; settlement; admission of facts; and announcement of decisions.

第 433-3 條(一造辯論判決)

言詞辯論期日，當事人之一造不到場者，法院得依職權由一造辯論而為判決。

Article 433- 3

Where a party fails to appear at the oral-argument session, the court may, on its own initiative, enter a default judgment.

第 434 條(判決書之記載)

判決書內之事實及理由，得合併記載其要領或引用當事人書狀、筆錄或其他文書，必要時得以之作為附件。

法院亦得於宣示判決時，命將判決主文及其事實、理由之要領，記載於言詞辯論筆錄，不另作判決書；其筆錄正本或節本之送達，與判決正本之送達，有同一之效力。

第二百三十條之規定，於前項筆錄準用之。

Article 434

The written judgment may indicate the purport of the facts and reasons and/or quote the pleadings presented by the parties, the transcript or other documents, which, where necessary, may be annexed thereto as appendices.

The court may, upon announcing the judgment, order the main text of the judgment and the purport of the facts and reasons to be indicated in the oral-argument transcript instead of issuing a written judgment. In such cases, service of an authenticated copy or extract copy of the transcript shall have the same effect as the service of an authenticated copy of a written judgment.

The provision of Article 230 shall apply mutatis mutandis to the transcript provided in the preceding paragraph.

第 434-1 條(判決書僅記載主文之情形)

有下列各款情形之一者，判決書得僅記載主文：

一、本於當事人對於訴訟標的之捨棄或認諾者。

二、受不利判決之當事人於宣示判決時，捨棄上訴權者。

三、受不利判決之當事人於宣示判決時，履行判決所命之給付者。

Article 434- 1

In case of any of the following, the written judgment may only indicate the main text:

1.Where the party has abandoned or admitted the claim;

2.Where the party against whom the judgment is entered expresses his/her waiver of the right to appeal upon the announcement of the judgment;

3.Where the party against whom the judgment is entered performs upon the announcement of the judgment the prestation ordered by the judgment.

第 435 條(簡易程序之變更、追加或反訴)

因訴之變更、追加或提起反訴，致其訴之全部或一部，不屬第四百二十七條第一項及第

Article 435

Where an action, in whole or in part, does not fall within the scope provided in the first and the second paragraphs of Article 427 as a result of an amendment, addition of claims or a counterclaim, and

二項之範圍者，除當事人合意繼續適用簡易程序外，法院應以裁定改用通常訴訟程序，並由原法官繼續審理。
前項情形，被告不抗辯而為本案之言詞辯論者，視為已有適用簡易程序之合意。

except in cases where the parties have agreed to continued application of the summary proceeding, the court shall switch to an ordinary proceeding by a ruling and the same judge shall continue adjudicating the case.
In the case provided in the preceding paragraph, if the defendant has proceeded orally on the merits without raising an objection, the parties shall be deemed to have reached an agreement on continued application of the summary proceeding.

第 436 條(簡易程序之實行)

簡易訴訟程序在獨任法官前行之。
簡易訴訟程序，除本章別有規定外，仍適用第一章通常訴訟程序之規定。

Article 436

A single judge shall conduct a summary proceeding.
Except as otherwise provided by this Chapter, the provisions of Chapter I on an ordinary proceeding shall apply to a summary proceeding.

第 436-1 條(上訴及抗告程序之準用)

對於簡易程序之第一審裁判，得上訴或抗告於管轄之地方法院，其審判以合議行之。
當事人於前項上訴程序，為訴之變更、追加或提起反訴，致應適用通常訴訟程序者，不得為之。
第一項之上訴及抗告程序，準用第四百三十四條第一項、第四百三十四條之一及第三編第一章、第四編之規定。
對於依第四百二十七條第五項規定改用通常訴訟程序所為之裁判，得上訴或抗告於管轄之高等法院。

Article 436- 1

An appeal from a judgment or an appeal from a ruling may be taken from the decision made in the first instance under summary proceeding to the district court having jurisdiction and such appeal shall be adjudicated by the judges sitting in council.
No claim may be amended or added, and no counterclaim may be raised, in the course of the appeal provided in the preceding paragraph if such amendment, addition of claims, or counterclaim will render it necessary to switch to the ordinary proceeding.
The provisions of the first paragraph of Article 434, Article 434-1, Chapter I of Part III, and Part IV shall apply mutatis mutandis to the proceedings of an appeal from a judgment and an appeal from a ruling provided in the first paragraph.
An appeal may be taken to the high court having jurisdiction from decisions made under an ordinary proceeding applied by a switch in accordance with the provision of the fifth paragraph of Article 427.

第 436-2 條(上訴利益逾法定數額之第二審判決的上訴及抗告)

對於簡易訴訟程序之第二審裁判，其上訴利益逾第四百六十六條所定之額數者，當事人僅得以其適用法規顯有錯誤為理由，逕向最高法院提起上訴或抗告。
前項上訴及抗告，除別有規定外，仍適用第三編第二章第三審程序、第四編抗告程序之規定。

Article 436- 2

Where the value of the interests in an appeal from the decision made in the second instance under summary proceeding exceeds the amount provided in Article 466, the party may appeal forthwith to the Supreme Court but only on the ground that there is a manifest error in the application of law in the appealed decision.
Except as otherwise provided, the provisions of Chapter II of Part III on Procedure in The Third Instance and Part IV on Appeals from Rulings shall still apply to the appeal from a judgment and the appeal from a ruling provided in the preceding paragraph.

第 436-3 條(對適用簡易訴訟程序之第二審裁判提起上訴或抗告之限制) **Article 436- 3**

對於簡易訴訟程序之第二審裁判，提起第三審上訴或抗告，須經原裁判法院之許可。

An appeal from a judgment or an appeal from a ruling taken to the third instance from decisions made in the second instance under summary proceeding must be permitted by the original court which entered such decision.

前項許可，以訴訟事件所涉及之法律見解具有原則上之重要性者為限。

The permission provided in the preceding paragraph shall be granted only when the legal opinion involved in the case is significant in principle.

第一項之上訴或抗告，為裁判之原法院認為應行許可者，應添具意見書，敘明合於前項規定之理由，逕將卷宗送最高法院；認為不應許可者，應以裁定駁回其上訴或抗告。

Where the original court which entered such decision considers that the appeal from a judgment or the appeal from a ruling provided in the first paragraph should be permitted, it shall annex a memorandum of opinion stating the reason for granting such permission in accordance with the provision of the preceding paragraph and immediately forward the dossier to the Supreme Court; where it considers that permission shall not be granted, it shall deny such appeal by a ruling.

前項裁定得逕向最高法院抗告。

An appeal may be taken forthwith to the Supreme Court from the ruling provided in the preceding paragraph.

第 436-4 條(依第四百三十六條之二提起上訴或抗告者，應附具理由或補具理由) **Article 436- 4**

依第四百三十六條之二第一項提起上訴或抗告者，應同時表明上訴或抗告理由；其於裁判宣示後送達前提起上訴或抗告者，應於裁判送達後十日內補具之。

The reason for either an appeal from a judgment or an appeal from a ruling taken in accordance with the provision of the first paragraph of Article 436-2 must be stated upon filing such appeal; where such appeal is filed after the appealed decision is announced and before such decision is served, the reason must be supplemented within ten days following the service of the decision.

未依前項規定表明上訴或抗告理由者，毋庸命其補正，由原法院裁定駁回之。

Where the appellant has failed to state the reasons in accordance with the provision of the preceding paragraph, the original court shall dismiss such appeal by a ruling without providing the appellant with an opportunity to rectify.

第 436-5 條(裁定駁回) **Article 436- 5**

最高法院認上訴或抗告，不合第四百三十六條之二第一項及第四百三十六條之三第二項之規定而不應許可者，應以裁定駁回之。

The Supreme Court by a ruling shall deny the appeal from a judgment or an appeal from a ruling if it considers such appeal should not be permitted by reason that such appeal does not conform with the provisions of the first paragraph of Article 436-2 and the second paragraph of Article 436-3.

前項裁定，不得聲請再審。

No motion for rehearing may be made with respect to the ruling provided in the preceding paragraph.

第 436-6 條(經裁定駁回者，不得以同一理由提起再審之訴或聲請再審) **Article 436- 6**

對於簡易訴訟程序之裁判，逕向最高法院提起上訴或抗告，

In cases where an appeal from a judgment or an appeal from a ruling taken forthwith to the Supreme Court from a decision made

經以上訴或抗告無理由為駁回之裁判者，不得更以同一理由提起再審之訴或聲請再審。

under summary proceeding is denied on the merits, the appellant may not initiate a rehearing action or move for rehearing on the same ground.

第 436-7 條(得提起再審之訴或聲請再審之事由)

Article 436- 7

對於簡易訴訟程序之第二審確定終局裁判，如就足影響於裁判之重要證物，漏未斟酌者，亦得提起再審之訴或聲請再審。

Where material tangible evidence which may affect the decision has been omitted from consideration, a rehearing action may be initiated or a motion for rehearing may be filed with respect to the final and binding decision made in the second instance under summary proceeding.

第四章 小額訴訟程序

IV SMALL-CLAIM PROCEEDING

第 436-8 條(適用小額程序之事件或不適用者之處理)

Article 436- 8

關於請求給付金錢或其他代替物或有價證券之訴訟，其標的金額或價額在新台幣十萬元以下者，適用本章所定之小額程序。

Where the action is for the payment of money, other replaceable objects or securities and the price or claim value is not more than NTD 100,000, then the provisions of this Chapter on Small-Claim Proceedings shall apply.

法院認適用小額程序為不適當者，得依職權以裁定改用簡易程序，並由原法官繼續審理。

Where the court considers it inappropriate for a Small-Claim Proceeding to apply, it may, on its own initiative, switch to a summary proceeding by a ruling, and the original judge shall continue adjudicating the case.

前項裁定，不得聲明不服。

The ruling provided in the preceding paragraph is not reviewable.

第一項之訴訟，其標的金額或價額在新台幣五十萬元以下者，得以當事人之合意適用小額程序，其合意應以文書證之。

In an action provided in the first paragraph, where the price or claim value is not more than NTD 500,000, the parties may agree to apply a Small-Claim Proceeding and such agreement shall be evidenced in writing.

第 436-9 條(約定債務履行地或合意管轄)

Article 436- 9

小額事件當事人之一造為法人或商人者，於其預定用於同類契約之條款，約定債務履行地或以合意定第一審管轄法院時，不適用第十二條或第二十四條之規定。但兩造均為法人或商人者，不在此限。

In cases where a party to a Small-Claim Proceeding is a juridical person or a merchant and it has, by the standard contract that it uses, designated either the place of performance of obligations or a court of the first instance to exercise jurisdiction, the provisions of Article 12 or Article 24 shall not apply, except when both parties to such action are juridical persons or merchants.

第 436-10 條(使用表格化訴狀)

Article 436-10

依小額程序起訴者，得使用表格化訴狀；其格式由司法院定之。

The plaintiff of an action initiated under a Small-Claim Proceeding may use the standard complaint form prescribed by the Judicial Yuan.

第 436-11 條(得於夜間或休息日進行程序)

Article 436-11

小額程序，得於夜間或星期日或其他休息日行之。但當事人提出異議者，不在此限。
前項於夜間或星期日或其他休息日之開庭規則，由司法院定之。

A Small-Claim Proceeding may be conducted in the evening hours, on Sundays, or other days off, except as may be objected to by a party.
The Judicial Yuan shall prescribe the rules governing the court sessions held in evening hours, on Sundays or other days off provided in the preceding paragraph.

第 436-12 條(調解期日不到場之效果)

Article 436-12

第四百三十六條之八所定事件，依法應行調解程序者，如當事人一造於調解期日五日前，經合法通知無正當理由而不於調解期日到場，法院得依到場當事人之聲請，命即為訴訟之辯論，並得依職權由其一造辯論而為判決。
調解期日通知書，並應記載前項不到場之效果。

In matters provided in Article 436-8, where a mediation proceeding is required by the operation of law, and a party, without giving a justifiable reason, failed to appear at the mediation session after being duly notified to do so five days prior to the session, the court may, on a motion by the party appearing, order oral argument to be conducted immediately and may, on its own initiative, enter a default judgment.

The summons for a mediation session shall indicate the legal consequence of a failure to appear provided in the preceding paragraph.

第 436-13 條

Article 436-13

(刪除)

(Repealed.)

第 436-14 條(不調查證據之情形)

Article 436-14

有下列各款情形之一者，法院得不調查證據，而審酌一切情況，認定事實，為公平之裁判：
一、經兩造同意者。
二、調查證據所需時間、費用與當事人之請求顯不相當者。

In the case of any of the following, the court may, taking all circumstances into consideration and without taking evidence, find the facts and enter an equitable decision:
1.Where both parties agree;
2.Where the time and cost for taking evidence is manifestly disproportional to the claim demanded.

第 436-15 條(訴之變更、追加或提起反訴之適用)

Article 436-15

當事人為訴之變更、追加或提起反訴，除當事人合意繼續適用小額程序並經法院認為適當者外，僅得於第四百三十六條之八第一項之範圍內為之。

The parties may amend the claim, raise an additional claim or a counterclaim only to the extent permitted by the first paragraph of Article 436-8, except where the parties have agreed on a continued application of a Small-Claim Proceeding and the court also considers it appropriate to do so.

第 436-16 條(不得為適用小額程序而為一部請求)

Article 436-16

當事人不得為適用小額程序而為一部請求。但已向法院陳明就其餘額不另起訴請求者，不在此限。

A claim may not be divided for the purpose of applying a Small-Claim Proceeding except where the claimant party has represented to the court that he/she will not initiate another action with regard to the remainder of such claim.

第 436-17 條

Article 436-17

(刪除)

(Repealed.)

第 436-18 條(簡化判決書)

判決書得僅記載主文，就當事人有爭執事項，於必要時得加記理由要領。

前項判決得於訴狀或言詞起訴筆錄上記載之。

前二項判決之記載得表格化，其格式及正本之製作方式，由司法院定之。

Article 436-18

A written judgment may only indicate the main text and, where necessary, note the purport of the reason with regard to the issues disputed by the parties.

The judgment provided in the preceding paragraph may be written in the complaint or the transcript where the initiation of an action is made orally.

The judgment provided in the two preceding paragraphs may be indicated in a standard form. The Judicial Yuan shall prescribe the standard form and the production of an authenticated copy thereof.

第 436-19 條(訴訟費用額之計算及文書)

法院為訴訟費用之裁判時，應確定其費用額。

前項情形，法院得命當事人提出費用計算書及釋明費用額之文書。

Article 436-19

The court shall, in deciding the responsibility for court costs, fix the amount thereof.

For purposes provided in the preceding paragraph, the court may order the parties to present the calculation of expenses in writing along with documents sufficient to make a preliminary showing of the amount of such expenses.

第 436-20 條(假執行)

法院為被告敗訴之判決時，應依職權宣告假執行。

Article 436-20

The court shall, on its own initiative, upon entering a judgment against the defendant, declare a provisional execution.

第 436-21 條(按期清償及免除部分給付)

法院命被告為給付時，如經原告同意，得為被告於一定期限內自動清償者，免除部分給付之判決。

Article 436-21

In ordering a defendant to perform the prestation claimed, the court, with the plaintiff's consent, may relieve the defendant from part of the prestation in the judgment on the condition that the defendant voluntarily performs the prestation within a designated period.

第 436-22 條(逾期不履行分期給付或緩期清償)

法院依被告之意願而為分期給付或緩期清償之判決者，得於判決內定被告逾期不履行時應加給原告之金額。但其金額不得逾判決所命原給付金額或價額之三分之一。

Article 436-22

In cases where the court enters a judgment allowing either the performance of prestation by installments or a grace period according to the defendant's request, the court may designate the additional amount that the defendant shall pay to plaintiff in case the defendant defaults in its performance. Notwithstanding, such additional amount shall not exceed one third of the amount awarded by the judgment.

第 436-23 條(小額程序之準用)

第四百二十八條至第四百三十一條、第四百三十二條第一項、第四百三十三條至第四百三十四條之一及第四百三十六條之規定,於小額程序準用之。

Article 436-23

The provisions of Article 428 to Article 431 inclusive, the first paragraph of Article 432, Article 433 to Article 434-1 inclusive and Article 436 shall apply mutatis mutandis to Small-Claim Proceedings.

第 436-24 條(第一審判決之上訴或抗告) **Article 436-24**

對於小額程序之第一審裁判，得上訴或抗告於管轄之地方法院，其審判以合議行之。

An appeal from a judgment or an appeal from a ruling may be taken from the decision made in the first instance under a Small-Claim Proceeding to the district court having jurisdiction, and such appeal shall be adjudicated by judges sitting in council.

對於前項第一審裁判之上訴或抗告，非以其違背法令為理由，不得為之。

No appeal may be taken from the decision made in the first instance as provided in the preceding paragraph except on the grounds that such decision is in contravention of the laws and regulations.

第 436-25 條(上訴狀之記載事項) **Article 436-25**

上訴狀內應記載上訴理由，表明下列各款事項：
一、原判決所違背之法令及其具體內容。
二、依訴訟資料可認為原判決有違背法令之具體事實。

The notice of appeal shall indicate the reasons for the appeal and specify the following matters:
1.The laws and regulations which the original judgment contravened and the specific content thereof;
2.Specific facts, as revealed by the litigation materials, which may lead to a finding that the original judgment is in contravention of said laws and regulations.

第 436-26 條(發回原法院或自為裁判) **Article 436-26**

應適用通常訴訟程序或簡易訴訟程序事件，而第一審法院行小額程序者，第二審法院得廢棄原判決，將該事件發回原法院。但第四百三十六條之八第四項之事件，當事人已表示無異議或知其違背或可得而知其違背，並無異議而為本案辯論者，不在此限。

In cases where an ordinary proceeding or summary proceeding should apply and the court of first instance has erroneously applied a Small-Claim Proceeding, the court of second instance may reverse the original judgment and remand the case to the original court, except in cases provided in the fourth paragraph of Article 436-8 when the party has expressed no objection, or he/she knows or should have known such error but has proceeded orally on the merits without raising any objection.

前項情形，應予當事人陳述意見之機會，如兩造同意由第二審法院繼續適用小額程序者，應自為裁判。

In the case provided in the preceding paragraph, the parties shall be accorded an opportunity to be heard. Where both parties agree that the court of second instance can continue adjudicating the action under a Small-Claim Proceeding, the court shall decide on the case.

第一項之判決，得不經言詞辯論為之。

The judgment provided in the first paragraph may be entered without oral argument.

第 436-27 條(訴之變更、追加或提起反訴) **Article 436-27**

當事人於第二審程序不得為訴之變更、追加或提起反訴。

No party may amend the claim, raise an additional claim, or counterclaim in the proceeding in the second instance.

第 436-28 條(新攻擊或防禦方法之提出) **Article 436-28**

當事人於第二審程序不得提出新攻擊或防禦方法。但因原法院違背法令致未能提出者，不

No party may present additional means of attack or defense in the proceeding in the second instance, except in cases where such means of attack or defense were prevented from being presented as

在此限。

a result of the lower court acting in contravention of the laws and regulations.

第 436-29 條(言詞辯論之例外)

小額程序之第二審判決，有下列情形之一者，得不經言詞辯論為之：

一、經兩造同意者。

二、依上訴意旨足認上訴為無理由者。

Article 436-29

In case of any of the following, the judgment in the second instance under a Small-Claim Proceeding may be entered without oral argument:

1.Where both parties agree;

2.Where the import of the appeal sufficiently shows that the appeal is meritless.

第 436-30 條(第二審裁制不得上訴或抗告)

對於小額程序之第二審裁判，不得上訴或抗告。

Article 436-30

No appeal from either a judgment or an appeal from a ruling may be taken from the decision made in the second instance under a Small-Claim Proceeding.

第 436-31 條(上訴或抗告駁回，不得以同理由提起再審)

對於小額程序之第一審裁判，提起上訴或抗告，經以上訴或抗告無理由為駁回之裁判者，不得更以同一理由提起再審之訴或聲請再審。

Article 436-31

Where an appeal from a judgment or an appeal from a ruling taken from a decision made in the first instance under a Small-Claim Proceedings has been denied on the merits, no rehearing action may be initiated and no motion for rehearing may be filed on the same ground.

第 436-32 條(上訴、抗告、再審程序之準用)

第四百三十六條之十四、第四百三十六條之十九、第四百三十六條之二十一及第四百三十六條之二十二之規定，於小額事件之上訴程序準用之。

第四百三十八條至第四百四十五條、第四百四十八條至第四百五十條、第四百五十四條、第四百五十五條、第四百五十九條、第四百六十二條、第四百六十三條、第四百六十八條、第四百六十九條第一款至第五款、第四百七十一條至第四百七十三條及第四百七十五條第一項之規定，於小額事件之上訴程序準用之。

第四編之規定，於小額事件之抗告程序準用之。

第五編之規定，於小額事件之再審程序準用之。

Article 436-32

The provisions of Article 436-14, Article 436-19, Article 436-21 and Article 436-22 shall apply mutatis mutandis to the appellate proceeding of small-claim actions.

The provisions of Article 438 to 445 inclusive, Article 448 to Article 450 inclusive, Article 454, Article 455, Article 459, Article 462, Article 463, Article 468, subparagraphs 1 to 5 inclusive of Article 469, Article 471 to Article 473 inclusive, and the first paragraph of Article 475 shall apply mutatis mutandis to the appellate proceeding of small-claim actions.

The provisions of Part IV shall apply mutatis mutandis to the proceeding of appeals from rulings of small-claim actions.

The provisions of Part V shall apply mutatis mutandis to the rehearing proceeding of small-claim actions.

第三編 上訴審程序 PART III APPELLATE PROCEDURE

第一章 第二審程序 CHAPTER I PROCEDURE IN THE SECOND INSTANCE

第 437 條(第二審上訴之特別要件) **Article 437**

對於第一審之終局判決，除別有規定外，得上訴於管轄第二審之法院。

Except as otherwise provided, an appeal may be taken from the final judgment entered in the first instance to the court of second instance having jurisdiction.

第 438 條(第二審上訴之範圍) **Article 438**

前條判決前之裁判，牽涉該判決者，並受第二審法院之審判。但依本法不得聲明不服或得以抗告聲明不服者，不在此限。

Decisions made prior to the entry of the judgment provided in the preceding article and involving such judgment shall be subject to the review by the court of second instance, except those decisions which are not reviewable or from which an interlocutory appeal may be taken in accordance with the provisions of this Code.

第 439 條(上訴權之捨棄) **Article 439**

當事人於第一審判決宣示、公告或送達後，得捨棄上訴權。

當事人於宣示判決時，以言詞捨棄上訴權者，應記載於言詞辯論筆錄；如他造不在場，應將筆錄送達。

A party may waive the right to appeal from a judgment entered in the first instance after such judgment is announced, published, or served.

Waiver of the right to appeal from the judgment made orally by the party upon the announcement of the judgment shall be indicated in the oral-argument transcript, and in case the opposing party is not present, such transcript shall be served on the opposing party.

第 440 條(上訴期間) **Article 440**

提起上訴，應於第一審判決送達後二十日之不變期間內為之。但宣示或公告後送達前之上訴，亦有效力。

An appeal from a judgment entered in the first instance must be filed within the peremptory period of twenty days following the service of such judgment. Notwithstanding, an appeal is also effective when taken after the judgment is announced or published and before it is served.

第 441 條(上訴之程式) **Article 441**

提起上訴，應以上訴狀表明下列各款事項，提出於原第一審法院為之：

一、當事人及法定代理人。

二、第一審判決及對於該判決上訴之陳述。

三、對於第一審判決不服之程度，及應如何廢棄或變更之聲明。

四、上訴理由。

上訴理由應表明下列各款事項：

一、應廢棄或變更原判決之理由。

An appeal must be filed with a notice of appeal, which notice shall specify the following matters and be submitted to the original court of first instance:

1. The parties and their statutory agents;

2. The judgment entered in the first instance and a statement that the appeal is taken from such judgment;

3. The extent of appeal and the demand how such judgment should be reversed or amended; and

4. The basis for the appeal.

The basis for the appeal shall specify the following matters:

1. The reasons why the original judgment should be reversed or amended;

二、關於前款理由之事實及證據。

2. Facts and evidence in support of the basis provided in the preceding subparagraph.

第 442 條(原審對不合法上訴之處置)

Article 442

提起上訴，如逾上訴期間或係對於不得上訴之判決而上訴者，原第一審法院應以裁定駁回之。

Where the appeal is filed after the expiration of the appeal period or is taken from a judgment from which no appeal is allowed, the original court of first instance shall dismiss it by a ruling.

上訴不合程式或有其他不合法之情形而可以補正者，原第一審法院應定期間命其補正，如不於期間內補正，應以裁定駁回之。

Where the appeal fails the prescribed formality or other legal requirements and such failure is rectifiable, the original court of first instance shall order the appellant to rectify such failure within a period to be designated by the court and dismiss such appeal if the appellant fails to do so.

上訴狀未具上訴理由者，不適用前項之規定。

The provision of the preceding paragraph does not apply where the appellant has failed to specify the reason for the appeal in the notice of appeal.

第 443 條(上訴狀之送達)

Article 443

上訴未經依前條規定駁回者，第一審法院應速將上訴狀送達被上訴人。

If an appeal is not dismissed in accordance with the provision of the preceding Article, then the court of first instance shall promptly serve the notice of appeal upon the appellee.

各當事人均提起上訴，或其他各當事人之上訴期間已滿後，第一審法院應速將訴訟卷宗連同上訴狀及其他有關文件送交第二審法院。

In cases where one or more parties each have filed an appeal, or where the period for the other parties to file an appeal has expired, the court of the first instance shall promptly forward the dossier, the notice of appeal and other relevant documents to the court of second instance.

前項應送交之卷宗，如為第一審法院所需者，應自備繕本、影本或節本。

The court of first instance shall, where necessary, for its own use, prepare a written copy, photocopy, or extract copy of the dossier to be forwarded in accordance with the provision of the preceding paragraph.

第 444 條(第二審對不合法上訴之處置)

Article 444

上訴不合法者，第二審法院應以裁定駁回之。但其情形可以補正者，審判長應定期間先命補正。

If an appeal is not in conformity with the law the court of second instance shall dismiss the appeal by a ruling. Notwithstanding, where such defect is rectifiable, the presiding judge shall order rectification within the period he/she designates.

上訴不合法之情形，已經原第一審法院定期間命其補正而未補正者，得不行前項但書之程序。

In cases where the original court of first instance has ordered rectification within the period it designated of an appeal not in conformity with the law, and the appellant has failed to do so, the procedure provided in the proviso of the preceding paragraph may be disregarded.

第 444-1 條(上訴理由書、答辯狀之提出)

Article 444- 1

上訴狀內未表明上訴理由者，審判長得定相當期間命上訴人提出理由書。

Where the notice of appeal does not specify the reason for an appeal, the presiding judge may order the appellant to submit the reason in writing within the period he/she designates.

上訴人提出理由書後，除應依前條規定駁回者外，第二審法院應速將上訴理由書送達被上訴人。

Except in cases where the appeal is dismissed in accordance with the provision of the preceding article, the court of second instance shall promptly serve upon the appellee such reason in writing.

審判長得定相當期間命被上訴人提出答辯狀，及命上訴人就答辯狀提出書面意見。

The presiding judge may order the appellee to submit an answer and the appellant to respond to appellee's answer within an appropriate period that he/she designates.

當事人逾第一項及前項所定期間提出書狀者，法院得命該當事人以書狀說明其理由。

Where the party fails timely to submit the pleadings ordered within the period provided in the first paragraph and the preceding paragraph, the court may order such party to explain the reason by pleadings.

當事人未依第一項提出上訴理由書或未依前項規定說明者，第二審法院得準用第四百四十七條之規定，或於判決時依全辯論意旨斟酌之。

Where the party fails timely to submit the reason for appeal in writing in accordance with the provision of the first paragraph or fails to explain in accordance with the provision of the preceding paragraph, the court of second instance may apply the provision of Article 447 mutatis mutandis or take such fact as part of the entire import of oral argument in forming its decision.

第 445 條(言詞辯論之範圍)

言詞辯論，應於上訴聲明之範圍內為之。

當事人應陳述第一審言詞辯論之要領。但審判長得令書記官朗讀第一審判決、筆錄或其他卷內文書代之。

Article 445

Oral argument shall be conducted within the scope of the demand of the appeal.

The parties shall state the purport of the oral argument presented in the first instance. Notwithstanding, the presiding judge may, in lieu thereof, order the court clerk to read aloud the judgment, transcript, or other document in the dossier of the court of first instance.

第 446 條(訴之變更、追加或提起反訴之限制)

訴之變更或追加，非經他造同意，不得為之。但第二百五十五條第一項第二款至第六款情形，不在此限。

提起反訴，非經他造同意，不得為之。但有下列各款情形之一者，不在此限：

一、於某法律關係之成立與否有爭執，而本訴裁判應以該法律關係為據，並請求確定其關係者。

二、就同一訴訟標的有提起反訴之利益者。

三、就主張抵銷之請求尚有餘額部分，有提起反訴之利益者。

Article 446

No amendment or addition of claims may be made without the opposing party's consent, except in the cases provided in the second to the sixth subparagraphs inclusive of the first paragraph of Article 255.

No counterclaim may be raised without the opposing party's consent except in case of any of the following:

1. Where the existence or nonexistence of a certain legal relation, based upon which relation the principal action should be decided, becomes disputed and the new counterclaim seeks to confirm such legal relation;
2. Where the claimant has interests in raising a counterclaim from the same subject matter of the original claim;
3. Where the claimant has interests in raising a counterclaim with respect to the balance as a result of a setoff raised.

第 447 條(第一審之續行)

當事人不得提出新攻擊或防禦方法。但有下列情形之一者，不在此限：

一、因第一審法院違背法令致

Article 447

No additional means of attack or defense shall be presented, except in case of any of the following:

1. Where such additional means of attack or defense were prevented from being presented as a result of the court of first instance acting

未能提出者。
二、事實發生於第一審法院言詞辯論終結後者。
三、對於在第一審已提出之攻擊或防禦方法為補充者。
四、事實於法院已顯著或為其職務上所已知或應依職權調查證據者。
五、其他非可歸責於當事人之事由，致未能於第一審提出者。
六、如不許其提出顯失公平者。

in contravention of the laws and regulations;
2. Where the occurrences giving rise to such additional means of attack or defense took place after the conclusion of oral argument in the court of first instance;
3. Where additional means of attack or defense are presented for purposes of supplementing those already presented in the first instance;
4. Where the occurrences giving rise to such additional means of attack or defense are generally known or known to the court in the course of performing its functions, or the court should take evidence on its own initiative with regard to such occurrences;
5. Where the party was unable to present such additional means of attack or defense due to reasons not imputable to him/her;
6. Where it would be manifestly unfair to prevent the party from presenting such additional means of attack or defense.

前項但書各款事由，當事人應釋明之。

The party shall make a preliminary showing of the existence of one or more of the circumstance provided in the proviso of the preceding paragraph.

違反前二項之規定者，第二審法院應駁回之。

The court of second instance shall reject any additional means of attack or defense presented in violation of the provision of the two preceding paragraphs.

第 448 條(第一審之續行(二))

在第一審所為之訴訟行為，於第二審亦有效力。

Article 448

Acts of litigation conducted in the first instance will remain operative in the second instance.

第 449 條(上訴無理由之判決)

第二審法院認上訴為無理由者，應為駁回之判決。
原判決依其理由雖屬不當，而依其他理由認為正當者，應以上訴為無理由。

Article 449

The court of second instance shall enter a judgment denying the appeal if it finds such appeal meritless.
An appeal shall be considered meritless where the judgment from which the appeal has been taken is found erroneous according to the reason given in such judgment but is found just according to other reasons.

第 449-1 條(上訴無理由或延滯訴訟之處罰)

第二審法院依前條第一項規定駁回上訴時，認上訴人之上訴顯無理由或僅係以延滯訴訟之終結為目的者，得處上訴人新臺幣六萬元以下之罰鍰。

前項裁定得為抗告，抗告中應停止執行。

Article 449- 1

In cases where the appeal is denied by the court of second instance in accordance with the provision of the first paragraph of the preceding article, if such appeal is found to be manifestly meritless or has been taken for the sole purpose of delaying the conclusion of the litigation proceeding, the court may impose upon the appellant a fine not exceeding NTD 60,000.
An appeal may be taken from the ruling provided in the preceding paragraph; the execution shall be stayed pending such appeal.

第 450 條(上訴有理由之判決)

第二審法院認上訴為有理由者，應於上訴聲明之範圍內，為廢棄或變更原判決之判決。

Article 450

Where the appeal is found meritorious, the court of second instance shall, within the scope of the demand made by appeal, enter a judgment to reverse or amend the original judgment.

第 451 條(廢棄原判決 - 將事件發回原法院或自為判決) **Article 451**

第一審之訴訟程序有重大之瑕疵者，第二審法院得廢棄原判決，而將該事件發回原法院。但以因維持審級制度認為必要時為限。

In case of a material defect in the litigation proceeding of the first instance, the court of second instance may reverse the original judgment and remand the case to the original court, provided that such action is considered necessary for purposes of maintaining the system of court instances.

前項情形，應予當事人陳述意見之機會，如兩造同意願由第二審法院就該事件為裁判者，應自為判決。

In the case provided in the preceding paragraph, the parties shall be accorded an opportunity to be heard. Where both parties agree that the court of second instance should adjudicate the case, it shall enter a judgment accordingly.

依第一項之規定廢棄原判決者，其第一審訴訟程序有瑕疵之部分，視為亦經廢棄。

In the case of the reversal of the original judgment as provided in the first paragraph, the defect in the litigation proceeding of the first instance shall be deemed reversed as well.

第 451-1 條(不得廢棄原判決之情形) **Article 451- 1**

應適用簡易訴訟程序之事件，第二審法院不得以第一審法院行通常訴訟程序而廢棄原判決。

In a matter to which a summary proceeding should have been applied, the court of second instance must not reverse the original judgment on the ground that the court of first instance applied an ordinary proceeding to such matter.

前項情形，應適用簡易訴訟事件第二審程序之規定。

In the case provided in the preceding paragraph, the provisions regulating the proceeding of the second instance applicable to summary proceeding shall apply.

第 452 條(廢棄原判決(二) - 將事件移送於管轄法院者) **Article 452**

第二審法院不得以第一審法院無管轄權而廢棄原判決。但違背專屬管轄之規定者，不在此限。

The court of second instance must not reverse the original judgment by reason that the court of first instance lacked jurisdiction except in cases of intrusion of the exclusive jurisdiction of another court.

因第一審法院無管轄權而廢棄原判決者，應以判決將該事件移送於管轄法院。

Where the original judgment is reversed on the ground that the court of first instance lacked jurisdiction, the court of second instance by a judgment shall transfer the case to the court with jurisdiction.

第 453 條(言詞審理之例外) **Article 453**

第四百五十一條第一項及前條第二項之判決，得不經言詞辯論為之。

The judgment provided in the first paragraph of Article 451 and the second paragraph of the preceding article may be entered without oral argument.

第 454 條(第一審判決事實之引用) **Article 454**

判決書內應記載之事實，得引用第一審判決。當事人提出新攻擊或防禦方法者，應併記載之。

The facts to be indicated in the written judgment may be quoted from the judgment of the first instance. Additional means of attack or defense presented by the parties, if any, shall be indicated in the written judgment.

判決書內應記載之理由，如第二審關於攻擊或防禦方法之意

Where the opinions with regard to the means of attack or defense and the legal opinion held by the court of second instance are the

見及法律上之意見與第一審判決相同者，得引用之；如有不同者，應另行記載。關於當事人提出新攻擊或防禦方法之意見，應併記載之。

same as those indicated in the judgment of the first instance, the reasons to be indicated in the written judgment may be quoted from the judgment of the first court instance; opinions that are different from those noted in the judgment of the first instance shall be so indicated. The written judgment shall also indicate opinions with regard to any additional means of attack or defense presented by the parties.

第 455 條(假執行上訴之辯論及裁判)

Article 455

第二審法院應依聲請，就關於假執行之上訴，先為辯論及裁判。

The court of second instance shall, on motion, conduct oral argument and make decisions with regard to the appeal, if any, taken from the declaration of a provisional execution.

第 456 條(裁定宣告假執行)

Article 456

第一審判決未宣告假執行或宣告附條件之假執行者，其未經聲明不服之部分，第二審法院應依當事人之聲請，以裁定宣告假執行。

第二審法院認為上訴人係意圖延滯訴訟而提起上訴者，應依被上訴人聲請，以裁定就第一審判決宣告假執行；其逾時始行提出攻擊或防禦方法可認為係意圖延滯訴訟者，亦同。

In cases where the judgment of the first instance does not declare a provisional execution or declares a conditional provisional execution, the court of second instance shall, on motion, issue a ruling declaring a provisional execution with respect to the portion of the judgment for which no request for review has been made.

Where the court of second instance is of the opinion that the appellant has filed the appeal with the attempt to delay the conclusion of the litigation proceeding, it shall, on motion of the appellee, issue a ruling declaring a provisional execution to the judgment of the first instance. The same principle shall apply where the appellant has presented his/her means of attack or defense in a dilatory matter for purposes of delaying the conclusion of the litigation proceeding.

第 457 條(財產權訴訟之宣告假執行)

Article 457

關於財產權之訴訟，第二審法院之判決，維持第一審判決者，應於其範圍內，依聲請宣告假執行。

前項宣告假執行，如有必要，亦得以職權為之。

In actions arising from proprietary rights, where the court of second instance affirms the judgment of the first instance, the court shall, on motion, declare a provisional execution to the extent that such judgment is affirmed.

Where necessary, the court of second instance may declare a provisional execution provided in the preceding paragraph on its own initiative.

第 458 條(假執行之裁判不得聲明不服)

Article 458

對第二審法院關於假執行之裁判，不得聲明不服。但依第三百九十五條第二項及第三項所為之裁判，不在此限。

A decision with regard to the declaration of a provisional execution by the court of second instance is not reviewable except when such decision is made in accordance with the provisions of the second and the third paragraphs of Article 395.

第 459 條(上訴之撤回)

Article 459

上訴人於終局判決前，得將上訴撤回。但被上訴人已為附帶

The appellant may voluntarily dismiss the appeal before the final judgment is entered. Notwithstanding, where the appellee has filed

上訴者，應得其同意。

an incidental appeal, the appellant cannot voluntarily dismiss the appeal without the appellee's consent.

訴訟標的對於共同訴訟之各人必須合一確定者，其中一人或數人於提起上訴後撤回上訴時，法院應即通知視為已提起上訴之共同訴訟人，命其於十日內表示是否撤回，逾期未為表示者，視為亦撤回上訴。

Where the claim must be adjudicated jointly with regard to all co-parties, if one or more of the co-parties voluntarily dismiss the appeal, the court shall immediately notify such fact to the co-parties who are deemed to have filed such appeal together and order them to express whether or not they will voluntarily dismiss their appeal within ten days. If they fail to do so within such period, they shall be deemed to have also voluntarily dismissed their appeal.

撤回上訴者，喪失其上訴權。

An appellant who voluntarily dismissed his/her appeal shall lose the right to appeal.

第二百六十二條第二項至第四項之規定，於撤回上訴準用之。

The provisions of the second to the fourth paragraphs inclusive of Article 262 shall apply mutatis mutandis to the voluntary dismissal of appeals.

第 460 條(附帶上訴之提起)

被上訴人於言詞辯論終結前，得為附帶上訴。但經第三審法院發回或發交後，不得為之。

附帶上訴，雖在被上訴人之上訴期間已滿，或曾捨棄上訴權或撤回上訴後，亦得為之。

第二百六十一條之規定，於附帶上訴準用之。

Article 460

The appellee may file an incidental appeal prior to the conclusion of oral argument, except in cases where the proceeding arises from a case remanded or transferred by the court of third instance.

An incidental appeal may be filed irrespective of the expiration of the period for appeal by the appellee, or appellee's waiver of the right to appeal or voluntary dismissal of appeal.

The provision of Article 261 shall apply mutatis mutandis to incidental appeals.

第 461 條(附帶上訴之效力)

上訴經撤回或因不合法而被駁回者，附帶上訴失其效力。但附帶上訴備上訴之要件者，視為獨立之上訴。

Article 461

Where the appeal is voluntarily dismissed or dismissed on the ground that it is not filed in conformity with the law, the incidental appeal shall be inoperative. Notwithstanding, an incidental appeal satisfying the requirement of an ordinary appeal shall be deemed an independently operative appeal.

第 462 條(上訴事件終結後對卷宗之處理)

上訴因判決而終結者，第二審法院書記官應於判決確定後，速將判決正本附入卷宗，送交第一審法院。

前項規定，於上訴之非因判決而終結者，準用之。

Article 462

Where the appeal is concluded by virtue of a judgment entered, the court clerk of the court of second instance shall promptly include the authenticated copy of the judgment into the dossier after such judgment has become final and binding and forward the dossier to the court of first instance.

The provision of the preceding paragraph shall apply mutatis mutandis to appeals concluded by reasons other than a judgment entered.

第 463 條 (第一審程序之準用)

除本章別有規定外，前編第一章之規定，於第二審程序準用之。

Article 463

Except as otherwise provided in this Chapter, the provisions of Chapter I of the preceding Part shall apply mutatis mutandis to the procedure in the second instance.

第 463 條 (99 年現行規定)

除本章別有規定外，前編第一章、第二章之規定，於第二審程序準用之。

第二章 第三審程序 CHAPTER II PROCEDURE IN THE THIRD INSTANCE

第 464 條(第三審上訴之特別要件) **Article 464**

對於第二審之終局判決，除別有規定外，得上訴於管轄第三審之法院。

Except as otherwise provided, an appeal may be taken from the final judgment of a court of second instance to the court of third instance with jurisdiction.

第 465 條(不得上訴之規定(一)－未於第二審聲明不服) **Article 465**

對於第一審判決，或其一部未經向第二審法院上訴，或附帶上訴之當事人，對於維持該判決之第二審判決，不得上訴。

A party who did not file an appeal or an incidental appeal from the judgment, or a part thereof, of the first instance to the court of second instance may not take an appeal to a court of third instance from a judgment of a court of second instance, affirming the judgment of a court of first instance.

第 466 條(上訴利益之計算) **Article 466**

對於財產權訴訟之第二審判決，如因上訴所得受之利益，不逾新台幣一百萬元者，不得上訴。

No appeal may be taken from the judgment of a court of second instance on an action arising from proprietary rights when the value of the interests in such appeal is not more than NTD 1,000,000.

對於第四百二十七條訴訟，如依通常訴訟程序所為之第二審判決，仍得上訴於第三審法院。其因上訴所得受之利益不逾新台幣一百萬元者，適用前項規定。

In the cases provided in Article 427, where the judgment of a court of second instance is entered under an ordinary proceeding, an appeal may still be taken to the court of third instance from such judgment. The provision of the preceding paragraph shall apply where the value of the interests in such appeal is not more than NTD 1,000,000.

前二項所定數額，司法院得因情勢需要，以命令減至新台幣五十萬元，或增至一百五十萬元。

Where necessary, the Judicial Yuan may, by an order, reduce the amount provided in the two preceding paragraphs to NTD 500,000, or increase it to NTD 1,500,000.

計算上訴利益，準用關於計算訴訟標的價額之規定。

The provisions regarding the accounting of the value of a claim shall apply mutatis mutandis to the accounting of the value of interests in an appeal.

第 466-1 條(訴訟代理人之委任) **Article 466- 1**

對於第二審判決上訴，上訴人應委任律師為訴訟代理人。但上訴人或其法定代理人具有律師資格者，不在此限。

Unless the appellant or his/her statutory agent himself/herself is qualified to act as an attorney, an appellant shall appoint an attorney as his/her advocate in the appeal from the judgment of a court of second instance. .

上訴人之配偶、三親等內之血親、二親等內之姻親，或上訴人為法人、中央或地方機關

In cases where the spouse, or a relative by blood within the third degree or a relative by marriage within the second degree to the appellant is qualified to act as an attorney, and in cases where the

時，其所屬專任人員具有律師資格並經法院認為適當者，亦得為第三審訴訟代理人。

appellant is a juridical person or a central or local government agency and has a full-time personnel who is qualified to act as an attorney, such persons may act as the advocate for the appellant in the third instance if the court considers it appropriate to permit such appointment.

第一項但書及第二項情形，應於提起上訴或委任時釋明之。

In the situation provided in the provisos of the first paragraph and the second paragraph, the appellant shall make a preliminary showing either upon appeal or upon appointing the advocate.

上訴人未依第一項、第二項規定委任訴訟代理人，或雖依第二項委任，法院認為不適當者，第二審法院應定期先命補正。逾期未補正亦未依第四百六十六條之二為聲請者，第二審法院應以上訴不合法裁定駁回之。

Where the appellant fails to appoint his/her advocate in accordance with the provisions of the first and the second paragraphs, or he/she has appointed an advocate in accordance with the provision of the second paragraph but the court denies the appointment by reason of such appointment being inappropriate, the court of second instance shall order the appellant to rectify such defect within the period it designates. If the appellant fails to rectify the defect within the designated period and further fails to make the motion provided in Article 466-2, the court of second instance shall dismiss the appeal by a ruling on the ground that it was not filed in conformity with the law.

第 466-2 條(訴訟代理人之資格) **Article 466- 2**

上訴人無資力委任訴訟代理人者，得依訴訟救助之規定，聲請第三審法院為之選任律師為其訴訟代理人。

An appellant who lacks the financial means to appoint an advocate may move the court of third instance in accordance with the provisions regarding litigation aid to appoint an attorney to serve as his/her advocate.

上訴人依前項規定聲請者，第二審法院應將訴訟卷宗送交第三審法院。

In cases where the appellant makes the motion provided in the preceding paragraph, the court of second instance shall forward the dossier to the court of third instance.

第 466-3 條(訴訟費用) **Article 466- 3**

第三審律師之酬金，為訴訟費用之一部，並應限定其最高額。

Compensation paid to the attorney in the court of third instance shall be included as a part of the litigation expenses and the maximum amount thereof shall be prescribed.

第四百六十六條之二選任律師為訴訟代理人辦法，由司法院定之。

The Judicial Yuan shall prescribe rules governing the appointment of an attorney to act as the advocate provided in Article 466-1.

前項辦法之擬訂，應參酌法務部及中華民國律師公會全國聯合會之意見。

The rules provided in the preceding paragraph shall be prescribed by reference to the opinions of the Ministry of Justice and the Taiwan Bar Association.

第 466-4 條(逕向第三審提起飛躍上訴) **Article 466- 4**

當事人對於第一審法院依通常訴訟程序所為之終局判決，就其確定之事實認為無誤者，得合意逕向第三審法院上訴。

Upon consent, the parties may file an appeal from the final judgment entered under ordinary proceeding by the court of first instance forthwith to the court of third instance if the parties agree that the finding of facts under such judgment is correct.

前項合意，應以文書證之，並連同上訴狀提出於原第一審法

The consent provided in the preceding paragraph shall be evidenced in writing and such writing shall be submitted to the court of first

院。

instance along with the notice of appeal.

第 467 條(不得上訴之規定 - 非以原判決違法為理由)

上訴第三審法院，非以原判決違背法令為理由，不得為之。

Article 467

No appeal may be taken to the court of third instance except on the ground that the original judgment is in contravention of the laws and regulations.

第 468 條(違背法令之意義)

判決不適用法規或適用不當者，為違背法令。

Article 468

A judgment is in contravention of the laws and regulations if the applicable laws are not applied or are erroneously applied.

第 469 條(當然違背法令之情形)

有下列各款情形之一者，其判決當然為違背法令：

一、判決法院之組織不合法者。

二、依法律或裁判應迴避之法官參與裁判者。

三、法院於權限之有無辨別不當或違背專屬管轄之規定者。

四、當事人於訴訟未經合法代理者。

五、違背言詞辯論公開之規定者。

六、判決不備理由或理由矛盾者。

Article 469

A judgment shall be automatically held in contravention of the laws and regulations in the following situations:

1. Where the court is not organized in conformity with the laws;
2. Where a judge who should have disqualified himself/herself by operation of law or by decision has participated in making the decision;
3. Where the court lacks the subject matter jurisdiction or acts in violation of exclusive jurisdiction;
4. Where the parties are not legally represented in the action;
5. Where the court violates the provision that the oral argument should be open to the public;
6. Where the judgment does not provide reasons or provides contradictory reasons.

第 469-1 條(上訴許可制)

以前條所列各款外之事由提起第三審上訴者，須經第三審法院之許可。

前項許可，以從事法之續造、確保裁判之一致性或其他所涉及之法律見解具有原則上重要性者為限。

Article 469- 1

A court of third instance must permit an appeal taken to a court of third instance on grounds other than those provided in the preceding article.

The permission provided in the preceding paragraph shall be granted only when such an appeal is necessary for the continued development of the laws, or to ensure coherence of decisions, or when other legal opinions involved are significant in principle.

第 470 條(上訴狀之提出)

提起上訴，應以上訴狀提出於原判決法院為之。

上訴狀內，應記載上訴理由，表明下列各款事項：

一、原判決所違背之法令及其具體內容。

二、依訴訟資料合於該違背法令之具體事實。

三、依第四百六十九條之一規定提起上訴者，具體敘述為從

Article 470

An appeal shall be filed by submitting a notice of appeal to the court which entered the appealed judgment.

The notice of appeal shall indicate the reasons for the appeal and shall specify the following matters:

1. The laws and regulations which the original judgment has contravened and the specific content thereof;
2. The facts, as revealed by the litigation materials, which may lead to the finding that the original judgment is in contravention of the said laws and regulations;
3. The reasons why such appeal is necessary for the continued development of the laws or to ensure coherence of decisions, or that

事法之續造、確保裁判之一致性或其他所涉及之法律見解具有原則上重要性之理由。
the legal opinions involved are significant in principle.

上訴狀內，宜記載因上訴所得受之利益。
It is advisable that the notice of appeal indicates the value of the interests in the appeal.

第 471 條(補提書狀於第二審法院之處置) **Article 471**

上訴狀內未表明上訴理由者，上訴人應於提起上訴後二十日內，提出理由書於原第二審法院；未提出者，毋庸命其補正，由原第二審法院以裁定駁回之。
Where the appellant has failed to indicate the reasons for appeal in the notice of the appeal, he/she shall supplement the reason for the appeal in writing to the original court of second instance within twenty days after filing the appeal. Where the appellant fails to do so, the court of second instance shall dismiss the appeal by a ruling without ordering rectification.

被上訴人得於上訴狀或前項理由書送達後十五日內，提出答辯狀於原第二審法院。
Within fifteen days following the service of the notice of appeal, the appellee may submit either an answer to the original court of second instance or submit the reason for the appeal in writing provided in the preceding paragraph.

第二審法院送交訴訟卷宗於第三審法院，應於收到答辯狀或前項期間已滿後為之。
After receiving the answer or after the period provided in the preceding paragraph has expired, the court of second instance shall forward the dossier to the court of third instance.

判決宣示後送達前提起上訴者，第一項之期間自判決送達後起算。
Where the appeal is filed after the judgment is announced but before it is served, the period provided in the first paragraph shall start to run after the judgment is served.

第 472 條(上訴理由書狀等之提出(二)) **Article 472**

被上訴人在第三審未判決前，得提出答辯狀及其追加書狀於第三審法院。
The appellee may submit answers and additional pleadings to the court of third instance before a judgment is entered.

上訴人亦得提出上訴理由追加書狀。
The appellant may also submit additional pleadings with regard to the reasons for appeal.

第三審法院以認為有必要時為限，得將前項書狀送達於他造。
The court of third instance may serve the pleadings provided in the preceding paragraph upon the opposing party if it considers it necessary to do so.

第 473 條(上訴聲明範圍之限制) **Article 473**

上訴之聲明，不得變更或擴張之。
The demand made by an appeal may not be amended or expanded.

被上訴人，不得為附帶上訴。
The appellee may not file an incidental appeal.

第 474 條(不經言詞辯論之情形) **Article 474**

第三審之判決，應經言詞辯論為之。但法院認為不必要時，不在此限。
The judgment of the court of third instance shall be based on oral argument, except where the court considers it unnecessary to conduct oral argument.

第三審法院行言詞辯論時，應由兩造委任律師代理為之。
The oral argument in the court of third instance shall be conducted by the attorneys appointed by the parties.

被上訴人委任訴訟代理人時，準用第四百六十六條之一第一項至第三項、第四百六十六條之二第一項及第四百六十六條之三之規定。

The provisions of the first to the third paragraphs inclusive of Article 466-1, the first paragraph of Article 466-2 and Article 466-3 shall apply mutatis mutandis to the appointment of advocate by the appellee.

第 475 條(調查之範圍)

第三審法院應於上訴聲明之範圍內，依上訴理由調查之。但法院應依職權調查之事項，或有統一法令見解之必要者，不在此限。

Article 475

The court of third instance shall, within the scope of the demand made by the appeal, conduct an investigation based on the reasons for the appeal, except for matters which the court should investigate on its own initiative or in cases where an investigation is necessary for ensuring coherence in the interpretation of laws and regulations.

第 476 條(判決之基礎)

第三審法院，應以原判決確定之事實為判決基礎。

言詞辯論筆錄記載當事人陳述之事實，第三審法院得斟酌之。

以違背訴訟程序之規定為上訴理由時，所舉違背之事實及以違背法令確定事實、遺漏事實或認作主張事實為上訴理由時，所舉之該事實，第三審法院亦得斟酌之。

Article 476

The court of third instance shall base its judgment on the facts found in the original judgment.

The court of third instance may take into consideration the facts presented by the parties and indicated in the oral-argument transcript.

Where the appeal is filed by reason of a violation of provisions regulating litigation procedure, the court of third instance may take into consideration the facts alleged regarding such violation; in cases where the appeal is filed by reason of the finding, omitting, or admitting of facts under the appealed judgment being in contravention of the laws and regulations, the court may take into consideration the facts alleged regarding such contravention.

第 477 條(上訴有理由之判決)

第三審法院認上訴為有理由者，就該部分應廢棄原判決。

因違背訴訟程序之規定廢棄原判決者，其違背之訴訟程序部分，視為亦經廢棄。

Article 477

Upon finding the appeal meritorious, the court of third instance shall reverse the relevant portion of the original judgment.

Where the original judgment is reversed by reason of a violation of provisions regulating litigation procedure, the defect in the litigation proceeding shall be deemed reversed as well.

第 477-1 條(不得廢棄原判決)

除第四百六十九條第一款至第五款之情形外，原判決違背法令而不影響裁判之結果者，不得廢棄原判決。

Article 477- 1

Except in the cases provided in the first to the fifth subparagraphs of Article 469 inclusive, the original judgment must not be reversed where the contravention of the laws and regulations made by the original judgment would have no adverse effect on the result of the decision.

第 477-2 條(不得廢棄原判決)

第三審法院就第四百六十六條之四所定之上訴，不得以原判決確定事實違背法令為理由廢棄該判決。

Article 477- 2

In cases of an appeal provided by Article 466-4, the court of third instance must not reverse the original judgment by reason of the finding of facts under the original judgment being in contravention of the laws and regulations.

第 478 條(廢棄原判決而自為判決之情形)

Article 478

第三審法院廢棄原判決，而有下列各款情形之一者，應自為判決：

In case of any of the following, the court of third instance shall enter judgment on the action on its own after reversing the original judgment:

一、因基於確定之事實或依法得斟酌之事實，不適用法規或適用不當廢棄原判決，而事件已可依該事實為裁判者。

1. Where the original judgment is reversed by reason of a failure to apply the applicable laws or an erroneous application of such laws to the facts already found or the facts which may be taken into consideration by operation of law, and the action may be decided based on such facts;

二、原判決就訴或上訴不合法之事件誤為實體裁判者。

2. Where the original judgment has mistakenly rendered a decision on the merits on an action or appeal which is not filed in conformity with the law;

三、法院應依職權調查之事項，第三審得自行確定事實而為判斷者。

3. Where the court of third instance may find the facts regarding the matters which the court should investigate on its own initiative and, based on such facts, a decision may be made;

四、原判決未本於當事人之捨棄或認諾為裁判者。

4. Where the original judgment fails to be based on the party's abandon-ment or admission of claims;

五、其他無發回或發交使重為辯論之必要者。

5. Where it is unnecessary to remand or transfer the case for further arguments.

除有前項情形外，第三審法院於必要時，得將該事件發回原法院或發交其他同級法院。

Except in the situations provided in the preceding paragraph, where necessary, the court of third instance may remand the case to the original court or transfer it to another court of the same level of instance.

前項發回或發交判決，就應調查之事項，應詳予指示。

Where the case is remanded or transferred by a judgment as provided in the preceding paragraph, detailed instructions shall be given with respect to the matters to be investigated.

受發回或發交之法院，應以第三審法院所為廢棄理由之法律上判斷為其判決基礎。

The court to which the case is remanded or transferred shall enter a judgment based on the legal conclusions made by the court of third instance as the reason for reversing the original judgment.

第 479 條

(刪除)

Article 479

(Repealed.)

第 480 條(發回或發交所應為之處置)

為發回或發交之判決者，第三審法院應速將判決正本附入卷宗,送交受發回或發交之法院。

Article 480

In entering a judgment to remand or transfer a case, the court of third instance shall promptly include in the dossier the authenticated copy of the written judgment and forward such dossier to the court to which the case is remanded or transferred.

第 481 條(第二審程序之準用)

除本章別有規定外，前章之規定，於第三審程序準用之。

Article 481

Except as otherwise provided in this Chapter, the provisions of the preceding Chapter shall apply mutatis mutandis to the procedure in the third instance.

第四編 抗告程序

PART IV APPEALS FROM RULINGS

第 482 條(得抗告之裁定)

對於裁定，得為抗告。但別有

Article 482

Except as otherwise provided, an appeal may be taken from a ruling.

不許抗告之規定者,不在此限。

第 483 條(程序中裁定不得抗告原則) **Article 483**

訴訟程序進行中所為之裁定，除別有規定外，不得抗告。

Except as otherwise provided, no appeals may be taken from rulings made during the litigation proceedings.

第 484 條(財產權訴訟之抗告限制及得向原法院提出異議之裁定) **Article 484**

不得上訴於第三審法院之事件，其第二審法院所為裁定，不得抗告。但下列裁定，得向原法院提出異議：

In cases where an appeal may not be taken to the court of third instance, no appeals may be taken from a ruling made by the court of second instance. Notwithstanding, an objection to any of the following rulings may be raised with the original court:

一、命法院書記官、執達員、法定代理人、訴訟代理人負擔訴訟費用之裁定。

1. A ruling ordering the court clerk, executive officer, statutory agent, or advocate to bear the litigation expenses;

二、對證人、鑑定人、通譯或執有文書、勘驗物之第三人處以罰鍰之裁定。

2. A ruling for imposing fines upon a witness, an expert witness, interpreter or a third person who holds documents or objects which should be inspected;

三、駁回拒絕證言、拒絕鑑定、拒絕通譯之裁定。

3. A ruling for denying a refusal to give testimony, expert testimony, or interpretation;

四、強制提出文書、勘驗物之裁定。

4. A ruling for compulsory production of documents or objects which should be inspected.

前項異議，準用對於法院同種裁定抗告之規定。

The provisions with regard to appeals from rulings of the same kind shall apply mutatis mutandis to the objection provided in the preceding paragraph.

受訴法院就異議所為之裁定，不得聲明不服。

The ruling on an objection made by the court hearing the case is not reviewable.

第 485 條(異議之提出 - 準抗告) **Article 485**

受命法官或受託法官之裁定，不得抗告。但其裁定如係受訴法院所為而依法得為抗告者，得向受訴法院提出異議。

No appeal may be taken from a ruling issued by a commissioned judge or an assigned judge. Notwithstanding, where such ruling is the kind of ruling from which an appeal may be taken if it were made by the court hearing the case, an objection to such ruling may be raised with the same court.

前項異議，準用對於法院同種裁定抗告之規定。

The provisions with regard to appeals from rulings of the same kind shall apply mutatis mutandis to the objection provided in the preceding paragraph.

受訴法院就異議所為之裁定，得依本編之規定抗告。

An appeal may be taken from the ruling on an objection made by the court hearing the case in accordance with the provisions of this Part.

訴訟繫屬於第三審法院者，其受命法官或受託法官所為之裁定，得向第三審法院提出異議。不得上訴於第三審法院之事件，第二審法院受命法官或受託法官所為之裁定，得向受

Where the action is pending in the court of third instance, objections to rulings made by the commissioned judge or assigned judge may be raised with the court of third instance. In cases where an appeal may be taken to the court of third instance, objections to rulings made by the commissioned judge or assigned judge of the court of second instance may be raised with the court hearing the case.

訴法院提出異議。

第 486 條 （再抗告）

抗告，除別有規定外，由直接上級法院裁定。

抗告法院之裁定，以抗告不合法而駁回者，不得再為抗告。但得向原法院提出異議。

前項異議，準用第四百八十四條第二項及第三項之規定。

除前二項之情形外，對於抗告法院之裁定再為抗告，僅得以其適用法規顯有錯誤為理由，並經原法院之許可者為限。

前項許可，以原裁定所涉及之法律見解具有原則上之重要性者為限。

第四百三十六條之三第三項、第四項及第四百三十六條之六之規定，於第四項之抗告準用之。

Article 486

Except as otherwise provided, an appeal taken from a ruling shall be decided by the immediate superior court.

No re-appeal may be taken from the ruling made by the immediate superior court dismissing an appeal on the ground that such appeal is not in conformity with the law. Notwithstanding, an objection may be filed with the same immediate superior court.

The provisions of the second and the third paragraphs of Article 484 shall apply mutatis mutandis to the objection provided in the preceding paragraph.

Except as provided in the two preceding paragraphs, re-appeal may be taken from a ruling made by the immediate superior court only when it is based on the ground that there is a manifest error in the application of the law and the same superior court has permitted such appeal.

The permission provided in the preceding paragraph shall be granted only when the legal opinion involved in the appealed ruling is significant in principle.

The provisions of the third and the fourth paragraphs of Article 436-3, and Article 436-6 shall apply mutatis mutandis to the appeal provided in the fourth paragraph.

第 486 條(99 年現行規定)

抗告，除別有規定外，由直接上級法院裁定。

抗告法院之裁定，以抗告不合法而駁回者，不得再為抗告。但得向原法院提出異議。

前項異議，準用第四百八十四條第二項及第三項之規定。

除前二項之情形外，對於抗告法院之裁定再為抗告，僅得以其適用法規顯有錯誤為理由。

第四百三十六條之六之規定，於前項之抗告準用之。

第 487 條(抗告期間)

提起抗告，應於裁定送達後十日之不變期間內為之。但送達前之抗告，亦有效力。

Article 487

An appeal taken from a ruling shall be filed within the peremptory period of ten days following the service of the ruling. Notwithstanding, an appeal taken from a ruling which is filed prior to the service of that ruling shall also take effect.

第 488 條(提起抗告之程序)

提起抗告，除別有規定外，應向為裁定之原法院或原審判長所屬法院提出抗告狀為之。

Article 488

Except as otherwise provided, an appeal taken from a ruling shall be made by filing a notice of appeal to the original court or the court to which the original presiding judge belongs.

適用簡易或小額訴訟程序之事件或關於訴訟救助提起抗告及由證人、鑑定人、通譯或執有證物之第三人提起抗告者，得以言詞為之。但依第四百三十六條之二第一項規定提起抗告者，不在此限。

Appeals taken from rulings made on matters proceeded under summary proceeding or a Small-Claim Proceeding or from rulings with regard to litigation aid, and appeals taken by a witness, expert witness, interpreter, or third person holding tangible evidence may be made orally, except those appeals taken in accordance with the provision of the first paragraph of Article 436-2.

提起抗告，應表明抗告理由。

An appeal taken from a ruling shall specify the reason for appeal.

第 489 條

(刪除)

Article 489

(Repealed.)

第 490 條(原法院或審判長對抗告之處置)

Article 490

原法院或審判長認抗告為有理由者，應撤銷或變更原裁定。

Where the original court or the presiding judge finds the appeal meritorious, it or he/she shall revoke or amend the original ruling.

原法院或審判長未以抗告不合法駁回抗告，亦未依前項規定為裁定者，應速將抗告事件送交抗告法院；如認為必要時，應送交訴訟卷宗，並得添具意見書。

Where the original court or the presiding judge does not dismiss the appeal on the ground that it is not in conformity with the law, nor does it or he/she issue a ruling on such appeal in accordance with the provision of the preceding paragraph, it or he/she shall promptly refer such appeal to the immediate superior court, and where necessary, forward the dossier and annex a memorandum of opinion.

第 491 條(抗告之效力)

Article 491

抗告，除別有規定外，無停止執行之效力。

Except as otherwise provided, no appeal taken from a ruling operates to stay the execution of such ruling.

原法院或審判長或抗告法院得在抗告事件裁定前，停止原裁定之執行或為其他必要處分。

The original court, or the presiding judge, or the superior court may stay the execution of such ruling, or take other necessary measures before a ruling is issued on the appeal.

前項裁定，不得抗告。

No appeal may be taken from the ruling provided in the preceding paragraph.

第 492 條(抗告法院之裁定)

Article 492

抗告法院認抗告為有理由者，應廢棄或變更原裁定；非有必要，不得命原法院或審判長更為裁定。

In finding an appeal meritorious, the superior court shall revoke or amend the original ruling on its own and, unless necessary, must not order the court or the presiding judge who issued the appealed ruling to re-issue a ruling.

第 493 條

(刪除)

Article 493

(Repealed.)

第 494 條

(刪除)

Article 494

(Repealed.)

第 495 條(擬制抗告或異議)

Article 495

依本編規定，應為抗告而誤為異議者，視為已提起抗告；應提出異議而誤為抗告者，視為

In accordance with the provisions of this Part, where the review of a ruling which should be sought by filing an appeal is mistakenly sought by raising an objection, an appeal is deemed effectuated;

已提出異議。

where the review of a ruling which should be sought by raising an objection is mistakenly sought by filing an appeal, an objection is deemed effectuated.

第 495-1 條(抗告及再抗告之準用)

抗告，除本編別有規定外，準用第三編第一章之規定。

第四百三十六條之二第一項之逕向最高法院抗告、第四百八十六條第四項之再為抗告，準用第三編第二章之規定。

Article 495- 1

Except as otherwise provided in this Part, the provisions of Chapter I, Part III shall apply mutatis mutandis to appeals taken from rulings.

The provisions of Chapter II, Part III shall apply mutatis mutandis to appeals forthwith to the Supreme Court provided in the first paragraph of Article 436-2 and re-appeals provided in the fourth paragraph of Article 486.

第五編 再審程序

PART V REHEARING PROCEEDING

第 496 條(再審事由)

有下列各款情形之一者，得以再審之訴對於確定終局判決聲明不服。但當事人已依上訴主張其事由或知其事由而不為主張者，不在此限：

一、適用法規顯有錯誤者。

二、判決理由與主文顯有矛盾者。

三、判決法院之組織不合法者。

四、依法律或裁判應迴避之法官參與裁判者。

五、當事人於訴訟未經合法代理者。

六、當事人知他造之住居所，指為所在不明而與涉訟者。但他造已承認其訴訟程序者，不在此限。

七、參與裁判之法官關於該訴訟違背職務犯刑事上之罪者，或關於該訴訟違背職務受懲戒處分，足以影響原判決者。

八、當事人之代理人或他造或其代理人關於該訴訟有刑事上應罰之行為，影響於判決者。

九、為判決基礎之證物係偽造或變造者。

一○、證人、鑑定人、通譯、當事人或法定代理人經具結後，就為判決基礎之證言、鑑定、通譯或有關事項為虛偽陳述

Article 496

Except where the party has filed an appeal to assert the ground for a review or has failed to assert such ground known to him/her, a rehearing action may be initiated to request a review of a final judgment with binding effect in any of the following situations:

1. Where the application of law is manifestly erroneous;
2. Where the reason for the judgment manifestly contradicts the main text;
3. Where the court which entered the judgment is not legally organized;
4. Where a judge who should have disqualified himself/herself from the case by operation of law or by decision has participated in deciding the case;
5. Where the parties are not legally represented in the action;
6. Where a party has misrepresented that he/she did not know the opposing party's domicile/residence when initiating the action, except where such opposing party has ratified the relevant litigation proceeding;
7. Where a judge participating in deciding the case committed a criminal offense or received disciplinary sanction as a result of breaching his/her duties concerning the action which may affect the result of the original judgment;
8. Where a party's agent, or the opposing party, or the opposing party's agent engaged in criminally punishable acts of any kind concerning the case which may affect the result of the original judgment;
9. Where the tangible evidence based on which the judgment was entered was fabricated or altered;
10. Where the witness, expert witness, interpreter, or statutory agent, after signing a written oath, gave false representation with regard to his/her testimony, expert testimony, interpretation, or statement,

者。
一一、為判決基礎之民事、刑事、行政訴訟判決及其他裁判或行政處分，依其後之確定裁判或行政處分已變更者。
一二、當事人發現就同一訴訟標的在前已有確定判決或和解、調解或得使用該判決或和解、調解者。
一三、當事人發現未經斟酌之證物或得使用該證物者。但以如經斟酌可受較有利益之裁判者為限。
前項第七款至第十款情形，以宣告有罪之判決或處罰鍰之裁定已確定，或因證據不足以外之理由，而不能為有罪之確定判決或罰鍰之確定裁定者為限，得提起再審之訴。
第二審法院就該事件已為本案判決者，對於第一審法院之判決不得提起再審之訴。

based on which the judgment was entered;
11. Where the referenced civil, criminal, administrative judgment, or any other decision or administrative disposition, based on which the judgment was entered, was amended by a subsequent final decision or administrative disposition with binding effect;
12. Where a party discovers that the same claim has been disposed of by a prior final and binding judgment or a settlement or mediation, or that the applicability of such judgment or settlement or mediation is available;
13. Where a party discovers tangible evidence which has not been considered or which becomes available, on condition that taking into consideration such tangible evidence will result in a more favorable decision to such party.
A rehearing action may be initiated in the situations provided in the seventh to the tenth subparagraphs inclusive of the preceding paragraph only where a final and binding guilty judgment or a sanction imposing a fine has been entered, or where no such final judgment or sanction can be entered for reasons other than insufficient evidence.
Where the court of second instance has entered a judgment on the merits, no rehearing action may be initiated against the judgment entered by the court of first instance.

第 497 條(再審事由)

依第四百六十六條不得上訴於第三審法院之事件，除前條規定外，其經第二審確定之判決，如就足影響於判決之重要證物，漏未斟酌，或當事人有正當理由不到場，法院為一造辯論判決者，亦得提起再審之訴。

Article 497

In cases where no appeal may be taken to the court of third instance in accordance with the provision of Article 466, in addition to the cases provided in the preceding article, a rehearing action may be initiated against the final and binding judgment entered by the court of second instance on the ground that the court has failed to consider important tangible evidence which may affect the judgment, or on the ground that the court entered a default judgment against the party having a good cause shown for not appearing at the court session.

第 498 條(再審事由(三))

為判決基礎之裁判，如有前二條所定之情形者，得據以對於該判決提起再審之訴。

Article 498

Where a judgment was entered based on a decision which falls under the cases provided in the two preceding articles, a rehearing action may be initiated against such judgment.

第 498-1 條(不得提起再審之事由)

再審之訴，法院認無再審理由，判決駁回後，不得以同一事由，對於原確定判決或駁回再審之訴之確定判決，更行提起再審之訴。

Article 498- 1

Where the rehearing action has been dismissed on the merits, no rehearing action may be initiated on the same ground against either an original final and binding judgment or a final and binding judgment dismissing the original rehearing action.

第 499 條(再審管轄法院)

再審之訴，專屬為判決之原法

Article 499

In matters of a rehearing action, the original court has exclusive

院管轄。
對於審級不同之法院就同一事件所為之判決，提起再審之訴者，專屬上級法院合併管轄。但對於第三審法院之判決，係本於第四百九十六條第一項第九款至第十三款事由，聲明不服者，專屬原第二審法院管轄。

jurisdiction.
The superior court has exclusive jurisdiction over a rehearing action jointly against the judgments entered on the same matter by courts of different instances. Notwithstanding, in cases where a request for review of the judgment entered by the court of third instance is based on the grounds provided in the provisions of the ninth to the thirteenth subparagraphs inclusive of the first paragraph of Article 496, the original court of second instance has exclusive jurisdiction.

第 500 條(提起再審之期間)

再審之訴，應於三十日之不變期間內提起。
前項期間，自判決確定時起算，判決於送達前確定者，自送達時起算；其再審之理由發生或知悉在後者，均自知悉時起算。但自判決確定後已逾五年者，不得提起。

以第四百九十六條第一項第五款、第六款或第十二款情形為再審之理由者，不適用前項但書之規定。

Article 500
A rehearing action must be initiated within a peremptory period of thirty days.
The period provided in the preceding paragraph starts to run from the time when the judgment becomes final and binding, or from the service of such judgment where such judgment has become final and binding prior to its service, or from the time when the ground for rehearing became known if such ground occurred or became known at a later date. Notwithstanding, no rehearing action may be initiated after a period of five years has elapsed from the time when the judgment became final and binding.
The proviso of the preceding paragraph does not apply to cases where the rehearing action is initiated on the grounds provided in the fifth, the sixth, or the twelfth subparagraph of the first paragraph of Article 496.

第 501 條(提起再審之程式)

再審之訴，應以訴狀表明下列各款事項，提出於管轄法院為之：
一、當事人及法定代理人。
二、聲明不服之判決及提起再審之訴之陳述。
三、應於如何程度廢棄原判決及就本案如何判決之聲明。
四、再審理由及關於再審理由並遵守不變期間之證據。
再審訴狀內，宜記載準備本案言詞辯論之事項，並添具確定終局判決繕本或影本。

Article 501
A rehearing action shall be initiated by submitting a complaint to the court with jurisdiction specifying the following matters:
1.The parties and the statutory agents;
2.The judgment of which a review is being sought, and a statement that a rehearing action is initiated against such judgment;
3.The demand with regard to the extent to which the judgment should be reversed and what judgment should be entered on the original claim;
4.The ground for rehearing, and the evidence which supports such ground and proves observance of the peremptory period.
It is advisable that the complaint for a rehearing action indicate the matters in preparation of oral argument and annex a written copy or photocopy of the final judgment with binding effect.

第 502 條(再審之訴之駁回(一))

再審之訴不合法者，法院應以裁定駁回之。
再審之訴顯無再審理由者，得不經言詞辯論，以判決駁回之。

Article 502
The court shall by a ruling dismiss a rehearing action which is not initiated in conformity with the law.
A rehearing action which is manifestly groundless may be dismissed on the merits by a judgment without oral argument.

第 503 條(本案審理之範圍)

Article 503

本案之辯論及裁判，以聲明不服之部分為限。

Oral argument and decisions of the rehearing action shall be made with regard to and only to the portion for which a review is being sought.

第 504 條(再審之訴之駁回(二)) **Article 504**

再審之訴，雖有再審理由，法院如認原判決為正當者，應以判決駁回之。

Where the original judgment is considered just, the court shall dismiss the rehearing action irrespective of the existence of the grounds therefore by entering a judgment to such effect.

第 505 條(各審程序之準用) **Article 505**

除本編別有規定外，再審之訴訟程序，準用關於各該審級訴訟程序之規定。

Except as otherwise provided in this Part, the provisions with regard to the litigation proceedings at the relevant court instances shall apply mutatis mutandis to rehearing proceedings.

第 505-1 條(再審之訴之準用規定) **Article 505- 1**

第三百九十五條第二項之規定，於再審之訴準用之。

The provision of the second paragraph of Article 395 shall apply mutatis mutandis to a rehearing action.

第 506 條(判決之效力) **Article 506**

再審之訴之判決，於第三人以善意取得之權利無影響。

The judgment entered at the conclusion of a rehearing proceeding does not affect a third person's rights obtained in good faith.

第 507 條(準再審) **Article 507**

裁定已經確定，而有第四百九十六條第一項或第四百九十七條之情形者，得準用本編之規定，聲請再審。

In cases provided in the first paragraph of Article 496 or Article 497, a motion for rehearing may be made against a final and binding ruling in accordance with the provisions of this Part which shall apply mutatis mutandis.

第五編之一 第三人撤銷訴訟程序 V-I THIRD-PARTY OPPOSITION PROCEEDING

第 507-1 條(第三人撤銷訴訟程序－要件) **Article 507- 1**

有法律上利害關係之第三人，非因可歸責於己之事由而未參加訴訟，致不能提出足以影響判決結果之攻擊或防禦方法者，得以兩造為共同被告對於確定終局判決提起撤銷之訴，請求撤銷對其不利部分之判決。但應循其他法定程序請求救濟者，不在此限。

In cases where a third party who is legally interested in an action was prevented from intervening in that action due to reasons not imputable to himself/herself, and thus was unable to present means of attack or defense which may have affected the result of the judgment, such third party may, by naming the parties to that action as co-defendants, initiate an opposition action against that final and binding judgment to seek the revocation of the portion of such judgment prejudicial to him/her, except where such party should seek remedies through other legal proceedings.

第 507-2 條(第三人撤銷之訴－管轄法院) **Article 507- 2**

第三人撤銷之訴，專屬為判決

In matters of a third-party opposition action, the original court

之原法院管轄。
對於審級不同之法院就同一事件所為之判決合併提起第三人撤銷之訴，或僅對上級法院所為之判決提起第三人撤銷之訴者，專屬原第二審法院管轄。其未經第二審法院判決者，專屬原第一審法院管轄。

which entered the opposed judgment has exclusive jurisdiction.
In matters of a third-party opposition action jointly filed against the judgments entered on the same matter by courts of different instances, or merely against the judgment entered by the superior court, the original court of second instance has exclusive jurisdiction. Where no judgment has ever been entered by the court of second instance, the original court of first instance has exclusive jurisdiction.

第 507-3 條(第三人撤銷之訴 - 原確定判決效力)

第三人撤銷之訴無停止原確定判決執行之效力。但法院因必要情形或依聲請定相當並確實之擔保，得於撤銷之訴聲明之範圍內對第三人不利部分以裁定停止原確定判決之效力。
關於前項裁定，得為抗告。

Article 507- 3

No third-party opposition proceeding operates to stay the execution of the original final judgment with binding effect. Notwithstanding, where necessary or on motion, the court may, after ordering an appropriate and solid security, stay the effectuation of the original judgment with regard to the prejudicial portion by a ruling to the extent stated in the demand made.
An interlocutory appeal may be taken from the ruling provided in the preceding paragraph.

第 507-4 條(第三人撤銷之訴 - 變更原判決)

法院認第三人撤銷之訴為有理由者，應撤銷原確定終局判決對該第三人不利之部分，並依第三人之聲明，於必要時，在撤銷之範圍內為變更原判決之判決。
前項情形，原判決於原當事人間仍不失其效力。但訴訟標的對於原判決當事人及提起撤銷之訴之第三人必須合一確定者，不在此限。

Article 507- 4

Where the court finds the third-party opposition action meritorious, it shall revoke the portion of the original final and binding judgment which is prejudicial to that third party and, if necessary, according to the third party's demand and within the scope of the revoked portion, enter a judgment to amend the original judgment.

In cases provided in the preceding paragraph, the original judgment shall still take effect between the parties to the original action, except where the claim of action must be adjudicated jointly with regard to the parties to that original action and the third party who initiated the third-party opposition action.

第 507-5 條(第三人撤銷之訴之準用規定)

第五百條第一項、第二項、第五百零一條至第五百零三條、第五百零五條、第五百零六條之規定，於第三人撤銷之訴準用之。

Article 507- 5

The provisions of the first and the second paragraphs of Article 500, Articles 501 to 503 inclusive, Articles 505 and 506 shall apply mutatis mutandis to a third-party opposition action.

第六編 督促程序 PART VI DEMND PROCEEDING

第 508 條(聲請支付命令之要件)

債權人之請求，以給付金錢或其他代替物或有價證券之一定數量為標的者，得聲請法院依

Article 508

In cases where the object of a creditor's claim is the performance of a certain amount of payment in cash, other replaceable things or securities, a creditor may apply to the court for issuance of a

督促程序發支付命令。
支付命令之聲請與處理，得視電腦或其他科技設備發展狀況，使用其設備為之。其辦法，由司法院定之。

payment order in accordance with the demand proceeding.
Applications for the issuance of a payment order and the handling thereof may be conducted through computer or other developed technological equipment as available. The Judicial Yuan shall prescribe the relevant rules.

第 509 條(聲請支付命令之限制)

Article 509

督促程序，如聲請人應為對待給付尚未履行，或支付命令之送達應於外國為之，或依公示送達為之者，不得行之。

No demand proceeding may be applied for in cases where the counter-prestation which should be performed by the applicant is not yet performed, or the service of the payment order must be effected either in a foreign country or by constructive notice.

第 510 條(管轄法院)

Article 510

支付命令之聲請，專屬債務人為被告時，依第一條、第二條、第六條或第二十條規定有管轄權之法院管轄。

In matters of applications for the issuance of a payment order, the court which had jurisdiction over the debtor when he/she was a defendant in accordance with the provisions of Article 1, Article 2, Article 6 or Article 20 has exclusive jurisdiction.

第 511 條(聲請支付命令之程式)

Article 511

支付命令之聲請，應表明下列各款事項：
一、當事人及法定代理人。
二、請求之標的及其數量。
三、請求之原因事實。其有對待給付者，已履行之情形。
四、應發支付命令之陳述。
五、法院。

An application for the issuance of a payment order shall specify the following matters:
1. The parties and their statutory agents;
2. The object of the claim and the amount thereof;
3. The transactions or occurrences giving rise to such claim, and the status of performance of counter-prestation, if any;
4. A statement that a payment order should be issued; and
5. The court.

第 512 條(法院之裁定)

Article 512

法院應不訊問債務人，就支付命令之聲請為裁定。

The court shall issue a ruling upon the application for issuance of a payment order without examining the debtor.

第 513 條(支付命令之駁回)

Article 513

支付命令之聲請，不合於第五百零八條至第五百十一條之規定，或依聲請之意旨認債權人之請求為無理由者，法院應以裁定駁回之；就請求之一部不得發支付命令者，應僅就該部分之聲請駁回之。
前項裁定，不得聲明不服。

Where the application for the issuance of a payment order does not conform to the requirements provided in Article 508 to Article 511 inclusive, or where the creditor's claim is found meritless according to the intention represented in the application, the court by a ruling shall deny such application. Where no payment order should be issued with regard to a specific portion of the claim, the application shall be partially denied with regard to that portion.
The ruling provided in the preceding paragraph is not reviewable.

第 514 條(支付命令應載事項)

Article 514

支付命令，應記載下列各款事項：
一、第五百十一條第一款至第三款及第五款所定事項。

The payment order shall indicate the following matters:

1.The matters provided in the first to the third subparagraphs inclusive and the fifth subparagraph of Article 511;

二、債務人應向債權人清償其請求並賠償程序費用，否則應於支付命令送達後二十日之不變期間內，向發命令之法院提出異議。
第五百十一條第三款所定事項之記載，得以聲請書狀作為附件代之。

2.The debtor shall satisfy the creditor's claim and reimburse the proceeding expenses, or file an objection to the payment order with the issuing court within the peremptory period of twenty days following the service of the payment order.

The indication of the matters provided in the third subparagraph of Article 511 may be substituted with the application pleading annexed as an appendix to the payment order.

第 515 條 （支付命令之送達）
發支付命令後，三個月內不能送達於債務人者，其命令失其效力。

Article 515
A payment order shall cease to be operative if it cannot be served upon the debtor within three months after it is issued.

第 515 條(99 年現行規定)
發支付命令後，三個月內不能送達於債務人者，其命令失其效力。
前項情形，法院誤發確定證明書者，自確定證明書所載確定日期起五年內，經撤銷確定證明書時，法院應通知債權人。
如債權人於通知送達後二十日之不變期間起訴，視為自支付命令聲請時，已經起訴；其於通知送達前起訴者，亦同。
前項情形，督促程序費用，應作為訴訟費用或調解程序費用之一部。

第 516 條(提出異議之程式)
債務人對於支付命令之全部或一部，得於送達後二十日之不變期間內，不附理由向發命令之法院提出異議。
債務人得在調解成立或第一審言詞辨論終結前，撤回其異議。但應負擔調解程序費用或訴訟費用。

Article 516
The debtor may file with the issuing court an objection to the payment order in whole or in part without stating the reason therefor within the peremptory period of twenty days following the service of the payment order.
The debtor may withdraw the objection prior to a successful mediation or the conclusion of the oral argument in the first court instance, but shall bear the mediation expenses or litigation expenses.

第 517 條
(刪除)

Article 517
(Repealed.)

第 518 條(逾期異議之駁回)
債務人於支付命令送達後，逾二十日之不變期間，始提出異議者，法院應以裁定駁回之。

Article 518
Where the debtor does not file an objection to the payment order until after the expiration of a twenty day peremptory period, the court by a ruling shall deny such objection.

第 519 條(異議之效力)

Article 519

債務人對於支付命令於法定期間合法提出異議者，支付命令於異議範圍內失其效力，以債權人支付命令之聲請，視為起訴或聲請調解。

前項情形，督促程序費用，應作為訴訟費用或調解程序費用之一部。

Where the debtor files an objection to the payment order within the peremptory period and in conformity with the law, the payment order shall take no effect to the extent of the objection. In such cases, the creditor's application for issuance of the payment order shall be deemed the initiation of the action or the application for mediation.
In cases provided in the preceding paragraph, the demand proceeding expenses shall be included as a part of the litigation expenses or mediation proceeding expenses.

第 520 條
(刪除)

Article 520
(Repealed.)

第 521 條(支付命令之效力)
債務人對於支付命令未於法定期間合法提出異議者，支付命令與確定判決有同一之效力。

前項支付命令有第四百九十六條第一項之情形者，得提起再審之訴，並以原支付命令之聲請，視為起訴。

Article 521
In cases where the debtor fails to file an objection to the payment order within the peremptory period and in conformity with the law, the payment order shall take the same effect as a final judgment with binding effect.
In cases where the payment order falls under the cases provided in the first paragraph of Article 496, a rehearing action may be initiated. In such cases, the original application for issuance of a payment order shall be deemed the initiation of action.

第七編 保全程序

PART VII PROVISIONAL REMEDIES PROCEEDING

第 522 條(聲請假扣押之要件)
債權人就金錢請求或得易為金錢請求之請求，欲保全強制執行者，得聲請假扣押。
前項聲請，就附條件或期限之請求，亦得為之。

Article 522
A creditor may apply for provisional attachment with regard to monetary claims or claims exchangeable for monetary claims for purposes of securing the satisfaction of a compulsory execution.
The application provided in the preceding paragraph may be made with regard to claims subject to a condition or time.

第 523 條(假扣押之限制)
假扣押，非有日後不能強制執行或甚難執行之虞者，不得為之。
應在外國為強制執行者，視為有日後甚難執行之虞。

Article 523
No provisional attachment is to be granted unless there is a showing of the impossibility or extreme difficulty to satisfy the claim by compulsory execution in the future.
In cases where the compulsory execution must be performed in a foreign country, extreme difficulty shall be deemed to be shown.

第 524 條(假扣押之管轄法院)
假扣押之聲請，由本案管轄法院或假扣押標的所在地之地方法院管轄。
本案管轄法院，為訴訟已繫屬或應繫屬之第一審法院。但訴訟現繫屬於第二審者，得以第二審法院為本案管轄法院。

Article 524
The court having jurisdiction over the principal case, or the court at the place where the object of the provisional attachment is located, has jurisdiction over the application for provisional attachment.
The court having jurisdiction over the principal case shall be the court of first instance in which the action is pending or to be pending. Notwithstanding, where the action is pending in a court of second instance, that court of second instance is deemed to be the court having jurisdiction over the principal case.

假扣押之標的如係債權或須經登記之財產權，以債務人住所或擔保之標的所在地或登記地，為假扣押標的所在地。

Where the object of the provisional attachment is a creditor's right, or a proprietary right which must be registered, the place where the object of the provisional attachment is located shall be the place where the debtor domiciles or the object of security therefor is located or registered.

第 525 條(聲請假扣押之程式) **Article 525**

假扣押之聲請，應表明下列各款事項：

An application for provisional attachment shall specify the following matters:

一、當事人及法定代理人。

1. The parties and their statutory agents;

二、請求及其原因事實。

2. The claim and the transactions or occurrences giving rise to such claim;

三、假扣押之原因。

3. The ground for the provisional attachment; and

四、法院。

4. The court.

請求非關於一定金額者，應記載其價額。

In cases where the claim is not represented by a fixed dollar amount, the value thereof shall be indicated.

依假扣押之標的所在地定法院管轄者，應記載假扣押之標的及其所在地。

In cases where the court at the place where the object of the provisional attachment is located exercises jurisdiction over the application, that object of provisional attachment and the place where it is located must be indicated.

第 526 條(請求及假扣押原因之釋明) **Article 526**

請求及假扣押之原因，應釋明之。

A preliminary showing of the claim and the ground for the provisional attachment must be made.

前項釋明如有不足，而債權人陳明願供擔保或法院認為適當者，法院得定相當之擔保，命供擔保後為假扣押。

In cases of insufficiency in the preliminary showing provided in the preceding paragraph, where the creditor has represented willingness to provide a security or where it is deemed appropriate by the court, the court may assess an amount for the security and issue a ruling for a provisional attachment upon the creditor's provision of such security.

請求及假扣押之原因雖經釋明，法院亦得命債權人供擔保後為假扣押。

The court may still order the creditor to provide a security for the provisional attachment sought despite the fact that the preliminary showing of the claim and the ground for the provisional attachment has been made by the creditor.

債權人之請求係基於家庭生活費用、扶養費、贍養費、夫妻剩餘財產差額分配者，前項法院所命供擔保之金額不得高於請求金額之十分之一。

Where the creditor claims household living expenses, maintenance, alimony, distribution of the remainder of husband and wife's property, the court-assessed amount of security provided in the preceding paragraph must not exceed one tenth of the amount claimed.

第 527 條(免為或撤銷假扣押方法之記載) **Article 527**

假扣押裁定內，應記載債務人供所定金額之擔保或將請求之金額提存，得免為或撤銷假扣押。

A provisional attachment ruling shall provide that the debtor may be exempt from or move for revocation of the ruling by providing the court-assessed countersecurity or by lodging the amount claimed.

第 528 條(假扣押裁定及抗告) **Article 528**

關於假扣押聲請之裁定，得為抗告。
抗告法院為裁定前，應使債權人及債務人有陳述意見之機會。
抗告法院認抗告有理由者，應自為裁定。
准許假扣押之裁定，如經抗告者，在駁回假扣押聲請裁定確定前，已實施之假扣押執行程序，不受影響。

An appeal may be taken from the ruling made with regard to the application for provisional attachment.
The superior court shall, before issuing the ruling, accord the creditor and the debtor an opportunity to be heard.
Where the appeal is considered meritorious, the superior court shall promptly rule on the claim asserted in that appeal.
No appeal taken from a ruling granting provisional attachment operates to affect the performed execution of the provisional attachment until a ruling denying the application for such provisional attachment is issued and becomes final and binding.

第 529 條(撤銷假扣押原因 - 未依期起訴)

Article 529

本案尚未繫屬者，命假扣押之法院應依債務人聲請，命債權人於一定期間內起訴。

下列事項與前項起訴有同一效力：
一、依督促程序，聲請發支付命令者。
二、依本法聲請調解者。
三、依第三百九十五條第二項為聲明者。
四、依法開始仲裁程序者。
五、其他經依法開始起訴前應踐行之程序者。
六、基於夫妻剩餘財產差額分配請求權而聲請假扣押，已依民法第一千零十條請求宣告改用分別財產制者。

前項第六款情形，債權人應於宣告改用分別財產制裁定確定之日起十日內，起訴請求夫妻剩餘財產差額分配。

債權人不於第一項期間內起訴或未遵守前項規定者，債務人得聲請命假扣押之法院撤銷假扣押裁定。

In cases where the principal action is yet to be initiated, the court issuing the provisional attachment ruling shall, on the debtor's motion, order the creditor to initiate the action within a designated period of time.
Each of the following acts shall operate as the initiation of the action provided in the preceding paragraph:
1. Applying for issuance of a payment order in accordance with the demand proceeding;
2. Applying for mediation in accordance with the provisions of this Code;
3. Making the demand provided in the second paragraph of Article 395;
4. Instituting an arbitration proceeding in accordance with the applicable laws;
5. Performing other preliminary proceeding which is required by the applicable laws to be performed prior to the initiation of an action;
6. Where an application for provisional attachment is based on the right to claim for distribution of the remainder of a husband and wife's property and having applied for declaration of the separation of property regime in accordance with the provision of Article 1010 of the Civil Code.
In cases provided in the sixth subparagraph of the preceding paragraph, the creditor shall, within ten days from the day when the ruling declaring the separation of property regime becomes final and binding, initiate an action to claim for distribution of the remainder of husband and wife's property.
Where the creditor has failed either to initiate the action within the designated period of time provided in the first paragraph or to comply with the provision of the preceding paragraph, the debtor may move for revocation of the provisional attachment ruling to the court issuing such ruling.

第 530 條(撤銷假扣押原因 - 原因消滅等)

Article 530

假扣押之原因消滅、債權人受

The debtor may move for revocation of the provisional attachment

本案敗訴判決確定或其他命假扣押之情事變更者，債務人得聲請撤銷假扣押裁定。

ruling where the grounds for provisional attachment has vanished, or the judgment finding the creditor to be the defeated party in the principal action has become final and binding, or the circumstances requiring a ruling for provisional attachment have changed..

第五百二十八條第三項、第四項之規定，於前項撤銷假扣押裁定準用之。

The provisions of the third and the fourth paragraphs of Article 528 shall apply mutatis mutandis to the revocation of the provisional attachment ruling provided in the preceding paragraph.

假扣押之裁定，債權人得聲請撤銷之。

The creditor may move for revocation of the provisional attachment ruling.

第一項及前項聲請，向命假扣押之法院為之；如本案已繫屬者，向本案法院為之。

The motions provided in the first paragraph and the preceding paragraph shall be made to the court ordering the provisional attachment or, where the principal action has been initiated, the court in which such principal action is pending.

第 531 條(撤銷假扣押時債權人之賠償責任)

Article 531

假扣押裁定因自始不當而撤銷，或因第五百二十九條第四項及第五百三十條第三項之規定而撤銷者，債權人應賠償債務人因假扣押或供擔保所受之損害。

Where a provisional attachment ruling is revoked either by reason of being improper ab initio or by reason of the provisions of the fourth paragraph of Article 529 or the third paragraph of Article 530, the creditor shall compensate the debtor for any losses incurred from the provisional attachment or the provision of a countersecurity.

假扣押所保全之請求已起訴者，法院於第一審言詞辯論終結前，應依債務人之聲明，於本案判決內命債權人為前項之賠償。債務人未聲明者，應告以得為聲明。

Where an action has been initiated with regard to the claim secured by the provisional attachment, the court of first instance shall, on the debtor's motion made before the conclusion of the oral argument, order the creditor to make the compensation provided in the preceding paragraph in the judgment on the principal case. The court shall inform the debtor of the availability of such motion if he/she has not done so.

第 532 條(假處分之要件)

Article 532

債權人就金錢請求以外之請求，欲保全強制執行者，得聲請假處分。

A creditor may apply for a provisional injunction with regard to non-monetary claims for purposes of securing the satisfaction of compulsory execution.

假處分，非因請求標的之現狀變更，有日後不能強制執行，或甚難執行之虞者,不得為之。

A provisional injunction shall not be granted unless there is a showing of impossibility or extreme difficulty to satisfy the claim by compulsory execution in the future should there arise a change in the status quo of the claimed object.

第 533 條(假扣押規定之準用)

Article 533

關於假扣押之規定，於假處分準用之。但因第五百三十五條及第五百三十六條之規定而不同者，不在此限。

The provisions pertaining to provisional attachment shall apply mutatis mutandis to provisional injunction except as otherwise provided in Article 535 and Article 536.

第 534 條

Article 534

(刪除)

(Repealed.)

第 535 條(假處分之方法)

Article 535

假處分所必要之方法，由法院

The necessary means of effectuating a provisional injunction shall

以裁定酌定之。
前項裁定，得選任管理人及命令或禁止債務人為一定行為。

be determined in the court's discretion by a ruling to such effect.
The court may, by the ruling provided in the preceding paragraph, appoint a manager and order the debtor to conduct or prohibit the debtor from conducting specific acts.

第 536 條(假處分撤銷之原因)

假處分所保全之請求，得以金錢之給付達其目的，或債務人將因假處分而受難以補償之重大損害，或有其他特別情事者，法院始得於假處分裁定內，記載債務人供所定金額之擔保後免為或撤銷假處分。
假處分裁定未依前項規定為記載者，債務人亦得聲請法院許其供擔保後撤銷假處分。

法院為前二項裁定前，應使債權人有陳述意見之機會。

Article 536

The court may provide in the provisional injunction ruling that the debtor may be exempt from, or move for revocation of, the ruling for provisional injunction by the debtor providing the court-assessed countersecurity only in cases where the claim secured by a provisional injunction may be satisfied by money payments or where the provisional injunction will result in irreparable material harm to the debtor or where there exist other special circumstances..
Even if the provisional injunction ruling does not so provide in accordance with the provision of the preceding paragraph, the debtor may still move the court to revoke that ruling upon its provision of a counter security.
The court shall accord the creditor an opportunity to be heard before issuing the rulings provided in the two preceding paragraphs.

第 537 條

(刪除)

Article 537

(Repealed.)

第 537-1 條(押收債務人財產或拘束自由 - 程式)

債權人依民法第一百五十一條規定押收債務人之財產或拘束其自由者，應即時聲請法院為假扣押或假處分之裁定。
前項聲請，專屬押收債務人財產或拘束其自由之行為地地方法院管轄。

Article 537- 1

Where the creditor has seized property or restrained the liberty of the debtor in accordance with the provision of Article 151 of the Civil Code, the creditor must immediately apply to the court for a ruling for provisional attachment or provisional injunction.
The court for the place where the property of the debtor is seized or where the liberty of the debtor is restrained has exclusive jurisdiction over the application provided in the preceding paragraph.

第 537-2 條(押收債務人財產或拘束自由 - 裁定)

前條第一項之聲請，法院應即調查裁定之；其不合於民法第一百五十一條之規定，或有其他不應准許之情形者，法院應即以裁定駁回之。

因拘束債務人自由而為假扣押或假處分之聲請者，法院為准許之裁定，非命債權人及債務人以言詞為陳述，不得為之。

Article 537- 2

The court shall immediately investigate and issue a ruling on the application provided in the first paragraph of the preceding article. Where the application does not fulfill the prerequisites provided in Article 151 of the Civil Code, or there exist other circumstances demanding a denial of such application, the court shall immediately deny such application by a ruling.
In cases where an application for provisional attachment or provisional injunction is made after the creditor has restrained the liberty of the debtor, the court may not issue a ruling granting the provisional attachment or provisional injunction sought without ordering the creditor and the debtor to present their oral statements.

第 537-3 條(押收債務人財產或

Article 537- 3

拘束自由 - 送交法院)

債權人依第五百三十七條之一為聲請時，應將所押收之財產或被拘束自由之債務人送交法院處理。但有正當理由不能送交者，不在此限。

The creditor, in making the application in accordance with the provision of Article 537-1, shall forward the property seized or the debtor whose liberty is restrained to the court for handling, except where it is impossible to do so with a good cause shown.

法院為裁定及開始執行前，應就前項財產或債務人為適當之處置。但拘束債務人之自由，自送交法院時起，不得逾二十四小時。

The court shall appropriately handle the property or the debtor provided in the preceding paragraph before issuing the ruling and starting its execution. Notwithstanding, the liberty of the debtor must not be restrained for more than twenty-four hours from the time when he/she was forwarded to the court.

債權人依第一項規定將所押收之財產或拘束自由之債務人送交法院者，如其聲請被駁回時，應將該財產發還於債務人或回復其自由。

Where the creditor forwards either the property seized or the debtor whose liberty is restrained to the court in accordance with the provision of the first paragraph, the property shall be returned to the debtor or his/her liberty shall be restored when the court denies the creditor's application.

第 537-4 條(押收債務人財產或拘束自由 - 起訴期限) **Article 537- 4**

因拘束債務人自由而為假扣押或假處分裁定之本案尚未繫屬者，債權人應於裁定送達後五日內起訴；逾期未起訴時，命假扣押或假處分之法院得依聲請或依職權撤銷假扣押或假處分裁定。

Where a ruling for provisional attachment or provisional injunction is issued after the liberty of the debtor has been restrained, if the principal action has not yet been initiated, the creditor must initiate it within five days following the service of the ruling. Should the creditor fail to do so, the court issuing the ruling for provisional attachment or provisional injunction may, on motion or its own initiative, revoke that ruling.

第 538 條(定暫時狀態之假處分) **Article 538**

於爭執之法律關係，為防止發生重大之損害或避免急迫之危險或有其他相類之情形而有必要時，得聲請為定暫時狀態之處分。

Where necessary for purposes of preventing material harm or imminent danger or other similar circumstances, an application may be made for an injunction maintaining a temporary status quo with regard to the legal relation in dispute.

前項裁定，以其本案訴訟能確定該爭執之法律關係者為限。

The ruling provided in the preceding paragraph may be issued only where the legal relation in dispute may be ascertained in an action on the merits.

第一項處分，得命先為一定之給付。

The injunction provided in the first paragraph may order certain prestation to be performed in advance.

法院為第一項及前項裁定前，應使兩造當事人有陳述之機會。但法院認為不適當者，不在此限。

The court shall accord the parties an opportunity to be heard before issuing the rulings provided in the first paragraph and the preceding paragraph, except where the court considers it inappropriate to do so.

第 538-1 條(定暫時狀態之處分 - 緊急處置) **Article 538- 1**

法院為前條第一項裁定前，於認有必要時，得依聲請以裁定先為一定之緊急處置，其處置

The court may, if it considers it necessary to do so, order an urgent disposition by a ruling on a motion before issuing the ruling provided in the first paragraph of the preceding article. As the court

之有效期間不得逾七日。期滿前得聲請延長之，但延長期間不得逾三日。
前項期間屆滿前，法院以裁定駁回定暫時狀態處分之聲請者，其先為之處置當然失其效力；其經裁定許為定暫時狀態，而其內容與先為之處置相異時,其相異之處置失其效力。
第一項之裁定,不得聲明不服。

may designate, such disposition shall expire within a period not exceeding seven days. The duration of such disposition may be moved for an extension not exceeding three additional days.
The urgent disposition shall be automatically inoperative where the court denies an application for an injunction maintaining a temporary status quo before the expiration of the duration provided in the preceding paragraph. . Where an injunction maintaining a temporary status quo is granted, any part of the urgent disposition which is inconsistent with such injunction shall become inoperative.
The ruling provided in the first paragraph is not reviewable.

第 538-2 條(定暫時狀態之處分－返還給付)

抗告法院廢棄或變更第五百三十八條第三項之裁定時，應依抗告人之聲請，在廢棄或變更範圍內，同時命聲請人返還其所受領之給付。其給付為金錢者，並應依聲請附加自受領時起之利息。
前項命返還給付之裁定，非對於抗告法院廢棄或變更定暫時狀態之裁定再為抗告時，不得聲明不服;抗告中應停止執行。
前二項規定，於第五百三十八條之一第二項之情形準用之。

Article 538- 2

In reversing or amending the ruling provided in the third paragraph of Article 538, the superior court shall, on motion by the appellant, simultaneously order the applicant to return the prestation received within the scope of the reversal or amendment. Where the prestation received was performed by money payment, the court shall, on motion, order the amount of interest due accrued from the time of receipt of such prestation to be added to the amount returned.
The ruling ordering the return provided in the preceding paragraph is not reviewable except in cases where a re-appeal has been taken from the superior court's ruling reversing or amending the ruling for an injunction maintaining a temporary status
The provisions of the two preceding paragraphs shall apply mutatis mutandis to the cases provided in the second paragraph of Article 538-1.

第 538-3 條(定暫時狀態之處分－損害賠償責任)

定暫時狀態之裁定因第五百三十一條之事由被撤銷，而應負損害賠償責任者，如聲請人證明其無過失時，法院得視情形減輕或免除其賠償責任。

Article 538- 3

Where a ruling for an injunction maintaining a temporary status quo is revoked by reason of the provision of Article 531, and the applicant is thus held liable for damages, upon applicant's proof of no fault on his/her part, the court may in its discretion lessen or discharge the applicant's liability.

第 538-4 條(定暫時狀態之處分－假處分)

除別有規定外，關於假處分之規定，於定暫時狀態之處分準用之。

Article 538- 4

Except as otherwise provided, the provisions pertaining to provisional injunction shall apply mutatis mutandis to injunctions maintaining a temporary status.

第八編 公示催告程序 PART VIII PUBLIC SUMMONS PROCEEDING

第 539 條(一般公示催告之要件及效果)

申報權利之公示催告，以得依背書轉讓之證券或法律有規定

Article 539

A public summons for declaring rights may be applied for only with regard to securities negotiable by endorsement or other cases

者為限。
公示催告，對於不申報權利人，生失權之效果。

provided by law.
A pubic summons shall operate to abridge the rights of those who do not declare their rights.

第 540 條(准許之裁定)
法院應就公示催告之聲請為裁定。
法院准許聲請者，應為公示催告。

Article 540
The court shall issue a ruling on an application for a pubic summons.
The court shall effectuate the public summons after granting the application therefor.

第 541 條(公示催告之記載)
公示催告，應記載下列各款事項：
一、聲請人。
二、申報權利之期間及在期間內應為申報之催告。
三、因不申報權利而生之失權效果。
四、法院。

Article 541
The public summons shall indicate the following matters:
1.The applicant;
2.The period for declaring rights and a summons for timely declaration within that period;
3.The effects of abridgment of rights due to failure to declare rights; and
4.The court.

第 542 條(公告方法)
公示催告之公告，應黏貼於法院之公告處，並登載於公報、新聞紙或其他相類之傳播工具。
前項登載公報、新聞紙或其他相類之傳播工具之日期或期間，由法院定之。
聲請人未依前項規定登載者，視為撤回公示催告之聲請。

Article 542
The public notice effectuated under a public summons proceeding shall be posted on the bulletin board of the court and published in the official gazette, newspapers, or other similar means of communication.
The court shall determine the date or duration of publication in the official gazette, newspaper, or other similar means of communication provided in the preceding paragraph.
An applicant's failure to perform the publication provided in the preceding paragraph shall be deemed a voluntary withdrawal of the application for public summon.

第 543 條(申報權利期間)
申報權利之期間，除法律別有規定外，自公示催告之公告最後登載公報、新聞紙或其他相類之傳播工具之日起，應有二個月以上。

Article 543
Except as otherwise provided by law, the period for a declaration of rights shall start to run for a period of two months or more from the last day of publication of the public notice publication in the official gazette, newspaper, or other similar means of communication.

第 544 條(期間已滿未為除權判決前申報之效力)
申報權利在期間已滿後，而在未為除權判決前者，與在期間內申報者，有同一之效力。

Article 544
A declaration of rights made after the expiration of the period for declaring rights but before the entry of the judgment of abridgment of rights, shall have the same effect as one made within the period.

第 545 條(除權判決之聲請)
公示催告，聲請人得於申報權利之期間已滿後三個月內，聲請為除權判決。但在期間未滿

Article 545
Within three months after the expiration of the period for declaring rights, the applicant for public summon may apply for a judgment of abridgment of rights. Notwithstanding, an application filed before

前之聲請，亦有效力。除權判決前之言詞辯論期日，應並通知已申報權利之人。

the period expires shall also take effect. The oral-argument session to be held before the entering of the judgment of abridgment of rights shall also be notified to those who have declared rights.

第 546 條(除權判決前之職權調查)

Article 546

法院就除權判決之聲請為裁判前，得依職權為必要之調查。

The court may, on its own initiative, conduct any necessary investigation before deciding on the application for a judgment of abridgment of rights.

第 547 條(駁回聲請之裁判)

Article 547

駁回除權判決之聲請，以裁定為之。

Denying an application for a judgment of abridgment of rights shall be made by a ruling.

第 548 條(對申報權利爭執之處置)

Article 548

申報權利人，如對於公示催告聲請人所主張之權利有爭執者，法院應酌量情形，在就所報權利有確定裁判前，裁定停止公示催告程序，或於除權判決保留其權利。

In cases where a declarer of rights disputes the rights asserted by the applicant for public summons, the court by a ruling shall, in its discretion, stay the public summons proceeding before a final and binding decision is entered on the rights declared by such declarer, or preserve the rights of such declarer in the judgment of abridgment of rights.

第 549 條 (除權判決前之言詞辯論)

Article 549

公示催告聲請人，不於言詞辯論期日到場者，法院應依其聲請，另定新期日。

Where the applicant for public summons has failed to appear at the oral-argument session, the court shall, on the applicant's motion, re-schedule a session.

前項聲請，自有遲誤時起，逾二個月後，不得為之。

No application provided in the preceding paragraph may be made after two months have elapsed since the defaulted oral-argument session.

聲請人遲誤新期日者，不得聲請更定新期日。

The applicant who fails to appear at the re-scheduled session may not move to designate a further session.

第 549-1 條(費用之負擔)

Article 549- 1

法院為除權判決者，程序費用由聲請人負擔。但因申報權利所生之費用，由申報權利人負擔。

The applicant shall bear the proceeding expenses when the court enters a judgment of abridgment of rights, except for the expenses incurred from a declaration of rights, which shall be born by the declarer.

第 550 條(除權判決之公告)

Article 550

法院應以相當之方法，將除權判決之要旨公告之。

The court shall effectuate a public notice of the purport of the judgment of abridgment of rights by appropriate means.

第 551 條(除權判決之撤銷)

Article 551

對於除權判決，不得上訴。

No appeal may be taken from a judgment of abridgment of rights.

有下列各款情形之一者，得以公示催告聲請人為被告，向原法院提起撤銷除權判決之訴：

An action may be initiated against the applicant for public summons in the original court to seek revocation of the judgment of abridgment of rights in any of the following situations:

一、法律不許行公示催告程序者。
1. Where the public summons proceeding as effectuated is not authorized by the law;

二、未為公示催告之公告，或不依法定方式為公告者。
2. Where no public notice is effectuated under the public summons proceeding, or the public notice is not effectuated in conformity with the law;

三、不遵守公示催告之公告期間者。
3. Where the public notice is not effectuated according to the period prescribed for a public summons proceeding;

四、為除權判決之法官，應自行迴避者。
4. Where the judge who entered the judgment of abridgment of rights should have voluntarily disqualified him/herself from the matter;

五、已經申報權利而不依法律於判決中斟酌之者。
5. Where the rights declared have not been duly considered in the judgment;

六、有第四百九十六條第一項第七款至第十款之再審理由者。
6. Where there exist grounds for rehearing as provided in the seventh to the tenth subparagraphs inclusive of the first paragraph of Article 496.

第 552 條(撤銷除權判決之期間) **Article 552**

撤銷除權判決之訴，應於三十日之不變期間內提起之。
An action seeking revocation of a judgment of abridgment of rights must be initiated within a peremptory period of thirty days.

前項期間，自原告知悉除權判決時起算。但依前條第四款或第六款所定事由提起撤銷除權判決之訴，如原告於知有除權判決時不知其事由者，自知悉其事由時起算。
The period provided in the preceding paragraph starts to run from the time when the plaintiff knows of the existence of such judgment. Notwithstanding, where such action is to be initiated on the grounds provided in the fourth to the sixth subparagraphs inclusive of the preceding article and if the plaintiff was not aware of the existence of such grounds when knowing the existence of such judgment, the peremptory period shall start to run from the time when he/she knows the existence of such grounds.

除權判決宣示後已逾五年者，不得提起撤銷之訴。
No action seeking revocation of a judgment of abridgment of rights may be initiated five years after that judgment was announced.

第 553 條(撤銷除權判決之準用) **Article 553**

第五百零一條、第五百零二條及第五百零六條之規定，於撤銷除權判決之訴準用之。
The provisions of Article 501, Article 502 and Article 506 shall apply mutatis mutandis to actions seeking revocation of a judgment of abridgment of rights.

第 554 條(對於除權判決所附限制或保留之抗告) **Article 554**

對於除權判決所附之限制或保留，得為抗告。
An appeal may be taken from the limitation or preservation of rights provided in the judgment of abridgment of rights.

第 555 條(公示催告程序之合併) **Article 555**

數宗公示催告程序，法院得命合併之。
The court may order multiple applications for public summons to be consolidated.

第 556 條(宣告證券無效之公示催告) **Article 556**

宣告證券無效之公示催告程序，適用第五百五十七條至第五百六十七條之規定。

The provisions of Article 557 to Article 567 inclusive shall govern a public summons proceeding for the nullification of securities.

第 557 條(管轄法院)

公示催告，由證券所載履行地之法院管轄；如未載履行地者，由證券發行人為被告時，依第一條或第二條規定有管轄權之法院管轄；如無此法院者，由發行人於發行之日為被告時，依各該規定有管轄權之法院管轄。

Article 557

The court for the place of performance designated in the securities has jurisdiction over the public summons proceeding. Absent such designated place of performance, the court having jurisdiction over the issuer of the securities as the defendant in accordance with the provisions of Article 1 or Article 2 shall have jurisdiction. Absent such court, the court having jurisdiction over actions in which the issuer is the defendant on the day of issuance of such securities in accordance with the relevant provisions shall have jurisdiction.

第 558 條(公示催告之聲請人)

無記名證券或空白背書之指示證券，得由最後之持有人為公示催告之聲請。

前項以外之證券，得由能據證券主張權利之人為公示催告之聲請。

Article 558

The last holder of bearer securities or money orders with open endorsement may apply for public summons with regard to such securities.

A person who may assert rights based on the securities may apply for public summons with regard to securities other than those provided in the preceding paragraph.

第 559 條(聲請之程序)

聲請人應提出證券繕本、影本，或開示證券要旨及足以辨認證券之事項，並釋明證券被盜、遺失或滅失及有聲請權之原因、事實。

Article 559

An applicant shall produce either a written copy, or a photocopy of the securities, or disclose the purport or other features sufficient to identify such securities, and make a preliminary showing of the fact and reason leading to the theft, loss or destruction of such securities or other circumstances giving rise to his/her right to make such application.

第 560 條(公示催告之記載)

公示催告，應記載持有證券人應於期間內申報權利及提出證券，並曉示以如不申報及提出者，即宣告證券無效。

Article 560

The public summons must indicate that holders of the securities shall declare rights and produce the securities held by them within the designated period, and bear a note to the effect that failure to make a timely declaration and production will render the securities to be declared null.

第 561 條(公示催告之公告)

公示催告之公告，除依第五百四十二條之規定外，如法院所在地有交易所者，並應黏貼於該交易所。

Article 561

Except as provided in Article 542, the public notice effectuated under a public summons proceeding must be posted at the stock exchange, if any, at the place where the court is located.

第 562 條(申報權利之期間)

申報權利之期間，自公示催告之公告最後登載公報、新聞紙或其他相類之傳播工具之日起，應有三個月以上，九個月以下。

Article 562

The designated period for declaring rights shall run for more than three months and not more than nine months from the last day of the publication of the public notice effectuated under the public summons proceeding in the official gazette, newspaper, or other similar means of communication.

第 563 條(申報權利後之處置)

持有證券人經申報權利並提出證券者，法院應通知聲請人，並酌定期間使其閱覽證券。

聲請人閱覽證券認其為真正時，其公示催告程序終結，由法院書記官通知聲請人及申報權利人。

Article 563

The court shall notify the applicant of the rights declared and the securities produced by the holders, and designate a period of time for the applicant to inspect the securities produced.

The public summons proceeding shall be concluded upon the applicant's acknowledgement of authentication of the securities produced and inspected. In such cases, the court clerk shall notify the same to the applicant and the declarer of rights.

第 564 條(除權判決及撤銷除權判決之公告)

除權判決，應宣告證券無效。

除權判決之要旨，法院應以職權依第五百六十一條之方法公告之。

證券無效之宣告，因撤銷除權判決之訴而撤銷者，為公示催告之法院於撤銷除權判決之判決確定後，應以職權依前項方法公告之。

Article 564

The judgment of abridgment of rights shall declare the nullification of the securities.

The court shall on its own initiative effectuate a public notice of the purport of the judgment of abridgment of rights in accordance with the provision of Article 561.

In cases where the announcement of nullification is revoked in an action seeking revocation of the judgment of abridgment of rights, the court effectuating the public summons shall on its own initiate a public notice thereof in accordance with the provision of the preceding paragraph after the judgment revoking the judgment of abridgment of rights becomes final and binding.

第 565 條(除權判決之效力)

有除權判決後，聲請人對於依證券負義務之人，得主張證券上之權利。

因除權判決而為清償者，於除權判決撤銷後，仍得以其清償對抗債權人或第三人。但清償時已知除權判決撤銷者，不在此限。

Article 565

The applicant may, after the judgment of abridgment of rights is entered, assert rights provided in the securities against those persons who are obliged under such securities.

Performance made under a judgment of abridgment of rights may be asserted against the creditor or a third person after such judgment is revoked except where the revocation of that judgment is known when the performance was made.

第 566 條(禁止支付之命令)

因宣告無記名證券之無效聲請公示催告，法院准許其聲請者，應依聲請不經言詞辯論，對於發行人為禁止支付之命令。

前項命令，應附記已為公示催告之事由。

第一項命令，應準用第五百六十一條之規定公告之。

Article 566

In cases where the court grants an application for public summons for the nullification of bearer's securities, the court shall, on motion and without oral argument, issue an order prohibiting payments by the issuer of such securities.

The order provided in the preceding paragraph shall contain a note of the fact that the public summons has been effectuated.

A public notice of the order provided in the first paragraph shall be effectuated in accordance with the provision of Article 561 which shall apply mutatis mutandis.

第 567 條(禁止支付命令之撤銷)

公示催告程序，因提出證券或

Article 567

In cases where the public summons proceeding is concluded without

其他原因未為除權判決而終結者，法院應依職權以裁定撤銷禁止支付之命令。
禁止支付命令之撤銷，應準用第五百六十一條之規定公告之。

a judgment of abridgment of rights due to production of securities or any other reason, the court shall by a ruling on its own initiative revoke the order prohibiting payments.
A public notice of the revocation of the order prohibiting payments shall be effectuated in accordance with the provision of Article 561 which shall apply mutatis mutandis.

第九編 人事訴訟程序 PART IX ACTIONS CONCERNING PERSONAL AFFAIRS

第一章 婚姻事件程序 CHAPTER I ACTIONS CONCERNING MARRIAGE

第 568 條(婚姻事件之專屬管轄) Article 568

婚姻無效或撤銷婚姻，與確認婚姻成立或不成立及離婚或夫妻同居之訴，專屬夫妻之住所地或夫、妻死亡時住所地之法院管轄。但訴之原因事實發生於夫或妻之居所地者，得由各該居所地之法院管轄。

In matters seeking the nullification of, or the revocation of a marriage, or an action for a declaratory judgment confirming the existence or nonexistence of a marriage, for divorce or for the husband's or the wife's fulfillment of mutual obligation to co-habit, the court for the place where the husband and the wife domicile, or the court for the place where the husband or the wife domiciled at the time of death, has exclusive jurisdiction. Notwithstanding, where the grounds and occurrences giving rise to the action took place at the place where the husband and the wife reside, the court for that place shall have jurisdiction.

夫妻之住所地法院不能行使職權或在中華民國無住所或其住所不明者，準用第一條第一項中段及第二項之規定。

Where the court for the place where the husband and the wife domicile cannot exercise jurisdiction, or the husband and the wife have no domicile in the R.O.C., or their domicile is unknown, the provisions of the second sentence of the first and the second paragraphs of Article 1 shall apply mutatis mutandis.

夫或妻為中華民國人，不能依前二項規定，定管轄之法院者，由中央政府所在地之法院管轄之。

Where the husband or the wife is an R.O.C. citizen and the court having jurisdiction cannot be determined in accordance with the provisions of the two preceding paragraphs, the court at the place where the central government is located shall have jurisdiction.

第 569 條(婚姻事件之當事人) Article 569

由夫或妻起訴者，以其配偶為被告。
由第三人起訴者，以夫妻為共同被告。但撤銷婚姻之訴，其夫或妻死亡者，得以生存者為被告。
以一人同時與二人以上結婚為理由之婚姻無效之訴，由結婚人起訴者，以其餘結婚人為被告；由第三人起訴者，以結婚人全體為共同被告。
前項起訴，結婚人一方中有死亡者，以生存之結婚人為被告。

In an action concerning marriage initiated by the husband or the wife, his or her spouse shall be the defendant.
Where a third party initiates the action, the husband and the wife shall be co-defendants. Notwithstanding, in a third-party action for the revocation of a marriage, where the husband or the wife is deceased, the survivor may be named as the defendant.
In an action for the nullification of a marriage on the ground of bigamy, where such action is initiated by a party to one of the marriages in question, all the others in the marriages in question shall be defendants; where such action is initiated by a third party, all the parties to the marriages in question shall be co-defendants.
In the action provided in the preceding paragraph, where one of the parties to one of the marriages in question is deceased, the survivor(s) shall be the defendant(s).

第 570 條(未成年夫妻之訴訟能力) **Article 570**

未成年之夫或妻，就婚姻無效或確認婚姻不成立之訴，亦有訴訟能力。

The husband or the wife who is a minor has capacity to litigate in an action for the nullification of a marriage or for a declaratory judgment confirming the non-existence of a marriage.

第 571 條（禁治產人於婚姻事件之訴訟代理） **Article 571**

婚姻事件，夫或妻為禁治產人者，應由其監護人代為訴訟行為；如監護人即係其配偶時，應由親屬會議所指定之人，代為訴訟行為。

監護人提起訴訟者，應得親屬會議之允許。

In actions concerning marriage, where the husband or the wife is an interdicted person, his/her guardian shall conduct acts of litigation on his/her behalf; where the guardian is such interdicted person's husband or wife, acts of litigation shall be conducted on behalf of the interdicted person by the person designated by his/her family council.

An action initiated by the guardian must be approved by the interdicted person's family council.

第 571 條 (99 年現行規定)

婚姻事件，夫或妻為受監護宣告之人者，應由其監護人代為訴訟行為；如監護人即係其配偶或為起訴之第三人時，法院應依利害關係人之聲請或依職權為受監護宣告之人選任特別代理人，代為訴訟行為。

監護人違反受監護人之利益而起訴者，法院應以裁定駁回之。

第 571-1 條(99 年現行規定)

受輔助宣告之人於婚姻事件有訴訟能力，為訴訟行為時，無須經輔助人同意。

受輔助宣告之人為訴訟行為者，受訴法院之審判長應依聲請，選任律師為其訴訟代理人，於認為必要時，並得依職權為之選任。

選任訴訟代理人之裁定，並應送達於該訴訟代理人。

第 572 條(訴之合併、變更、追加或反訴) **Article 572**

婚姻無效、確認婚姻成立或不成立、撤銷婚姻、離婚或夫妻同居之訴，得合併提起，或於第一審或第二審言詞辯論終結前，為訴之變更、追加或提起反訴。

The following actions may be initiated jointly: an action for the nullification of a marriage; an action for a declaratory judgment confirming the existence or non-existence of a marriage; an action for the revocation of a marriage; an action for divorce; and an action for the husband's or the wife's fulfillment of mutual obligation to co-habit. In such joint actions, claims may be amended, additional

claims may be raised or a counterclaim may be initiated before the oral argument at the first or the second court instance concludes.

依前項規定得為訴之變更、追加或提起反訴者，不得另行起訴，其另行起訴者，法院應以裁定移送於訴訟繫屬中之第一審或第二審法院合併裁判。

No action may be initiated separately where the claims of an action may be amended, additional claims may be raised or a counterclaim may be initiated as provided in the preceding paragraph. Where an action has been initiated separately, the court shall transfer such separate action by a ruling to the court of first or second instance in which the action is pending to be adjudicated jointly.

受移送之法院不得以違背專屬管轄為理由，移送於他法院。

In such cases, the transferee court cannot further transfer the action to another court by reason of violation of another court's exclusive jurisdiction.

非婚姻事件之訴，以夫妻財產之分配或分割、返還財物、給付家庭生活費用或贍養費或扶養之請求，或由訴之原因、事實所生損害賠償之請求為限，得與第一項之訴合併提起，或於第一審或第二審言詞辯論終結前，為訴之追加或提起反訴；其另行起訴者，法院得以裁定移送於訴訟繫屬中之第一審或第二審法院合併裁判。

With regard to actions not concerning marriage, only actions for claiming distribution or partition of the husband's and the wife's property, the return of property, payment of household living expenses, alimony, maintenance, or for claiming damages arising from the grounds and occurrences giving rise to such action, may be initiated jointly with an action provided in the first paragraph or by amending the claim, raising additional claims or counterclaims before the oral argument at the first or the second court instance concludes. Where an action of such nature has been initiated separately, the court shall transfer such action by a ruling to the court of first or second instance in which the action is pending to be adjudicated jointly.

第 572-1 條(未成年子女權利義務之行使) **Article 572- 1**

撤銷婚姻或離婚之訴，當事人得於第一審或第二審言詞辯論終結前，附帶請求法院於認原告之訴為有理由時，並定對於未成年子女權利義務行使負擔之內容及方法。

In an action for the nullification of a marriage or for divorce, the parties may, before the conclusion of oral argument at the first or the second court instance, raise the incidental claim for the court to determine the content and method of the exercise of rights and assumption of duties with regard to minor children if the court finds that a judgment should be entered for plaintiff.

前項情形，法院亦得依職權定之。但於裁判前，應使當事人有陳述意見之機會。

The court may, on its own initiative, make such determination in the situations provided in the preceding paragraph. Notwithstanding, the court shall accord the parties an opportunity to be heard.

夫妻均不適合行使權利時，法院得選定適當之人為子女之監護人。但應先徵詢被選定人之意見。

Where neither the husband nor the wife is suitable to exercise the rights with regard to minor children, the court may appoint an appropriate guardian for them. Notwithstanding, the court must consult with the appointed guardian in advance.

前三項情形，法院為裁判時，不受當事人聲明事項之拘束。

The court making decisions in cases provided in the three preceding paragraphs is not bound by the parties?statement with regard to the demand for judgment.

前四項規定，於婚姻無效、確認婚姻成立或不成立或夫妻同居之訴準用之。

The provisions of the four preceding paragraphs shall apply mutatis mutandis to: actions seeking the nullification of a marriage; actions for a declaratory judgment confirming the existence or non-existence of a marriage; and actions for the husband's or the wife's fulfillment of mutual obligation to co-habit.

第 573 條(提起獨立之訴之限制) **Article 573**

提起婚姻無效、撤銷婚姻或離婚之訴，因無理由被駁回者，受該判決之原告，不得援以前依訴之合併、變更或追加所得主張之事實，提起獨立之訴。

以反訴提起前項之訴，因無理由被駁回者，受該判決之被告，不得援以前得作反訴原因主張之事實，提起獨立之訴。

Where an action seeking the nullification of, or the revocation of a marriage or for divorce has been dismissed on the merits, the plaintiff of such action shall be barred from initiating a separate action based upon whatever occurrences he/she could have asserted by joining an action, amending the claim or raising an additional claim in the dismissed action, but failed to do so.

Where the action provided in the preceding paragraph has been initiated as a counterclaim, and subsequently dismissed on the merits, the defendant of such action shall be barred from initiating a separate action based upon whatever occurrences he/she could have, but did not, assert previously in his/her counterclaim.

第 574 條(認諾自認效力之不適用) **Article 574**

關於認諾效力之規定，於婚姻事件不適用之。關於捨棄效力之規定，於婚姻無效、婚姻成立或不成立之訴，不適用之。

關於訴訟上自認及不爭執事實之效力之規定，在撤銷婚姻、離婚或夫妻同居之訴，於撤銷婚姻、離婚或拒絕同居之原因、事實，不適用之；在婚姻無效或確認婚姻成立或不成立之訴，於婚姻無效或不成立及婚姻有效或成立之原因、事實，不適用之。

關於認諾、捨棄、訴訟上自認及不爭執事實之效力之規定，於第五百七十二條之一之事件，不適用之。

婚姻事件，當事人得合意不公開審判，並向受訴法院陳明。

The provisions pertaining to admission of claims do not apply to actions concerning marriage. The provisions pertaining to abandonment of claims do not apply to actions to nullify a marriage and actions for a declaratory judgment confirming existence or non-existence of a marriage.

The provisions pertaining to admission of facts and undisputed facts in a litigation proceeding do not apply to actions for the revocation of a marriage, for divorce or the husband's or the wife's fulfillment of mutual obligation to co-habit with respect to the ground and occurrences giving rise to such action or refusal to co-habit. Nor do the same provisions apply to actions for the nullification of a marriage or for a declaratory judgment confirming the existence or non-existence of a marriage with respect to the ground and occurrences giving rise to the nullification or non-existence of the marriage as well as the validity or existence of the marriage.

The provisions pertaining to admission of claims, abandonment of claims, admission of facts and undisputed facts in litigation proceeding do not apply to the matters provided in Article 572-1.

Parties to an action concerning marriage may agree not to open the proceeding to the public and report such agreement to the court in which the action is pending.

第 575 條(當事人未提事實之斟酌) **Article 575**

法院因維持婚姻或確定婚姻是否無效或不成立，得斟酌當事人所未提出之事實。

前項事實，於裁判前，應令當事人有辯論之機會。

For purposes of maintaining the marriage in issue, or determining whether the marriage in issue is null or non-existent, the court may take into consideration facts not presented by the parties.

Before entering a decision, the court shall accord the parties the opportunity to present their oral arguments about any facts provided in the preceding paragraph.

第 575-1 條(證據之調查及徵詢主管或社會福利機構) **Article 575- 1**

第五百七十二條之一之事件，

In the matters provided in Article 572-1, the court may take into

法院得斟酌當事人所未提出之事實，並應依職權調查證據。
前項事件，法院為裁判前，得徵詢主管機關或社會福利機構之意見，或囑託其進行訪視、提出調查報告及建議。

consideration any facts not presented by the parties, and shall on its own initiative take evidence.
Before deciding on the matters provided in the preceding paragraph, the court may invite opinions from the competent authority or the relevant social welfare institution, or request such authority or institution to conduct visits, present an investigation report, and make recommendations.

第 576 條(當事人不從命到場之裁判) **Article 576**

當事人或法定代理人本人不從法院之命到場者，準用第三百零三條之規定。但不得拘提之。

法院得使受命法官或受託法官訊問本人。

In cases where a party to an action or his/her statutory agent disobeys the summons to appear in court, the provision of Article 303 shall apply mutatis mutandis. Notwithstanding, no apprehension is allowed.
The court may authorize the commissioned judge or the assigned judge to examine the parties.

第 577 條(離婚或同居訴訟起訴前之調解) **Article 577**

離婚之訴及夫妻同居之訴，於起訴前，應經法院調解。

前項調解，準用第四百零三條至第四百二十六條之規定。

Actions for divorce and actions for the husband's or the wife's fulfillment of mutual obligation to co-habit shall be subject to mediation by the court before such actions are initiated.
The provisions of Article 403 to Article 426 inclusive shall apply mutatis mutandis to the mediation provided in the preceding paragraph.

第 578 條(離婚或同居訴訟之停止訴訟程序) **Article 578**

離婚之訴及夫妻同居之訴，法院認當事人有和諧之望者，得以裁定命於六個月以下之期間內，停止訴訟程序。但以一次為限。

Where the court considers that there is an opportunity for a successful mediation between the parties to an action for divorce or an action for the husband's or the wife's fulfillment of mutual obligation to co-habit, the court by a ruling may order to stay the litigation proceeding for a period of no more than six months once and only one time.

第 579 條(假處分之聲請) **Article 579**

法院對於未成年子女權利義務之行使或負擔，得依聲請或依職權命為必要之假處分。
法院命為前項假處分時，準用第五百七十五條之一之規定。

The court may, on motion or its own initiative, order a necessary provisional injunction with respect to the exercise of rights and assumption of duties with regard to minor children.
The provision of Article 575-1 shall apply mutatis mutandis to the court order for the provisional injunction provided in the preceding paragraph.

第 580 條(訴訟終結之擬制) **Article 580**

夫或妻於判決確定前死亡者，關於本案視為訴訟終結。但第三人提起撤銷婚姻之訴後，僅夫或妻死亡者，不在此限。

Where the husband or the wife to the action dies before a final and binding judgment is entered, the pending action shall be deemed concluded except in an action initiated by a third party to revoke a marriage to which only the husband or the wife is deceased.

第 581 條(承受訴訟)

婚姻事件之原告，於判決確定前死亡者，有權提起同一訴訟之他人，得於其死亡後三個月內承受訴訟。

Article 581

Where the plaintiff to an action concerning marriage dies before a final and binding judgment is entered, another person who is entitled to initiate the same action may declare the assumption of the action within three months following the death of the plaintiff.

第 582 條(既判力之擴張)

就婚姻無效、撤銷婚姻或確認婚姻成立或不成立之訴所為之判決，對於第三人亦有效力。

以重婚為理由，提起婚姻無效之訴被駁回者，其判決對於當事人之前配偶，以已參加訴訟為限，始有效力。

Article 582

A judgment entered on an action for the nullification of or the revocation of a marriage, or an action for a declaratory judgment confirming existence or non-existence of a marriage, shall be binding on third persons.

Where an action for the nullification of a marriage that is initiated on the ground of bigamy is dismissed on the merits, the judgment dismissing such action shall be binding on the ex-spouse of the parties only if such ex-spouse has intervened in the action.

第 582-1 條(終局判決之上訴)

依第五百七十二條第三項之規定，就夫妻財產之分配或分割或贍養費之請求，與該條第一項之訴合併提起，或為訴之追加或提起反訴者，當事人對於第一審或第二審之終局判決，僅就該條第一項之訴提起上訴者，對於原告就夫妻財產之分配或分割或贍養費之請求，於原審勝訴部分，視為一併提起上訴。

第五百七十二條之一事件，當事人對於第一審或第二審之終局判決，僅就本案部分提起上訴者，視為附帶請求部分已提起上訴。

當事人或利害關係人僅就附帶請求部分之裁判聲明不服者，適用關於抗告程序之規定。

Article 582- 1

In cases where an action for distribution or partition of a husband and wife's property, or for claiming alimony has been initiated jointly with the action provided in the first paragraph of Article 572, or by raising an additional claim or counterclaim in such action in accordance with the provision of the third paragraph of Article 572, then, if an appeal is taken only from the final judgment of the first or the second court instance with respect to the action provided in the first paragraph of that article, that appeal shall be deemed to have been taken jointly from the judgment on the plaintiff's claims for distribution or partition of husband and wife's property or for alimony to the extent that such judgment awards such claims.

In matters provided in Article 572-1, where a party has taken an appeal from the final judgment of the first or the second court instance with respect to the principal action, an appeal shall be deemed to have been taken from the incidental claim.

Where the party or an interested person has requested for a review of the decision on the incidental claim only, the provisions pertaining to appeals from rulings shall apply.

第二章 親子關係事件程序

CHAPTER II ACTIONS CONCERNING PARENT-CHILD RELATIONSHIP

第 583 條（收養關係事件之專管轄）

收養無效或撤銷收養，與確認收養關係成立或不成立及終止收養關係之訴，專屬養父母之住所地或其死亡時住所地之法院管轄。

Article 583

In actions for the nullification of, or the revocation of an adoption, or for a declaratory judgment confirming the existence or non-existence of an adoption relationship, or for termination of an adoption relationship, the court for the place where the adoptive parents domicile or were domiciled at the time of death has exclusive jurisdiction.

第 583 條 (99 年現行規定)
收養無效、終止收養無效或撤銷收養，與確認收養關係成立或不成立，及終止收養關係或撤銷終止收養之訴，專屬養父母之住所地或其死亡時住所地之法院管轄。

第 584 條(未成年養子之訴訟能力) **Article 584**

前條之訴，養子女雖不能獨立以法律行為負義務者，亦有訴訟能力。

The adopted children in the action provided in the preceding article have capacity to litigate irrespective of their lack of the capacity to undertake obligations through independent juridical acts.

第 585 條 （選任訴訟代理人） **Article 585**

未成年之養子女為訴訟行為者，受訴法院之審判長應依聲請，選任律師為其訴訟代理人，於認為必要時，並得依職權為之選任。
前項情形，審判長得命給與律師相當之報酬。
選任訴訟代理人之裁定，並應送達於該訴訟代理人。

Where an adopted minor child needs to conduct acts of litigation, the presiding judge of the court in which the action is pending shall, on motion, appoint an attorney to act as that child's advocate or, on its own initiative, make such appointment if the court considers it necessary to do so.
In cases provided in the preceding paragraph, the presiding judge may order compensation to be paid to the attorney.
The ruling for appointment of an advocate shall be served upon that advocate.

第 585 條 (99 年現行規定)
未成年之養子女為訴訟行為者，受訴法院之審判長應依聲請，選任律師為其訴訟代理人，於認為必要時，並得依職權為之選任。
選任訴訟代理人之裁定，並應送達於該訴訟代理人。

第 586 條(代為訴訟行為) **Article 586**

養父母與養子女間之訴訟，如養子女無行為能力，而養父母為其法定代理人者，應由本生父母代為訴訟行為；無本生父母者，由本生父母方面親屬會議所指定之人代為訴訟行為。

In cases where an adoptive parent is the opposing party to the adopted child, if the adopted child has no capacity to conduct juridical acts and the adoptive parent is such child's statutory agent, acts of litigation shall be conducted by the child's natural parent on behalf of the child, and absent a natural parent, by the person designated by the family council of the child's natural parent.

第 587 條(終止收養起訴前之調解) **Article 587**

終止收養關係之訴，於起訴前，應經法院調解。

An action for the termination of an adoption relationship shall be subject to mediation by the court before such action is initiated.

第 588 條(婚姻事件程序之準 **Article 588**

用)

第五百八十三條之訴，除別有規定外，準用婚姻事件程序之規定。

Except as otherwise provided, the provisions pertaining to actions concerning marriage shall apply mutatis mutandis to the actions provided in Article 583.

第 589 條（認領事件之專屬管轄）

否認或認領子女，與認領無效或撤銷認領之訴，及就母再婚後所生子女確定其父之訴，專屬子女住所地或其死亡時住所地之法院管轄。

Article 589

In actions seeking the disavowal of, or the acknowledgement of the legitimacy of a child, or for the nullification of, or the revocation of an acknowledgment, or for a declaratory judgment confirming the natural father of a child born after the mother's remarriage, the court for the place where the child domiciles or domiciled at the time of death has exclusive jurisdiction.

第 589 條 (99 年現行規定)

否認或認領子女、否認推定生父之訴，與認領無效或撤銷認領之訴，及就母再婚後所生子女確定其父之訴，專屬子女住所地或其死亡時住所地之法院管轄。

第 589-1 條

否認子女之訴，由夫起訴者，以妻及子女為共同被告；由妻起訴者，以夫及子女為共同被告。

前項起訴，妻或夫死亡者，以子女為被告。

子女否認推定生父之訴，以法律推定之生父為被告。

Article 589- 1

Where an action for the disavowal of the legitimacy of a child is initiated by the husband, the wife and the child shall be co-defendants; where such an action is initiated by the wife, the husband and the child shall be co-defendants.

In the action provided in the preceding paragraph, if the wife or the husband deceases, the child shall be the defendant.

第 590 條（否認子女之訴夫死之救濟）

否認子女之訴，夫妻之一方於法定起訴期間內或期間開始前死亡者，繼承權被侵害之人得提起之。

依前項規定起訴者，應自被繼承人死亡時起，於六個月內為之。

夫妻之一方於提起否認子女之訴後死亡者，繼承權被侵害之人得承受其訴訟。

Article 590

Where the husband or the wife dies within or before the commencement of the statutory period for initiating an action to disavow the legitimacy of a child, a person whose right to inherit is injured may initiate such action.

The action provided in the preceding paragraph must be initiated within six months from the death of the deceased person.

In cases where the husband or the wife who initiated the action to disavow the legitimacy of a child dies after initiating such action, a person whose right to inherit is injured may assume the action.

第 590 條 (99 年現行規定)

否認子女之訴，夫妻之一方於法定起訴期間內或期間開始前死亡者，繼承權被侵害之人得

提起之。
依前項規定起訴者，應自被繼承人死亡時起,於一年內為之。
夫妻之一方於提起否認子女之訴後死亡者，繼承權被侵害之人得承受其訴訟。
前三項規定，於否認推定生父之訴，準用之。

第 590-1 條
生父於認領子女之訴起訴後死亡者，由其繼承人承受訴訟；無繼承人者，由社會福利主管機關承受訴訟。

第 591 條(再婚所生子女確定其父之訴之當事人) **Article 591**

就母再婚後所生子女確定其父之訴，母之配偶及前配偶互為被告。

In an action for a declaratory judgment confirming the natural father of a child born after the mother's remarriage, the current spouse and the ex-spouse of the mother shall be opposing parties against each other.

由子女或母起訴者，以母之配偶及前配偶為共同被告，母之配偶或前配偶死亡者，以生存者為被告。

Where the child or the mother initiates the action, the current spouse and the ex-spouse of the mother shall be co-defendants. In case either of them should die, the survivor will be the defendant.

第 592 條(宣告停止親權之訴專屬管轄) **Article 592**

宣告停止親權或撤銷其宣告之訴，專屬行親權人或曾行親權人住所地之法院管轄。

In an action for the declaration of the suspension of parental rights over a child or for the revocation of such declaration, the court for the place where the person who exercises or exercised such rights domiciles has exclusive jurisdiction.

第 593 條(撤銷停止親權之訴之被告) **Article 593**

撤銷停止親權宣告之訴，以現行親權之人或監護人為被告。

In an action for the revocation of a declaration of suspension of parental rights, the person who currently exercises the parental rights or the guardian shall be the defendant.

第 594 條(當事人進行主義之例外(一)) **Article 594**

關於認諾及訴訟上自認或不爭執事實之效力之規定，於第五百八十九條及第五百九十二條之訴，不適用之。

The provisions pertaining to the operation of admitting claims and admission of facts or undisputed facts in litigation proceeding are not applicable to the actions provided in Article 589 and Article 592.

第 595 條(當事人進行主義之例外(二)) **Article 595**

第五百八十九條及第五百九十

The court may take into consideration any facts not presented by the

二條之訴，法院得斟酌當事人所未提出之事實。

parties to the actions provided in Article 589 and Article 592.

前項事實，於裁判前應令當事人有辯論之機會。

The court, before entering a decision, shall accord the parties the opportunity to present their oral arguments about the facts provided in the preceding paragraph.

第 596 條 （準用事項之規定）

第五百六十八條第一項但書、第二項及第三項、第五百七十一條、第五百七十二條第三項、第五百七十二條之一、第五百七十四條第三項、第四項、第五百七十五條之一、第五百七十六條、第五百七十九條至第五百八十一條及第五百八十二條第一項之規定，於第五百八十九條及第五百九十二條之訴準用之。但認領子女之訴，由生母或其他法定代理人起訴，因無理由被駁回者，其判決對於非婚生子女，不準用第五百八十二條第一項之規定。

Article 596

The provisions of the proviso of the first paragraph and the second and the third paragraphs of Article 586; Article 571; the third paragraph of Article 572; Article 572-1; the third and the fourth paragraphs of Article 574; Article 575-1; Article 576; Article 579 to Article 581 inclusive; and the first paragraph of Article 582 shall apply mutais mutandis to the actions provided in Article 589 and Article 592, except in cases where the action to acknowledge the legitimacy of a child is initiated by the natural mother or other statutory agent and subsequently dismissed on the merits, the provision of the first paragraph of Article 582 does not apply mutatis mutandis to the judgment with regard to its effects on the child born out of wedlock.

第五百八十四條至第五百八十六條之規定，於第五百八十九條之訴準用之。

The provisions of Article 584 to Article 586 inclusive shall apply mutatis mutandis to the actions provided in Article 589.

第五百七十二條第一項及第五百七十三條之規定，於認領無效或撤銷認領之訴準用之。

The provisions of the first paragraph of Article 572 and Article 573 shall apply mutatis mutandis to an action for the nullification of or the revocation of an adoption.

第 596 條 (99 年現行規定)

第五百六十八條第一項但書、第二項及第三項、第五百七十一條、第五百七十一條之一、第五百七十二條第三項、第五百七十二條之一、第五百七十四條第三項、第四項、第五百七十五條之一、第五百七十六條、第五百七十九條至第五百八十一條及第五百八十二條第一項之規定，於第五百八十九條及第五百九十二條之訴準用之。但認領子女之訴，由生母或其他法定代理人起訴，因無理由被駁回者，其判決對於非婚生子女，不準用第五百八十二條第一項之規定。

第五百八十四條至第五百八十六條之規定，於第五百八十九條之訴準用之。

第五百七十二條第一項及第五百七十三條之規定，於認領無效或撤銷認領之訴準用之。

第三章 禁治產事件程序 CHAPTER III INTERDICTION PROCEEDING

第 597 條（禁治產事件之專屬管轄） **Article 597**

禁治產之聲請，專屬應禁治產人住所地之法院管轄。

In matters for application for interdiction, the court for the place where the person to be interdicted domiciles has exclusive jurisdiction.

第五百六十八條第一項但書及第二項之規定，於前項聲請準用之。

The provisions of the proviso of the first paragraph and the second paragraph of Article 568 shall apply mutatis mutandis to the application provided in the preceding paragraph.

第 598 條(聲請應表明之事項） **Article 598**

禁治產之聲請，應表明其原因、事實及證據。

An application for interdiction shall specify the grounds and the occurrences giving rise thereto and the evidence thereof.

第 599 條（診斷書之提出） **Article 599**

法院得於禁治產之程序開始前，命聲請人提出診斷書。

The court may order the applicant to produce the letter of diagnosis before the interdiction proceeding commences.

第 600 條（程序公開之禁止） **Article 600**

禁治產之程序，不得公開行之。

Interdiction proceedings shall not be open to the public.

第 601 條（職權調查） **Article 601**

法院就禁治產之聲請，應斟酌聲請人所表明之事實及證據，依職權為必要之調查。

The court shall take into consideration the facts and evidence presented by the applicant and conduct necessary investigation on its own initiative with respect to the application for interdiction.

調查費用，如聲請人未預納者，由國庫墊付。

Investigation expenses shall be advanced by the national treasury if they are not prepaid by the applicant.

第 602 條（禁治產人之訊問） **Article 602**

法院應於鑑定人前訊問應禁治產人。但有礙難訊問之情形或恐有害其健康者，不在此限。

The court shall examine the person to be interdicted in the presence of an expert witness, except in cases where it is difficult to do so or it may harm the health of the person to be interdicted by doing so.

前項訊問，得使受託法官為之。

The court may authorize the assigned judgment to conduct the examination provided in the preceding paragraph.

第 603 條（鑑定人之訊問） **Article 603**

禁治產之宣告，非就應禁治產人之心神狀況訊問鑑定人後，不得為之。

No interdiction may be declared without examining the expert witness with respect to the mental state of the person to be interdicted.

第 604 條(宣告禁治產之裁定） **Article 604**

宣告禁治產之裁定，應附理由。

The ruling declaring interdiction shall specify the reasons therefor.

前項裁定，應送達於聲請人及

The ruling provided in the preceding paragraph shall be served upon

禁治產人之法定代理人，或依法律應為監護人之人。

the applicant and the statutory agent or the person who, by operation of law, should be the guardian of the interdicted person.

第 605 條（宣告禁治產裁定之生效與公告）

Article 605

宣告禁治產之裁定，自禁治產人之法定代理人，或依法律應為監護人之人受送達時發生效力。

The interdiction ruling shall take effect upon service upon the statutory agent or the person who, by operation of law, should be the guardian of the interdicted person.

前項裁定送達後，法院應以相當之方法，將該裁定要旨公告之。

The court shall effectuate a public notice of the purport of the ruling provided in the preceding paragraph by appropriate means after the ruling is served.

第 606 條（保護禁治產人之必要處分）

Article 606

法院於宣告禁治產前，因保護應禁治產人之身體及財產，得命為必要之處分；於宣告後，認為必要時亦同。

The court may, before declaring interdiction, order necessary measures to be taken to protect the body and property of the person to be interdicted. The court may do the same after declaring interdiction if the court considers it necessary to do so.

前項處分，法院得依聲請撤銷之。

The court may, on motion, revoke the ruling for the measures provided in the preceding paragraph.

關於第一項處分及撤銷處分之裁定，得為抗告。

An appeal may be taken from the ruling for the measures provided in the first paragraph and from the ruling revoking such ruling.

第 607 條（駁回禁治產聲請裁定之抗告）

Article 607

駁回禁治產聲請之裁定，得為抗告。

An appeal may be taken from the ruling denying the application for interdiction.

第五百九十九條至第六百零一條之規定，於抗告法院之程序準用之。

The provisions of Article 599 to Article 601 inclusive shall apply mutatis mutandis to the appellate proceeding in the superior court.

第 608 條（禁治產程序費用之負擔）

Article 608

關於聲請禁治產程序之費用，如宣告禁治產者，由禁治產人負擔。

Proceeding expenses incurred from an application for interdiction shall be borne by the interdicted person if he/she is declared interdicted.

除前項情形外，其費用由聲請人負擔。檢察官為聲請人時，由國庫支付。

Except in cases provided in the preceding paragraph, the applicant shall bear the expenses. Expenses shall be paid by the national treasury in cases where the public prosecutor is the applicant.

第 609 條（宣告禁治產裁定之救濟）

Article 609

宣告禁治產之裁定,不得抗告。

No appeal may be taken from a ruling declaring interdiction.

依民法規定得聲請禁治產之人，得向就禁治產之聲請曾為裁判之地方法院，提起撤銷禁治產宣告之訴。

A person who may apply for interdiction in accordance with the provisions of the Civil Code may initiate an action to revoke the declaration of interdiction in the district court which has decided the application for interdiction.

第 610 條（撤銷禁治產宣告之被告）

撤銷禁治產宣告之訴，以聲請禁治產人為被告。

由聲請禁治產人起訴或該聲請人死亡者，以禁治產人之法定代理人為被告。

Article 610

The applicant for the interdiction shall be the defendant in an action to revoke the declaration of interdiction.

The statutory agent of the interdicted person shall be the defendant in actions initiated by the applicant for the interdiction or where the applicant is deceased.

第 611 條（撤銷禁治產宣告之期問）

撤銷禁治產宣告之訴，應於三十日之不變期間內提起之。

前項期間，於禁治產人自其知悉禁治產宣告時起算，於他人自該裁定發生效力時起算。

Article 611

An action to revoke the declaration of interdiction must be initiated within a peremptory period of thirty days.

The period provided in the preceding paragraph shall start to run from the time when the interdicted person knows the existence of the declaration with regard to the interdicted person and from the time when the ruling for the declaration takes effect with regard to other persons.

第 612 條（受宣告人之訴訟能力）

撤銷禁治產宣告之訴，受宣告人有訴訟能力。

第五百八十五條之規定，於受宣告人為訴訟行為者準用之。

Article 612

The interdicted person has the capacity to litigate in an action to revoke the declaration of interdiction.

The provision of Article 585 shall apply mutatis mutandis to the case where the acts of litigation are conducted by the interdicted person.

第 613 條（訴之合併、變更、追加或反訴之禁止）

撤銷禁治產宣告之訴，不得合併提起他訴，或於其程序為訴之追加或提起反訴。

Article 613

No other action may be initiated jointly with an action to revoke the declaration of interdiction; nor may any additional claim or counterclaim be raised during the proceeding of the action.

第 614 條（受宣告人死亡之效果）

受禁治產宣告人於判決確定前死亡者，關於本案視為訴訟終結。

Article 614

A pending action shall be deemed concluded where the interdicted person dies before a final and binding judgment is entered.

第 615 條（準用事項之規定）

第五百八十一條、第五百九十四條、第五百九十五條、第六百零二條及第六百零三條之規定，於撤銷禁治產宣告之訴準用之。

Article 615

The provisions of Article 581, Article 594, Article 595, Article 602 and Article 603 shall apply mutatis mutandis to an action to revoke the declaration of interdiction.

第 616 條（撤銷禁治產宣告之判決與必要處分）

撤銷禁治產宣告之訴，法院認為有理由者，應以判決撤銷宣

Article 616

The court shall enter a judgment to revoke the ruling for declaring interdiction when it considers meritorious an action to revoke the

告禁治產之裁定。
declaration of interdiction..

前項情形，法院於判決確定前，因保護禁治產人之身體或財產，得命為必要之處分。
In cases provided in the preceding paragraph, the court may order necessary measures to be taken to protect the body or property of the interdicted person before the judgment becomes final and binding.

第六百零六條第二項及第三項之規定，於前項處分準用之。
The provisions of the second and the third paragraphs of Article 606 shall apply mutatis mutandis to the measures provided in the preceding paragraph.

第 617 條（撤銷禁治產宣告之效力） **Article 617**

在撤銷禁治產宣告前，監護人所為之行為，不失其效力。
Acts conducted by the guardian before the declaration of interdiction is revoked shall continue in effect.

在撤銷禁治產宣告前，禁治產人所為之行為，不得本於宣告禁治產之裁定，而主張無效。
No act conducted by the interdicted person before the declaration of interdiction is revoked may be asserted as inoperative by reason of the interdiction ruling.

第 618 條（撤銷禁治產宣告之公告） **Article 618**

撤銷禁治產宣告之判決確定後，應由第一審受訴法院公告之。
The court of first instance hearing the case shall effectuate a public notice of the judgment on the action to revoke the declaration of interdiction after such judgment has become final and binding.

第 619 條（聲請撤銷禁治產） **Article 619**

依民法規定得聲請禁治產之人，於禁治產之原因消滅後，得聲請撤銷禁治產。
A person who may apply for interdiction in accordance with the provisions of the Civil Code may apply for revocation of the interdiction after the ground for interdiction has vanished.

第 620 條（撤銷禁治產之訴之管轄） **Article 620**

撤銷禁治產之聲請，專屬禁治產人住所地之地方法院管轄。
In matters of an application for revocation of an interdiction, the court for the place where the interdicted person domiciles has exclusive jurisdiction.

第五百六十八條第一項但書及第二項之規定，於前項聲請準用之。
The provisions of the proviso of the first paragraph and the second paragraph of Article 568 shall apply mutatis mutandis to the application provided in the preceding paragraph.

撤銷禁治產之聲請，不能依前二項規定定其管轄法院者，得向就禁治產之聲請曾為裁判之地方法院為之。
In matters of an application for revocation of an interdiction, where the court having jurisdiction cannot be determined in accordance with the provisions of the two preceding paragraphs, the application may be filed in the district court which has once decided an application for interdiction.

第 621 條（準用事項之規定） **Article 621**

第五百九十八條至第六百零三條之規定，於撤銷禁治產之聲請準用之。
The provisions of Article 598 to Article 603 inclusive shall apply mutatis mutandis to an application for revocation of an interdiction.

第 622 條（費用之負擔） **Article 622**

關於聲請撤銷禁治產程序之費
If the interdiction is revoked, the interdicted person shall bear all

用，如撤銷禁治產者，由禁治產人負擔。
除前項情形外，其費用由聲請人負擔。檢察官為聲請人時，由國庫支付。

proceeding expenses incurred from a revocation of interdiction.

Except in cases provided in the preceding paragraph, the applicant shall bear the expenses. The expenses shall be paid by the national treasury in cases where the public prosecutor is the applicant.

第 623 條（撤銷禁治產之裁定與送達）

撤銷禁治產之裁定，應附理由。

前項裁定，應送達於聲請人及禁治產人。
第六百十八條之規定，於第一項裁定準用之。

Article 623

The ruling revoking an interdiction shall specify the reason for the revocation.
The ruling provided in the preceding paragraph shall be served upon the applicant and the interdicted person.
The provision of Article 618 shall apply mutatis mutandis to the ruling provided in the first paragraph.

第 624 條（駁回撤銷禁治產之裁定及其準用事項）

駁回撤銷禁治產聲請之裁定，不得抗告。
得聲請撤銷禁治產之人，對於前項裁定，得向就該聲請曾為裁判之地方法院提起撤銷之訴。
第六百十條、第六百十二條至第六百十六條、第六百十七條第一項及第六百十八條之規定，於前項之訴，準用之。

Article 624

No appeal may be taken from a ruling denying an application for revoking an interdiction.
A person who may apply for revocation of an interdiction may initiate an action to revoke the ruling provided in the preceding paragraph in the district court which decided such application for revoking the interdiction.
The provisions of Article 610, Article 612 to Article 616 inclusive, the first paragraph of Article 617 and Article 618 shall apply mutatis mutandis to the action provided in the preceding paragraph.

第三章 監護及輔助宣告事件程序 (99 年現行規定)

第 597 條

監護宣告之聲請，專屬應受監護宣告之人住所地之法院管轄。
第五百六十八條第一項但書及第二項之規定，於前項聲請準用之。

第 598 條

監護宣告之聲請，應表明其原因、事實及證據。

第 599 條

法院得於監護宣告之程序開始前，命聲請人提出診斷書。

第 600 條

監護宣告之程序，不得公開行之。

第 601 條

法院就監護宣告之聲請，應斟酌聲請人所表明之事實及證據，依職權為必要之調查。

調查費用，如聲請人未預納者，由國庫墊付。

第 602 條

法院應於鑑定人前訊問應受監護宣告之人。但有礙難訊問之情形或恐有害其健康者，不在此限。

前項訊問,得使受託法官為之。

第 603 條

監護之宣告，非就應受監護宣告之人之精神或心智狀況訊問鑑定人後，不得為之。

第 604 條

監護宣告之裁定，應同時選定監護人及指定會同開具財產清冊之人，並附理由。

前項裁定，應送達於聲請人、受監護宣告之人、法院選定之監護人及法院指定會同開具財產清冊之人；受監護宣告之人另有法定代理人者，並應送達之。

第 605 條

前條第一項之裁定，自法院選定之監護人受送達或當庭受告知時發生效力。

前項裁定生效後，法院應以相當之方法，將該裁定要旨公告之。

第 606 條

法院於監護宣告前，因保護應受監護宣告之人之身體或財產，得命為必要之處分；於宣告後，認為必要時亦同。

前項處分，法院得依聲請或依職權撤銷之。

關於第一項處分及撤銷處分之

裁定，得為抗告。

第 607 條

駁回監護宣告聲請之裁定，得為抗告。

第五百九十九條至第六百零一條之規定，於抗告法院之程序準用之。

第 608 條

關於聲請監護宣告程序之費用，如宣告監護者，由受監護宣告之人負擔。

除前項情形外，其費用由聲請人負擔。檢察官為聲請人時，由國庫支付。

第 609 條

宣告監護之裁定，不得抗告。

依民法規定得聲請監護宣告之人，得向曾就監護宣告之聲請為裁判之地方法院，提起撤銷監護宣告之訴。

第 609-1 條

對於選定監護人及指定會同開具財產清冊之人之裁定，得為抗告。

抗告法院為裁定前，應使抗告人、受監護宣告之人、法定代理人、選定監護人及指定會同開具財產清冊之人有陳述意見之機會。

抗告法院認抗告有理由者，應自為裁定。

對於抗告法院之裁定，不得再為抗告。

第 610 條

撤銷監護宣告之訴，以聲請監護宣告之人為被告。

由聲請監護宣告之人起訴或該聲請人死亡者，以監護人為被告；如該聲請人為監護人者，以受監護宣告之人為被告。

第 611 條

撤銷監護宣告之訴，應於三十日之不變期間內提起之。

前項期間，於受監護宣告之人自其知悉受監護宣告時起算，於他人自該裁定發生效力時起算。

第 612 條

撤銷監護宣告之訴，受監護宣告之人有訴訟能力。

第五百八十五條之規定，於受監護宣告之人為訴訟行為者準用之。

第 613 條

撤銷監護宣告之訴，不得合併提起他訴，或於其程序為訴之追加或提起反訴。

第 614 條

受監護宣告之人於判決確定前死亡者，關於本案視為訴訟終結。

第 615 條

聲請監護宣告之人為被告，於判決確定前死亡者，由監護人承受訴訟。

第五百八十一條、第五百九十四條、第五百九十五條、第六百零二條及第六百零三條之規定，於撤銷監護宣告之訴準用之。

第 616 條

撤銷監護宣告之訴，法院認為有理由者，應以判決撤銷宣告監護之裁定。

前項情形，法院於判決確定前，因保護受監護宣告之人之身體或財產，得命為必要之處分。

第六百零六條第二項及第三項之規定，於前項處分準用之。

第 616-1 條

選定監護人及指定會同開具財產清冊之人之裁定，於撤銷監護宣告判決確定時，自始失其效力。

第 617 條

在撤銷監護宣告判決確定前，監護人所為之行為，不失其效力。

在撤銷監護宣告判決確定前，受監護宣告之人所為之行為，不得本於宣告監護之裁定，而主張無效。

第 618 條

撤銷監護宣告判決確定後，應由第一審受訴法院公告其要旨。

第 619 條

依民法規定得聲請監護宣告之人，於監護宣告之原因消滅後，得聲請撤銷監護宣告。

第 620 條

撤銷監護宣告之聲請，專屬受監護宣告之人住所地之地方法院管轄。

第五百六十八條第一項但書及第二項之規定，於前項聲請準用之。

撤銷監護宣告之聲請，不能依前二項規定定其管轄法院者，得向曾就監護宣告之聲請為裁判之地方法院為之。

第 621 條

第五百九十八條至第六百零三條之規定，於撤銷監護宣告之聲請準用之。

第 622 條

關於聲請撤銷監護宣告程序之費用，如撤銷監護宣告者，由受監護宣告之人負擔。

除前項情形外，其費用由聲請人負擔。檢察官為聲請人時，由國庫支付。

第 623 條

撤銷監護宣告之裁定，應附理由。

前項裁定，應送達於聲請人、受監護宣告之人、法院選定之

監護人及法院指定會同開具財產清冊之人；受監護宣告之人另有法定代理人者，並應送達之。
選定監護人及指定會同開具財產清冊之人之裁定，於撤銷監護宣告裁定確定時，嗣後失其效力。
第六百十八條之規定，於第一項裁定準用之。

第 624 條

駁回撤銷監護宣告聲請之裁定，不得抗告。
得聲請撤銷監護宣告之人，對於前項裁定，得向曾就該聲請為裁判之地方法院提起撤銷之訴。
第六百十條、第六百十二條至第六百十六條、第六百十八條及第六百二十三條第三項之規定，於前項之訴，準用之。

第 624-1 條

輔助宣告之裁定，自受輔助宣告之人受送達或當庭受告知時發生效力。
法院為前項裁定前，應使受輔助宣告之人有陳述意見之機會。
第五百九十七條至第六百零四條、第六百零五條第二項及第六百零六條至第六百十八條之規定，於輔助宣告聲請事件準用之。

第 624-2 條

第六百十九條至第六百二十四條及第六百二十四條之一第二項規定，於撤銷輔助宣告聲請事件準用之。

第 624-3 條

法院對於監護之聲請，認為未達民法第十四條第一項之程度，而有輔助宣告之原因者，得依聲請或依職權以裁定為輔助之宣告。
法院為前項裁定前，應使聲請

人及受輔助宣告之人有陳述意見之機會。

第 624-4 條

前條第一項之裁定,不得抗告。

依民法規定得聲請監護或輔助宣告之人，得向曾就前條第一項聲請為裁判之地方法院，提起撤銷輔助宣告之訴或宣告監護之訴。

前條第一項輔助宣告及選定輔助人之裁定，於監護宣告判決確定時，嗣後失其效力。

第五百八十二條之一、第五百九十八條至第六百零四條、第六百十條至第六百十六條及第六百十八條之規定，於第二項宣告監護之訴準用之。

第 624-5 條

法院對於撤銷監護宣告之聲請，認受監護宣告之人受監護原因消滅，而仍有輔助之必要者，得依聲請或依職權以裁定變更為輔助之宣告。

第六百二十三條第三項及第六百二十四條之三第二項規定，於前項變更裁定準用之。

第一項變更裁定，不得抗告。

依民法規定得聲請監護或輔助宣告之人，得向曾就第一項聲請為裁判之地方法院，提起撤銷輔助宣告之訴或撤銷變更之訴。

第六百十條至第六百十八條規定，於前項撤銷變更之訴準用之。

原監護宣告、選定監護人及指定會同開具財產清冊之人之裁定，於變更裁定經判決撤銷確定時，回復其效力。

第 624-6 條

法院對於變更監護宣告為輔助宣告之聲請，認有理由者，應以裁定變更之。

第六百二十四條之五第二項至第六項規定，於前項變更裁定準用之。

第 624-7 條

受輔助宣告之人，法院認有受監護之必要者，得依聲請以裁定變更為監護宣告。

第六百二十四條之五第二項至第六項規定，於前項變更裁定準用之。

第 624-8 條

法院對於輔助宣告之聲請，認有監護之必要者，應向聲請人曉諭變更為監護宣告之聲請，不為變更者，應駁回其聲請。

第四章 宣告死亡事件程序 CHAPTER IV DECLARATION OF DEATH

第 625 條(宣告死亡事件之準用事項) **Article 625**

宣告死亡事件，除本章別有規定外，準用第五百四十條至第五百五十三條之規定。

Except as otherwise provided in this Chapter, the provisions of Article 540 to Article 553 inclusive shall apply mutatis mutandis to matters of declaration of death.

第 626 條(宣告死亡事件之管轄) **Article 626**

宣告死亡之聲請，專屬失蹤人住所地之法院管轄。

第五百六十八條第一項但書、第二項及第三項之規定，於前項聲請準用之。

In matters of an application for declaration of death, the court for the place where the absent person domiciles shall have exclusive jurisdiction.

The provisions of the proviso of the first paragraph, the second paragraph, and the third paragraph of Article 568 shall apply mutatis mutandis to the application provided in the preceding paragraph.

第 627 條(聲請應表明事項) **Article 627**

宣告死亡之聲請，應表明其原因、事實及證據。

An application for declaration of death must specify the grounds and the occurrences giving rise thereto and the evidence thereof.

第 628 條(公示催告應載事項) **Article 628**

公示催告，應記載下列各款事項：

一、失蹤人應於期間內陳報其生存，如不陳報，即應受死亡之宣告。

二、凡知失蹤人之生死者，應於期間內將其所知陳報法院。

A public summons shall indicate the following matters:

1. The absent person must report he/she is alive within the prescribed period and, failing to do so, he/she shall be declared dead;
2. Any person who knows whether the absent person is alive or deceased shall report the same to the court within the prescribed period.

第 629 條(陳報生存期間) **Article 629**

前條陳報期間，自公示催告最

The reporting period provided in the preceding Article shall start to

後登載公報或新聞紙之日起，應有六個月以上。

run for a period of six months or more from the last day of the publication of the public summons in the official gazette or newspaper.

失蹤人滿百歲者，公示催告得僅黏貼於法院之牌示處。

Where the absent person is one hundred years of age or older, the public summons may be effectuated only by being posted on the bulletin board of the court.

前項情形，其陳報期間，得定為自黏貼牌示處之日起二個月以上。

In cases provided in the preceding paragraph, the reporting period may be prescribed for a period of two months or more from the day when the public summon is posted on the bulletin board.

第 630 條(共同聲請或代為聲請) **Article 630**

有聲請權之人得為共同聲請人，加入程序或代聲請人續行程序。

A person who has the right to apply for declaration of death may be a co-applicant, join the proceeding, or continue the proceeding on behalf of the original applicant.

第 631 條(斟酌未提事實規定之準用) **Article 631**

第六百零一條之規定，於宣告死亡事件準用之。

The provision of Article 601 shall apply mutatis mutandis to declaration of death matters. .

第 632 條(程序之停止) **Article 632**

為失蹤人生存之陳報，而聲請人否認其事實者，法院應於有確定裁判前，以裁定命停止程序。

Where the survival of the absent person has been reported but the applicant denies survival, the court by a ruling shall order the stay of the proceeding before a decision thereon becomes final and binding.

第 633 條(宣告死亡之判決) **Article 633**

宣告死亡之判決，應確定死亡之時。

The judgment declaring death must provide the determined time of death of the absent person.

第 634 條(費用之負擔) **Article 634**

關於宣告死亡程序之費用，如宣告死亡者，由遺產負擔。

Proceeding expenses incurred from an application for declaration of death shall be reimbursed by the inheritance of the absent person if he/she is declared dead.

除前項情形外，其費用由聲請人負擔。檢察官為聲請人時，由國庫支付。

Except in cases provided in the preceding paragraph, the applicant shall bear the expenses. The national treasury shall pay the expenses in cases where the public prosecutor is the applicant.

第 635 條(撤銷死亡宣告之當事人) **Article 635**

撤銷死亡宣告之訴，檢察官或有法律上利害關係之人，得提起之。

The public prosecutor or a legally interested person may initiate an action to revoke declaration of death.

第五百五十一條第二項所定之聲請人死亡者，得以其他有法律上利害關係之人為被告。

In cases where the applicant provided in the second paragraph of Article 551 is deceased, another legally interested person may be named as the defendant.

第 636 條(撤銷死亡宣告之事 **Article 636**

由)

撤銷死亡宣告之訴，除準用第五百五十一條第二項之規定外，如受死亡宣告人尚生存或確定死亡之時不當者，亦得提起之。

In an action for the revocation of declaration of death, in addition to the provision of the second paragraph of Article 551 which shall apply mutatis mutandis, such action may be initiated where the person whose death is declared is still alive or the time of his/her death has been improperly determined.

第 637 條(準用規定之例外)

第五百五十二條之規定，於以受死亡宣告人尚生存為理由，提起撤銷死亡宣告之訴者，不適用之。

Article 637

The provision of Article 552 does not apply in cases where an action to revoke declaration of death has been initiated on the ground that the person whose death is declared is still alive.

第 638 條(數訴之合併)

撤銷死亡宣告之訴有數宗者，法院應合併之，適用第五十六條之規定。

Article 638

Where there are multiple actions to revoke the same declaration of death, the court shall consolidate them. The provision of Article 56 shall apply in such cases.

第 639 條(撤銷死亡宣告之訴準用之規定)

第五百八十一條、第五百九十四條、第五百九十五條及第六百十三條之規定，於撤銷死亡宣告之訴準用之。

Article 639

The provisions of Article 581, Article 594, Article 595 and Article 613 shall apply mutatis mutandis to an action to revoke declaration of death.

第 640 條(撤銷死亡宣告判決之效力)

撤銷死亡宣告或更正死亡之時之判決，不問對於何人均有效力。但判決確定前之善意行為，不受影響。

因宣告死亡取得財產者，如因前項判決失其權利，僅於現受利益之限度內，負歸還財產之責。

Article 640

A judgment revoking declaration of death or correcting the determined time of death is binding on all persons. Notwithstanding, the judgment shall not affect acts conducted in good faith before such judgment has become final and binding.

Where a person has obtained property due to declaration of death, he/she shall be obliged to return such property within the limit of interests remained in case his/her right is abridged as a result the judgment provided in the preceding paragraph.