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| **COUNCIL OF JUDGES SUPREME PEOPLE'S COURT--------** | **SOCIALIST REPUBLIC OF VIETNAMIndependence - Freedom - Happiness---------------** |
| No.: 05/2012/NQ-HDTP | *Hanoi, December 03, 2012* |

**RESOLUTION**

**GUIDING ON THE IMPLEMENTATION OF A NUMBER OF PROVISIONS IN THE PART II "PROCEDURES FOR SETTLEMENT OF CASES AT THE COURT OF FIRST INSTANCE" OF THE CODE OF CIVIL PROCEDURE WHICH HAS BEEN AMENDED AND SUPPLEMENTED UNDER THE LAW AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE CODE OF CIVIL PROCEDURE**

**COUNCIL OF JUDGES
SUPREME PEOPLE'S COURT**

*Pursuant to the Law on Organization of People's Court;*

*In order to properly and consistently implement the provisions in the Part II “Procedures for settlement of cases at the Court of first instance" of the Code of Civil Procedure which has been amended and supplemented under the Law amending and supplementing a number of articles of the Code of Civil Procedure dated March 29, 2001 (hereafter referred to as CCP);*

*After obtaining the consensus of opinion from the Chief Procurator of the Supreme People's Procuracy and the Minister of Justice,*

**DECIDES**

**Article 1. Scope**

This Resolution guides the implementation of a number of provisions of CCP in order to ensure the proper and uniform implementation of Part II “Procedures for settlement of cases at the Court of first instance" of the CCP;

**Article 2. Right to sue specified in Article 161 of CCP**

When deemed necessary to initiate lawsuit at a competent Court to request the protection of legitimate rights and interests, the individuals, agencies or organizations should submit a petition in accordance with the provisions of Clause 2, Article 164 of the CCP and should distinguish as follows:

1. For individual who has sufficient civil act capacity, he/she may prepare the petition for lawsuit by himself/herself or ask for someone to do it. In the section name and address of the petitioner in the petition, the name and address of that individual must be specified. At the same time, at the end of the petition, that person must sign or fingerprint.

2. For individual who is at full age of fifteen to the under age of eighteen having his/her civil act capacity or without restricted civil act capacity and having participated in labor under the labor contract or civil transction by his/her own property, he/she may prepare the petition for lawsuit by himself/herself or ask for someone to do it in the case of dispute related to that labor contract or civil transaction. In the section name and address of the petitioner in the petition, the name and address of that individual must be specified. At the same time, at the end of the petition, that person must sign or fingerprint.

3. For individual who is a minor (except for cases guided in Clause 2 of this Article), the person who loses or is restricted his/her civil act capacity, his/her legal representative may prepare petition for lawsuit or ask for someone to prepare it of the case. In the section name and address of the petitioner in the petition, the name and address of the legal representative of that person must be specified. At the same time, at the end of the petition, that representative person must sign or fingerprint.

4. For individuals in the cases specified in Clauses 1, 2 and 3 of this Article who are the illiterate, blind so can not prepare petition for lawsuit by themselves, sign or affix fingerprint, they may ask for someone to prepare the petition for lawsuit with a witness. The witness must sign to certify the lawsuit and the contents of lawsuit in the petition before the person having the authority to certify of the communal People’s Committee. The person having the authority to certify of the communal People’s Committee shall make certification before the petitioner and the witness;

“Witness” in this case must be the person having civil act capacity specified in Article 57 of CCP;

5. For agency or organization, its legal representative may prepare the petition for lawsuit or ask for someone to do it. In the section name and address of the petitioner, the name and address of that agency or organization and the legal representative of that agency or organization. At the same time, at the end of the petition, the representative person of that agency or organization must sign or fingerprint.

Where the legal representative of agency or organization carries out the lawsuit, in the section ‘’ Name and address of petitioner’’, after specifying the name and address of the agency or organization, the name and address of legal representative of that agency and organization. In the section ‘’Petitioner’’ at the end of petition, the name of agency or organization and the position of legal representative of that agency or organization must be specified. The legal representative of agency or organization signs and writes his/her full name and affixes the seal of the agency or organization;

Where the legal representative of agency and organization authorizes another person to carry out the lawsuit, in the section ‘’Name and address of the petitioner’’ after the name of agency or organizationis specified, the full name and position of the legal representative under authorization of that agency or organization, the authorization document (number, date) and position of the legal representative of the authorizing agency or organization. In the section ‘’Petitioner’’ at the end of petition, the name of agency or organization must be specified, writing the words "authorized representative"; the authorized representative signs and writes his/her full name and affixes the seal of the agency or organization.

Where the representative office or branch of legal entity carries out the lawsuit arising from the transactions done by that representative office or branch, in the section ‘’Name and address of petitioner’’, after the name and address of the agency or organization are specified, the name and position of the head of representative office or branch of legal entity, authorization document (number, date) and position of legal representative of the authorizing legal entity must be specified. In the section ‘’Petitioner’’ at the end of petition, the name of legal entity and position of the head of representative office or branch of legal entity; the head of representative office or branch of legal entity signs and write his/her full name and affixes the seal of legal entity or of the representative office or branch of legal entity;

6. When deemed eligible for handling the case, the determination of plaintiff’s capacity in the case is carried out as follows :

a) For the cases guided in the Clause 1 and 2 of this Article, the plaintiff in the case is the right petitioner;

b) For the cases guided in the Clause 3 of this Article, the plaintiff is the minor or the persons who lose civil act capaciity or have the restricted civil act capaciity. Because these persons do not have their civil act capaciity, their legal representatives shall carry out the rights and procedural obligations of the plaintiff at the Court;

c) For the agency or organization guided in Clause 5 of this Article, the agency or organization suing is the plaintiff of the case. The legal or authorized representative shall participate in the proceedings and carry out the rights and procedural obligations of that agency or organization that is the plaintiff;

**Article 3. The right to initiate a lawsuit to protect the legitimate rights and interests, public and state interests specified in Article 162 of CCP**

1. Agency or organization has the right to initiate a lawsuit to request the Court to protect the public and state interests specified in Clause 3, Article 162 of CCP when meeting the following conditions :

a) Agency or organization has duties or rights in performing the state management and social management in a certain field;

b) The public and state interests in need of protection of the Court must belong to the field of which that agency or organization takes charge;

Ex 1 : The agency Natural Resources and Environment has the right to initiate a lawsuit of civil case to request the Court to force the individual, agency or organization having acts of causing environmental pollution to compensate for damage and remedy the causing of public environmental pollution;

The agency of Culture – Information to has the right to initiate a lawsuit of civil case to request the Court to force the individual, agency or organization having acts of infringing the cultural heritage under the posession of entire people to compensate for damages caused by the infringement;

2. When deemed eligible for handling the case against which the agency or organization initiates a lawsuit specified in Article 162 of CCP, the determination of plaintiff’s capacity in the case is carried out as follows :

 a) For the agency of population - families and children or the Women's Union initiates a lawsuit against the case of marriage and family, the plaintiff is :

a1) The person who is represented by the agency of population - families and children or the Women's Union to initiate a lawsuit to request the Court to force the person who does not perform his/her supporting obligations voluntarily to perform it in accordance with the provisions in Clause 3, Article 55 of the Law on Marriage and Family;

a2) The child who is represented by the agency of population - families and children or the Women's Union to initiate a lawsuit to request the Court to identify the father or mother for minor child or adult child losing civil act capacity specified in Clause 3, Article 66 of the Law on Marriage and Family;

a3) The father or mother who is represented by the agency of population - families and children or the Women's Union to initiate a lawsuit to request the Court to identify the child for the father or mother losing civil act capacity specified in Clause 3, Article 66 of the Law on Marriage and Family;

b) In case where the superior Union of the grassroots Union initiates a lawsuit against the labor dispute to protect the legitimate rights and interests of collective of laborer , the plaintiff is the collective of laborer having legitimate rights and interests to be protected;

c) In case where the agency or organization initiates a lawsuit to request the Court to protect the public or state interests, the plaintiff is the right agency or organization initiating the lawsuit;

**Article 4. Scope of lawsuit specified in Article 163 of CCP**

Deemed as "many legal relations related to each other" to solve in the same case in one of the following cases:

a) The settlement of this legal relation requires the settlement of another legal relation;

Ex : A initiates a lawsuit to request the Court to force B to return the land use right. At the same time, A initiates a lawsuit to request the Court to force C to dismantle the works that have been built on that land.

b) The settlement of the legal relations with the same person concerned and the same type of dispute specified in a similar article of law in one of the Articles 25, 27, 29 and 31 of the CCP.

Ex : A initiates a lawsuit to request the Court to force B to repay a debt of 100 million dong. At the same time, A also initiates a lawsuit to request the Court to force B to return the motobike B has rents from A due to the expiration of rent term;

**Article 5. Form and content of petition specified in Article 164 of CCP**

In order to ensure the proper and uniform preparation of petition, the Court requires the petitioner to prepare the petition under the Form No.01 issued together with this Resolution. The Court shall publicize the form of petition and guidance on the use of form of petition at the Court;

**Article 6. Documents and evidences attached to the petition specified in Article 165 of CCP**

In principle, when submitting petition to the Court, the petitioners must enclose it with documents and evidences to prove that they are the persons having the right to initiate a lawsuit and their requests are well-grounded and lawful. However, in case of objective reasons, they cannot submit them immediately, they must submit the initial documents and evidences to prove that the lawsuit is well-grounded. Other documents and evidences, the petitioners must supplement by themselves or as required by the Court in settling the case;

Ex 1 : When submitting petition to the Court for the settlement of divorce (with legal registration of marriage), child support, property division, in principle, the petitioners must enclose all documents and evidences of marriage relation, common children and property of spouse. If they cannot send all of these documents and evidences, they should send copy of marriage certificate, copy of birth certificate of children (if there is any dispute over child support) with the petition;

Ex 2 : When submitting petition to the Court to request the settlement of dispute over contract, the petitioner must enclose with copy of contract under dispute, invoice of payment and receipt of property, record of liquidation,…. If they cannot send all of these documents and evidences,, they must should copy of contract with the petition;

**Article 7. Procedures for receipt of petition specified in Article 167 of CCP**

1. The Court should have a book to record the date of receipt of petition of person concerned as a basis for determining the lawsuit date;

2. The Court carries out the procedures for receving the petitioner’s petition as follows :

a) Where the petitioner directly submits petition at the Court under the provisions at Point a, Clause 1, Article 166 of CCP, the Court shall record the date, month, year of petition submission in the receipt book. The lawsuit date is determined as the filing date;

b) Where the person concerned send petition by post under the provisions at Point b, Clause 1, Article 166 of CCP, the Court shall record the date, month and year of receipt of petition sent by post in the receipt book and the date, month, year of filing date according to the date, month, year with the postmark. The envelop with postmark must be enclosed with the petition. The lawsuit date is determined as the date with postmark. If the date, month, year of postmark on the envelop cannot be determined, the Court shall note in the receipt book "impossible to determine the date, month, year of postmark." In this case, the lawsuit date is determined as the date the Court receives the petition sent by post;

c) The Court must record (or affix seal of receipt) the date, month, year of receipt of petition on the left corner of petition;

d) The delivery and receipt of evidences submitted by the person concerned or enclosed with the petition shall comply with the guidelines in Article 4 of Resolution No. [04/2012/NQ-HDTP](http://thuvienphapluat.vn/phap-luat/tim-van-ban.aspx?keyword=04/2012/NQ-HDTP&area=2&type=0&match=False&vc=True&lan=0) dated December 03, 2012 of the Council of Judges of the Supreme People’s Court guiding the implementation of a number of provisions on ‘’Proof and evidence’’ of the Code of Civil Procedure amended and supplemented under the Law amending and supplementing a number of articles of the Code of Civil Procedure;

dd) After receiving the petition, the Court shall issue the receipt of petition to the petitioner. If the Court receives the petition sent by post, it shall send the receipt to the petitioner;

3. Right after receiving the petitioner, the assignment of person to review the petition is done as follows :

a. For People’s Court of district, town or provincial cities (hereafter referred to as district- level Court), the Tribunal President or the Vice President authorized by the President to assign a Judge to review the petition;

b. For People’s Court of province or centrally-affiliated city (hereafter referred to as provincial Court), the Tribunal President or Vice President authorized by the President, the Chief of Court or Deputy Chief of Court authorized by the Tribunal President to assign a Judge to review the petition;

4. Within five working days, from the date of receipt of petition, the Judge assigned to review the petition must have one of the following decisions :

a) Conducting the procedures for handling the case. If the case is under his/her settlement jurisdiction under the provisions in Article 171 of CCP and the guidelines in Article 10 of this Resolution;

b) Transferring the petition to the competent Court and giving a written notice to the petitioner. The procedures for transferring petition is done under the provision in Article 37 of CCP and the guidelines in Article 10 of Resolution No. [03/2012/NQ-HDTP](http://thuvienphapluat.vn/phap-luat/tim-van-ban.aspx?keyword=03/2012/NQ-HDTP&area=2&type=0&match=False&vc=True&lan=0) dated December 03, 2012 of the Council of Judges of the Supreme People’s Court guiding the implementation of a number of provisions in the first Part ‘’ General regulations’’ of the Code of Civil Procedure amended and supplemented under the Law amending and supplementing a number of articles of the Code of Civil Procedure;

c) Returning the petition to the petitioner, if subject to one of the cases specified in Article 168 of CCP and the guidelines in Article 8 of this Resolution and giving a written notice to the petitioner;

**Article 8. Return of petition, the consequence of return of petition specified in Article 168 of CCP**

1. The petitioner who has no right to initiate a lawsuit is the person who does not fall into one of the subjects specified in Article 161 and 162 of CCP and the guidelines in Article 2 and 3 of this Resolution;

The petitioner having no sufficient civil act capacity is the person who is unable to perform the procedural rights and obligations or authorizes his/her representative to take part in the civel proceedings under the provisions in Article 57 of CCP;

2. There is not sufficient conditions for lawsuit is the case the persons concerned have agreed or the law has regulations on conditions for lawsuit (including the form and content of petition) but the person concerned has initiated a lawsuit when still lacking one of those conditions;

Ex 1: According to the provisions in Article 135 of the Land Law, the disputes over land must be through the mediation procedures at People’s Committee of commune, ward and town where the disputed land is located. Therefore, from July 01, 2004 (the effective date of the Land Law), the Court only reviews and handles the case of land disputes when they have been mediated at People’s Committee of commune, ward and town. In case these land disputes have not been mediated at People’s Committee of commune, ward and town, the Court shall, based on the provisions at Point Article, Clause 1, Article 168 of CCP, return the petition and guide the person concerned to conduct the mediation procedures at People’s Committee of commune, ward and town where the disputed land is located.

Ex 2: In the petition, the plaintiff did not properly record the address of the defendant, although the Court has required the addition but beyond the time limit fixed by the Court that the plaintiff has not added it.

Ex 3: Company A and B have signed the goods sale contract and agreed to settle disputes by arbitration. When there is any dispute over the contract, Company A shall initiate a lawsuit against Company B at the Court before requesting the arbitration to settle the dispute. The Court considers that the arbitration agreement between the parties is legal in accordance with the provisions of the Law on Commercial Arbitration, the Court shall, based on the provisions at Point d, Clause 1, Article 168 of CCP, return the petition and guide them through the procedures for settlement of dispute at the Arbitration;

3. When determining the conditions for civil lawsuit, the subject of lawsuit is the land use right:

a) For the disputes concerning who has the land use right, that dispute must be mediated at the People’s Committee of commune, ward and town where the disputed land is located under the provisions in Article 135 of the Land Law;

b) For the disputes concerning the land use right such as: disputes over transactions related to the land use right, disputes over the inheritance of land use right, division of common property as the land use right of spouse,…these disputes shall not have to be mediated at the People’s Committee of commune, ward and town where the disputed land is located but the procedures for mediation must be done under the provision of CCP;

4. The case is not under the settlement jurisdiction of the Court is the cases not subject to one of the disputes specified in the Articles 25, 27, 29 and 31 of CCP;

5. The return of petition must be notified in writing by the Court to the petitioner and the Procuracy at the same level stating the reasons for return of petition subject to what circumstance specified in Clause 1, Article 168 of CCP. This notice may be delivered directly or sent to the petitioner by post. The delivery or sending of this notice must be monitored by a book;

6. Clause 1, Article 168 of CCP has annulled the grounds for return of petition because the statute of limitations has expired. Therefore, the Court must not make excuses for the expiration of statute of limitations to return the petition;

In previous cases, the Court has returned the petition due to the expiration of statute of limitations but the person concerned has requested the lawsuit again, the Court handling the case and the person concerned must pay the court fee if not subject to being exempted as provided for by law;

Where there is a judgment or decision of the Court rejecting the request or suspending the case due to the expiration of statute of limitations, the Court shall, based on the Point b, Clause 1, Article 168 of CCP, return the petition and explain that the petitioner has the right to file an application for cassation and appeal for the above judgment or decision;

7. The petitioners have the right to re-file petition for lawsuit when they fall into one of the cases specified in Clause 3, Article 168 and the Points c, e, g, Clause 1, Article 192 of CCP and documents provided for by law;

 ‘’Other cases provided for by law’’ specified at Point d, Clause 3, Article 168 of CCP are the cases which have not been specified in the CCP but specified in the other legal normative documents or after the CCP takes effect, they shall be specified in the legal normative documents issued then or in the international agreements in which the Socialist Republic of Vietnam is a member;

Ex 1 : Where the Court conducts the successful mediation of reunion specified in Article 88 of the Law on Marriage and Family and makes a decision to recognize the agreement on successful mediation between the persons concerned. During the time of reunion, these persons concerned have conflicts again and file petition for divorce to the Court, the Court shall, based on Article 85 of the Law on Marriage and Family, handle and settle the case by the general procedures;

Ex 2 : Where the Court has rejected the divorce petition of the husband who asks for divorce from his wife who are pregnant or nursing a child under twelve months of age, the Court only handles the case of divorce of husband again when meeting the conditions for lawsuit specified in Clause 2, Article 85 of the Law on Marriage and Family;

**Article 9. Requirement for amendment and supplementation of petition specified in Article 169 of CCP**

1. When or after receiving the petition, considering that the petition has not sufficient contents specified in Clause 3, Article 164 of CCP, depending on the requirement for amendment and supplementation of petition, the Court shall require the petitioner to modify or modify the petition within the time prescribed by the Court, but no more than 30 days, from the date the petitioner receives the document of the Court requiring the amendment and supplementation of petition. In special cases, the Court may accept the extension, but no more than 15 days, from the expiration date prescribed above by the Court.

2. The requirement for amendment and supplementation of petition must be made in writing specifying the issues to be modified or supplemented for the petitioner. This document may be deilvered directly or sent to the petitioner by post. The delivery or sending of this notice must be monitored by a book;

3. The time to carry out the amendment and supplementation of petition is not included in the statute of limitations. The date of lawsuit is still determined as the date to file the petition, if the petitioner submits the petition at the Court directly or the date of postmark if the petition is sent by post

4. After the petitioner has modified or supplemented the petition as required by the Court, the Court shall continue handling the case by the general procedures specified in Article 171 of CCP. If the time limit prescribed by the Court is expired but the petitioner fails to modify or supplement as required by the Court, then the Court shall, based on Clause 2, Article 169 of CCP, return the petition and accompanied documents and evidences to the petitioner;

5. Where in the petition, the name and address of the defendant and of the person with the related interests and obligations are not specified or properly specified, the Court shall request the petitioner to fully and properly specify the name and address of the defendant, the person having the related interests and obligations. If the petitioner fails to do this, the Court shall, based on the Clause 2, Article 169 of CCP, return the petition and accompanied documents and evidences to the petitioner without handling the case. That the Court has handled the case but made a decision on suspension of settlement of the case with the reason "Address of the defendant not found yet" is not in accordance with the provisions of CCP because this is not one of the case where the Court makes a decision on suspending the settlement of case specified in Article 189 of CCP. The Court shall not have to announce the seeking of defendant because it is the obligation of the person concerned;

6. In case where in the petition, the petitioner has fully and properly specified the address of the defendant and the person with the related interests and obligations in accordance with the provisions in Clause 2, Article 164 of CCP and the guidelines in Article 5 of this Resolution and the Form No.01 issued with this Resolution but they do not have the fixed residence and regularly change their residence without notifying their new address to the petitioner and the Court in order to hide their address and evade obligations to the petitioner, this case is deemed that the defendant and the person with the related interests and obligations intentionally hide their address. The Court shall handle the case by the general procedures;

7. If the petitioner does not know or properly specify the address of the defendant and the person with the related interests and obligations in the petition, the petitioner shall find the address of the defendant and the person having the related interests and obligations;

**Article 10. Handling the case specified in Article 171 of CCP**

1. Where the petitioner fails to pay the advance of court fee within 15 days specified in Clause 2, Article 171 of CCP due to unforeseen events or objective obstacles, then as provided for in Clause 1, Article 161 of the Code of Civil Procedure 2005, the time of unforeseen events or objective obstacles shall not be included in the time limit for payment of court fee;

2. The Court must give the petitioner a time limit of seven days, after the end of the time limit of fifteen days, from the date of receipt of notice of the Court on the payment of court fee, the petitioner must submit the receipt of payment to the Court. After this time limit, the petitioner shall have to submit the receipt of payment to the Court, the Court shall do the following procedures :

a) If the petition has not been returned, the Judge shall handle the case;

b) If the petition has been returned but the petitioner proves that he/she has paid the court fee at prescribed time limit, but submitted the receipt of payment to the Court not in a timely manner due to unforeseen events or objective obstacles, the Judge shall require the petitioner to re-submit petition and accompanied documents and evidences and conduct the handling of case by the general procedures;

c) If after the Court returns the petition, the petitioner pays the court fee and submit the receipt of payment to the Court, if not due to unforeseen events or objective obstacles, this case is regarded as re-filing of lawsuit petition;

3. When the time limit as guided in Clause 2 of this Article is over but the petitioner fails to submit the receipt of payment to the Court, then the Court shall inform the petitioner of not handling the case due to the failure to pay the court fee;

**Article 11. Assigning Judge to settle the case specified in Article 172 of CCP**

1. The Tribunal President of district-level Court shall assign or authorize a Tribunal Vice President to assign a Judge to settle the case;

The Tribunal President of provincial-level Court shall authorize a Tribunal Vice President or a Chief of Court or Deputy Chief of Court to assign a Judge to settle the case;

2. When assigning a Judge to settle the case, the Judge who has reviewed the petition and handled the case shall be given an assignment. This assignment does not have to make a decision;

3. For complex cases, the settlement may be prolonged, another alternate Judge may be assigned to ensure the continuation of judgment;

**Article 12. The right to request the defendant's counterclaim specified in Article 176 of the CCP**

1. Deemed as the request for the defendant’s counterclaim over the plaintiff or the person with related interests and obligations having independent request if it is independent and not related to the request the plaintiff and the person with related interests and obligations having independent request asking for the Court’s settlement;

Ex : Plaintiff A has filed a petition to require the defendant B to pay the debt of the rent of five million dong in 2005. The defendant B requires the plaintiff A to pay the amount of money of three million dong for house repair and the tax of land use the defendant has paid on behalf of the plaintiff. In this case, the request of defendant B is regarded as the counterclaim over the plaintiff A;

2. Deemed as the defendant’s opinion and not the defendant’s counterclaim request over the plaintiff or the person with related interests and obligations having independent request if the defendant has the request related to the request of the plaintiff or the person with related interests and obligations having independent request (such as requesting the Court not to accept the request of the plaintiff or the person with related interests and obligations having independent request or only accept a portion of request of the plaintiff or the person with related interests and obligations having independent request);

Ex : Plaintiff C has filed the petition to request the Court to recognize the ownership of a car and force the defendant Article to return the car to him/her. The defendant D has requested the Court not to recognize this car does not belong to C but him/her or belongs to both. In this case, the request of defendant Article is not regarded as the counterclaim request over the plaintiff C;

3. The counterclaim request for obligation clearing with the request of plaintiff, the person with related interests and obligations having independent request is the case where the defendant has obligations to the plaintiff and the person with related interests and obligations having independent request and the plaintiff and the person with related interests and obligations having independent request also have obligations to the defendant; Therefore, the defendant requests the Court’s settlement for obligation clearing they have to fulfill as required by the plaintiff and the person with related interests and obligations having independent request;

Ex : Refer to example 1, Clause 1 of this Article

4. The counterclaim request of the defendant results in the exclusion of a part or the whole of the request of the plaintiff and the person with related interests and obligations having independent request is the case where the defendant has the counterclaim request over the plaintiff the person with related interests and obligations having independent request and if that request is accepted, the acceptance of a portion or the whole of request of the plaintiff and the person with related interests and obligations having independent request is excluded because there is no ground;

Ex : A has an own car sold to C but says to his/her child (B is A’child) that he/she rents the car out to C at 5 million dong each month. After that, A dies, B initiates a lawsuit to require C to pay the rent in a year of sixty million dong. C has the counterclaim request to ask the Court to recognize the ownershp of the car with the dispute. If the Court accepts the counterclaim request of C, that results in not accepting all of the request of B to require B to pay that rent;

5. There is a relation between the counterclaim request of defendant and the request of the plaintiff and the person with related interests and obligations having independent request. That is the case where these two requests have a relation with each other and if they are settled in the same case, it shall make the settlement of the case more correct and rapidly;

Ex : Mrs.M initiates a lawsuit to require Mr. N to support the child P with an amount of three hundred thousand dong. Mr. N has a counterclaim request to ask the Court to determine that P is not his child;

**Article 13. Procedures for counterclaim request or independent request specified in Article 178 of CCP**

1. The procedures for counterclaim request or independent request is done the same as those of lawsuit of the plaintiff specified in Articles 164, 165, 166, 167, 168, 169 and 170 of CCP and the guidelines in the Articles 5, 6, 7, 8 and 9 of this Resolution;

2. Where the Court receives the petition for the counterclaim request from the defendant or the independent request of the person with related interests and obligations to settle in the same case, then (the time limit for preparing the judgment is from the date of completion of procedures for counterclaim and independent request) the date of handling the case to calculate the time limit for preparing the judgment of that case is defined as follows :

a) Where the defendant or the person with related interests and obligations are exempted or shall not have to pay the court fee, the date of handling the case is the date the Court receives the petition for counterclaim request of the defendant or the independent request of the person with related interests and obligations with the accompanied documents and evidences;

b) Where the defendant or the person with related interests and obligations must pay the court fee, the date of handling the case is the date the defendant or the person with related interests and obligations submit the receipt of court fee to the Court;

Ex : On March 15, 2013, the Court handles the case under the petition of plaintiff A. The Court shall give a notice of the handling of case to the defendant B. After receiving the notice, on March 31, 2013, the defendant B files a petition for counterclaim request over the plaintiff A. The Court shall conduct the procedures for reviewing the petition for counterclaim request. On April 15, 2013, the defendant B submitted the receipt of court fee. In this case, the date the Court handles the case is determined as April 15, 2013 (The Court shall record the date of handling the case in the case handling book). In case where the defendant B does not have to pay the court fee, the date of handling the case is re-determined as March 31, 2013;

c) Where there are a lot of defendants having their counterclaim request or there are a lot of persons with related interests and obligations, the date of handling the case is determined as follows :

c1) As the date the Court receives the petition for counterclaim request or the last petition for independent request. If they are eligible for exemption or no need of payment of court fee;

c2) As the date the last person submits the receipt of payment of court fee, if they are subject to the cases of paying the court fee;

**Article 14. Time limit for judgment specified in Article 179 of CCP**

Article 179 of CCP specifying the time limit for preparing the judgment, therefore, the time limits specified in this Article are included in the time limit for trial preparation. Depending on each specific case, the time limit for trial preparation is calculated as follows :

1. Where there is a decision on judgment of case

a) If the time limit for preparation of judgement shall not have to be extended, the maximum time limit for trial preparation from the date the Court handles the case is:

- Four months for the cases specified in Article 25 and 27 of CCP;

- Two months for the cases specified in Article 29 and 31 of CCP;

b) If the time limit for the judgment has to be extended, then the maximum time limit for trial preparation is from the date the Court handles the case is:

- Four months for the cases specified in Article 25 and 27 of CCP;

- Three months for the cases specified in Article 29 and 31 of CCP;

c) In cases guided at Point a and b, Clause 1 of this Article but the court has not been opened within one month from the date there is a decision on bringing the case to the trial because of plausible reasons, the time limit for preparation of judgement for each case is added a maximum of one month;

2. In case where there is a decision on suspending the settlement of civil case;

In case where there is a decision on suspending the settlement of civil case, the time limit for preparation of judgement ends on the date of making a decision on suspension. The time limit for preparation of judgement shall be re-calculated from the date the Court proceeds with the settlement of the case when the reason for suspension no longer exists.

3. Extension of time limit for trial preparation

For the cases with complex nature or due to objective obstacles specified at Point a and b, Clause 1, Article 179 of CCP but the time limit is nearly expired (the remaining time limit for trial preparation is no more than five days) but the Judge in charge of settling the case finds that the case is complex adn cannot make one of the decisions specified in Clause 2, Article 179 of the CCP, it is required to immediately notify the Tribunal President in order to make a decision on extension of the time limit for trial preparation. This extension must not exceed the time limit specified inthe last paragraph, Clause 1, Article 179 of CCP and the guidelines at Point b, Clause 1 of this Article. Upon the end of expired time limit, the Judge in charge of settling the case must make one of the decisions specified in Clause 2, Article 179 of the CCP;

a) “ Cases with complex nature’’ are the cases having a lot of persons concerned and related to a lot of fields, having a lot of documents and conflicting evidences that need more time to study and summarize documents in the case record or consultation from specialized agencies or complex technical expertise; the cases where the persons concerned are foreigners residing abroad or Vietnamese people residing, studying and working abroad, the property in foreign countries in need of time for judicial authorization for consular or diplomatic agencies of Vietnam abroad or for foreign Courts,… However, for the case of having to wait for the opinion of the specialized agencies, or wait for the result of complex technical expertise or the result of judicial authorization whose time limit for trial preparation has expired (including the extended time), the Judge shall, based on Clause 4, Article 189 of the CCP, make a decision on suspending the settlement of civil case;

b) “Objective obstacle’’ are the obstacles affected by the objective circumstances such as natural disasters, sabotage, demand for combat, combat services, ... that make the Courts unable to settle the case within a prescribed time limit;

Ex : People’s Court of X district, H province in the mountainous area has made a decision to bring the case to trial and fix the date of trial opening. However, two days before the date of trial opening, there is flash flood. The head office of People’s Court of X district is damaged. Because of remedy of flash flood, repair of head office, the People’s Court of X district cannot proceed the trial within the prescribed time limit;

c) “Plausible reasons’’ specified in Clause 3, Article 179 of CCP are understood that the events occur in objective and unforeseen way such as : there is a need of change or reassignment of procedure conducting person named in the decision to bring the case to trial but the competent person has not appointed the substitute; the case with complex nature has been judged a lot of times at various level of Courts, thus there is not sufficient Judge to judge that case which must be transferred to the superior Court or waiting the secondment of Judge from another Court,…that hinder the Court to conduct the trial within the prescribed time limit;

**Article 15. Unmediated civil cases specified in Article 181 of CCP**

1. "State Property" means the property under the state ownership specified in Article 200 of the Civil Code 2005 and is amended by the provisions of section 1, Chapter XIII of the Civil Code 2005.

"Request for compensation for damage to the State property" is the case where the State property is damaged by unlawful behavior, due to an invalid contract, breach of civil obligation, ... and the person assigned to be the owner of that State property claims for compensation.

When conducting the provisions in Clause 1, Article 181 of CCP, it is necessary to differentiate :

a) Where the state property is allocated to the agency, organization or armed unit for management, use or investment in the State-owned enterprises of which the State implements its ownership through the competent agencies, then when there is a request for compensation for damage to this type of property, the Court must not mediate in order for the persons concerned to reach an agreement upon the settlement of case;

b) Where the State property is invested by the State in the State-owned enterprises or used as contributed capital in joint venture enterprises with the invested capital of other owners as stipulated by the provisions of the Enterprise Law, the Investment Law allowing enterprises to own, use, make a decision on the property or take responsibility before the State for that property in business and production, then when there is a request for compensation for damage of that property, the Court shall conduct the mediation in order for the persons concerned to reach an agreement upon the settlement of case by the general procedures;

2. The Court must not conduct the mediation of civil cases generated from illegal transactions (transactions in violation of law) or in contradiction with social morality, if the mediation is for the parties to continue those transactions. Where the parties only have disputes over the settlement of consequence of invalid transaction due to violation of law or social morality, the Court shall have to conduct the mediation in order for the persons concerned to reach an agreement with each other upon the settlement of consequence of invalid transaction;

**Article 16. Unmediated civil cases specified in Clause 1, Article 182 of CCP**

Where the defendant was duly summoned for the second time but still deliberately absent, the court shall record the failure of mediation due to the absence of defendant and make a decision on bringing the case to judgment by the general procedures. In case at the trial, the defendant requests the Court to adjourn the jusgment for mediation, the Court shall not accept but create conditions for the parties to reach agreement on the resolution of the case.

**Article 17. Composition of mediation trial specified in Article 184 of CCP**

1. The Court shall summon all persons related to the settlement of the case specified in Clause 3, Article 64 and 184 of CCP to be present at the mediation trial;

2. If the mediation is related to all of the persons concerned in the case but with the absence of any person concerned, the Judge shall adjourn the mediation trial to re-open another trial with the presence of all persons concerned. The judge shall announce the adjournment of the mediation trial under the Form No. 06b issued with this Resolution;

3. If there are a lot of legal relations in the case related to other persons concerned and the settlement of those legal relation is only related to the person concerned present anf not related to the person concerned absent, the judge shall conduct the mediation of issues related to the person concerned absent;

For the case mentioned above but the persons concerned have reach an agreement on the settlement of the case, that agreement is only valid for the persons present and is recognized by the Judge’s decision if it does not affect the rights and obligations of the person concerned absent. Where their agreement affects the the rights and obligations of the person concerned absent. this agreement is only valid if the person concerned absent at the mediation trial give a written consent;

Where prior to the mediation, the person concerned absent has a written opinion but after the completion of mediation, the contents of mediation of the persons concerned are different from the contents of document expressing the will of the persons concerned absent, the Court shall collect the written opinion from the person concerned absent from the mediation trial on the agreements of the persons concerned at the mediation trial. The procedures and time limit for collecting the written opinion from the person concerned shall comply with the civil procedure law. Where the persons concerned agrees with the result of mediation, then the date of receipt of wirtten opinion from the person concerned is determined as the date the persons concerned have reached an agreement on the issues to be settled in the case;

**Article 18. Contents of mediation specified in Article 185 of CCP**

1. The Court shall consider the requests of the persons concerned in the case to be settled in order to conduct the mediation of each request in logical order;

Ex : In the case of divorce, there are disputes over child supporting, division of property, the Court should conduct the mediation of marriage relation first, if the mediation of reunion is unsuccessful, the mediation of child supporting and then division of property shall be conducted later;

2. When conducting the mediation, in addtion to the compliance with the principles specified in Article 184 of the CCP, depending on legal relations, the Judge shall announce the legal regulations related to the settlement of the case to the persons concerned so that they could reach an agreement voluntarily in relation to their rights and obligations on the settlement of the case; analyze the legal consequence of successful mediation to the persons concerned (such as the relationship between the persons concerned, payment of court fee,...). The judge must not foretell the persons concerned that who is right or wrong or how wrong or right or if the persons concerned fail to reach an agreement, how the direction of judgment is...;

**Article 19. Mediation order specified in Article 185a of CCP**

The Judge assigned to settle the case shall conduct the mediation in the order as follows :

1. The Judge presiding over the mediation opens the mediation session as follows :’’Today, on date......., the People’s Court .....conducts the mediation of the case on...., I declare the opening of the mediation’’.

2. The Judge presiding over the mediation introduces full name of the procedure conductiong persons, inspector, interpreter, other individuals and agencies participating in the mediation (if any);

3. The Court Clerk reports to the Judge presiding over the mediation on the presence and absence of the person participating in the mediation with the summons or notice of the Court and reason for absence. The Judge presiding over the mediation re-checks the presence and check ID of the participants of the mediation session of the person participating in the mediation with the summons or notice of the Court (specified in Clause 3, 4 and 5, Article 184 of CCP);

4. The Judge presiding over the mediation shall announce the rights and obligations of the persons concerned and other persons participating in the proceedings specified in the corresponding articles of CCP;

Ex : Explaining the rights and obligations to the plaintiff as specified in Article 58 and 59 of CCP,...For the interpreters, the Judge presiding over the mediation require them to commit to fulfill their duties; for the witnesses as adults, require them to ensure their honest declaration.

7. The Judge presiding over the mediation under the content of mediation specified in Article 185 of CCP and the guidelines in Article 18 of this Resolution;

8. The mediation session must be recorded under the provisions in Article 186 of CCP and the guidelines in Article 20 of this Resolution. Before the end of mediation, the Judge presiding over the mediation shall review (to record the sucessful or unsuccessful mediation...) on the settlement of the case at the mediation session;

**Article 20. Record of mediation specified in Article 186 of CCP**

1. The Court Clerk records the mediation with complete contents specified in Clause 1 of Article 186 and the signatures or fingerprints of the persons specified in Clause 2, Article 186 of CCP and and under the Form No.07 issued together with this Resolution;

2. When the persons concerned have reached an agreement upon the issues to be settled in the case, the Judge and the Clerk shall record the successful mediation. The successful record must have the content of agreement of the persons concerned under the Form No. 08a issued with this Resolution;

The Judge presiding over the mediation signs and affixes the seal of the Court on the record. The persons concerned participating in the mediation must sign or affix fingerprint on the successful record of mediation which shall be sent immediately to the persons concerned participating in the mediation;

For the persons concerned absent but the mediation is subject to the cases specified in Clause 3, Article 184 of CCP, the Court shall send the successful record of mediation immediately to the persons concerned absent;

3. In the successful record of mediation, write:‘’ Within 07 days, from the date of recording the mediation, if any person concerned changes his/her opinion on the agreement, it must be made in writing and sent to the Court’’. If the persons concerned come to the Court to ask for the change of agreement, the Judge shall record the opinion on the change of their agreement. The record must have the signatures or fingerprints of the persons concerned and be kept in the case file. The change of opinion about this agreement must be notified by the Court to the other persons concerned related to that agreement;

**Article 21. Making a decision on recognizing the agreement of the person concerned specified in Article 187 of CCP**

1. Within seven days, from the date of recording the successful mediation without any change of opinion about that agreement from the persons concerned, in general principle, the Judge presiding over the mediation shall make a decision on recognizing the agreement of the persons concerned. If the Judge cannot make a decision due to the objective obstacles, the Tribunal President shall assign another Judge to make a decision on recognizing the agreement of the persons concerned.

2. The Judge shall only make a decision on on recognizing the agreement of the persons concerned if they have agreed with each other on the settlement of the entire case (legal relations and requests of the persons concerned in the case) and the court fee. Where the persons concerned have agreed with each other on the settlement of the entire case but failed to reach an agreement on the responsibility for the court fee or rate of court fee, the Court shall not recognize the agreement of the persons concerned and open a trial to hear the case;

3. Where the persons concerned have agreed with each other on the settlement of only a part of the case while the other parts cannot be reached an agreement, the Court shall record the issues that the persons concerned have agreed or not agreed upon in the record of mediation as specified in Clause 1, Article 186 of CPP and make a decision to bring the case to trial, unless there is no ground for suspending or temporarily suspending the settlement of case;

**Article 22. Temporarily suspending the settlement of civil case specified in Article 189 of CCP**

1. The Judge makes a decision on temporarily suspending the settlement of civil case regardless of with or without the applicant's request in one of the cases specified in Article 189 of the CCP.

2. “Where the agencies or organizations have been merged, divided or split without any agency or organization inheriting the rights and procedural obligations of that agency or organization’’ is the case where there is a decision from the agency or organization having the authority over the merger, division, splitting of that agency or organization but the new agency or organization has not been established or has been established but is not eligible for operation under regulations of law for the type of that agency or organization;

‘’Where the agency or organization has been dissolved but there has not been any agency or organization inheriting the rights and procedural obligations of that agency or organization’’ is the case where the agency or organization inheriting the rights and procedural obligations has not been determined yet under the provisions at Point a and b, Clause 2, 3, Article 62 of CCP;

3. “ Legal representatives of the persons concerned’’ specified in Clause 3, Article 189 of CCP consist of the legal representative and authorized representative. The legal representatives of the persons concerned are determined under the provisions of Civil Code 2005, Article 73 of CCP and the guidelines in Article 21 of Resolution No. [03/2012/NQ-HDTP](http://thuvienphapluat.vn/phap-luat/tim-van-ban.aspx?keyword=03/2012/NQ-HDTP&area=2&type=0&match=False&vc=True&lan=0) dated December 03, 2012 of the Council of Judges of the Supreme People’s Court guiding the implementation of a number of provisions in the Part I “General provisions’’ of the Code of Civil Procedure amended and supplemented under the Law amending and supplementing a number of provisions of the Code of Civil Procedure;

4. “It is required to wait for the result of settlement of other related cases or events that must be settled by another agency or organization before settling the case as prescribed by law’’ specified in Clause 4, Article 189 of CCP is the case where the result of settlement of that civil, criminal or administrative case, or the result of settlement of the competent agency or organization as a basis for determining the jurisdiction of the Court, the right to initiate a lawsuit against the case, legal status, person involved in the proceedings, legal relation of dispute or other grounds for the Court to settle the case comprehensively, correctly and in accordance with law;

 ‘’Another case related’’ to the case the Court is settling is the civil, criminal and administrative case;

 ‘’Events prescribed by law’’ must be the events directly affecting the settlement of case, and if the case has not been settled in advance by another agency or organization, the settlement of Court is in violation of law;

Ex 1 : In the case of dispute over the property sale contract between the plaintiff A and the defendant B. After handling the case, the People’s Court of district X receives the notice from the People’s Court of district Y stating that this Court is handling the case between the plaintiff C and the defendant A on the dispute over the ownership of that property. In this case, the People’s Court of district Y needs to make a decision on temporarily suspending the settlement of case of dispute over the property sale contract between A and B to wait for the result of settlement of case of dispute over the ownership of that property from the People’s Court of district Y. Based on the result of settlement of the People’s Court of district Y, the People’s Court of district X shall continue settling the case by the general procedures;

Ex 2 : The People’s Court of district X is settling the dispute between the plaintiff A and the defedant B generated from the illegal transactions between A and B but receives a notice from the People's Procuracy of district X on the transaction between A and B with signs of criminal law and requests the People’s Court of district X to transfer the record for investigating the acts of criminal law. In this case, the People's Procuracy of district needs to temporarily suspend the settlement of case to wait for the result of investigation of the competent agency on these acts of law violation. If the investigating agency concludes that the illegal civil transaction between A and B is not serious enough for criminal prosecution, the People’s Court of district X shall continue handling the case of dispute between A and B on that illegal transaction;

5. ‘’It is required to wait for the result of implementation of judicial authorization or wait for the provision of documents and evidences from the agency or organization as required by the Court in order to settle the case but the time limit is over’’ specified in Clause 5, Article 189 of CCP is the case where the Court has to make a decision to temporarily suspend the case to carry out the judicial authorization or there has not been the result of implementation of judicial authorization or has not received documents or evidences from the agency or organization but the time limit for trial preparation (including the extended cases) is over or despite of having a decision to bring the case to trial or at the trial, if the implementation of judicial authorization is necessary or it is required to ask for the provision of new documents or evidences from the agency or organization to settle the case, the Court must make a decision to temporarily suspend the case;

Ex : As provided for in Clause 4, Article 93 of CCP, the Court must conduct the authorization to gather evidences abroad in case of necessity. In case of expiration of time limit for trial preparation (including the extended case), there has not been the result of authorization to gather evidences as prescribed, the Court must make a decision to temporarily suspend the case to wait for the result of judicial authorization from the foreign competent authority. After having the result of judicial authorization from the foreign competent authority or after the expiration of judicial authorization as prescribed by law, the Court shall proceed with the settlement of case by the general procedures;

6. ‘’Other cases prescribed by law’’ specified in Clause 6, Article 189 of CCP are the cases as a basis for the Court to make a decision on suspending the settlement of civil case and they are not specified in the CCP but specified in other legal normative documents or specified after the effective date of CCP in the legal normative documents issued later or in the international agreements in which the Socialist Republic of Vietnam is a member.

**Article 23. Consequence of suspending the settlement of civil case specified in Clause 3, Article 190 of CCP**

1. When the decision on suspending the settlement of civil case is appealed or protested by the appellate procedures and if the appeal or protest is valid, the Court of First Instance must send the record of case, the appeal or protest to the Court of Appeal specified in Article 255 of CCP;

2. In case of expiry of appeal or protest, there are complaints or requests for the decision on temporarily suspending the settlement of civil case, it is necessary to make a distinction as follows :

a) Where the Court of First Instance considers that the decision on temporarily suspending the settlement of civil case is not right, it shall continue settling the suspended cases because the reasons for suspension no longer exist;

b) Where the Court of First Instance considers that the decision on temporarily suspending the settlement of civil case is right and remains, the request for the decision on temporarily suspending the settlement of civil case must be considered by the cassation procedures;

**Article 24. Suspending the settlement of civil case specified at Point c and k, Clause 1, Article 192 of CCP**

1. When the petitioner withdraw his/her petition, the Court should consider that if there is the counterclaim request of the defendant or the independent request of the person with the related interests and obligations to make a decision as follows :

a) In case where there is no counterclaim request or the independent request, the Court shall accept the withdrawal of petition from the petitioner and make a decision on suspending the settlement of civil case based on the Point c, Clause 1, Article 192 of CCP.

b) Where there are the counterclaim request of the defendant and the independent request of the person with the related interests and obligations, depending on each case, the settlement is as follows:

b1) Where the petitioner withdraws his/her petition, the defendant still keeps his/her counterclaim request and the person with the related interests and obligations still keeps his/her independent request, the Court shall make a decision on suspending the settlement of civil case for the request of the petitioner who has withdrawn his/her petition;

b2) Where the petitioner withdraws his/her petition, the defendant withdraws all his/her couterclaim request but the person with the related interests and obligations still keeps his/her independent request, the Court shall make a decision on suspending the settlement of civil case for the request of the petitioner who has withdrawn his/her counterclaim request;

b3) Where the petitioner withdraws his/her petition and the person with the related interests and obligations still keeps his/her independent request, but the defendant still keeps his/her counterclaim request, the Court shall make a decision on suspending the settlement of civil case for the request of the petitioner and the independent request of the person with the related interests and obligations;

c) After making a decision on suspending the settlement of civil case for the request of the person concerned having withdrawn his/her petition as guided at Point b, Clause 1 of this Article, the Court shall continue to settle the case by the general procedures for the counterclaim request of the defendant or the independent request of the person with the related interests and obligations and based on each specific case, re-determine the procedural status of the persons concerned in accordance with the provisions in Article 219 of CCP and the guidelines in Article 33 of this Resolution;

d) Where the petitioner withdraws all his/her requests for lawsuit and the defendant withdraws all his/her counterclaim requests, the person with the related interests and obligations withdraws all his/her independent request, the Court shall make a decision on suspending the settlement of civil case;

2. ‘’Other cases prescribed by law’’ specified at Point k, Clause 1, Article 192 of CCP are the cases as a basis for the Court to make a decision on suspending the settlement of civil case and they are not specified in the CCP but specified in other legal normative documents or specified after the effective date of CCP in the legal normative documents issued later or in the international agreements in which the Socialist Republic of Vietnam is a member.

**Article 25. Consequence of suspending the settlement of civil case specified in Clause 1, Article 193 of CCP**

Where there is a decision on suspending the settlement of civil case, it is necessary to make a distinction as follows :

1. Where the decision on suspending the settlement of civil case is specified at Point a, b, d, dd, h, i and k, Clause 1, Article 192 of CCP, the persons concerned have no right to initiate a lawsuit to request the Court to re-settle the civil case, if the lawsuit of the subsequent case is not different from the previous case in terms of the plaintiff, the defendant and the legal relations in dispute.

Where the Court makes a decision on suspending the settlement of case specified at Point d and dd, Clause 1, Article 192 of CCP, before making a decision, the Court must explain the consequence of suspending the settlement of case to the persons concerned that they shall have no right to re-initiate a lawsuit of that case;

Where the agency, organization (in case of no plaintiff), or plaintiff specified at Point d and dd, Clause 1, Article 192 of CCP only withdraw the lawsuit document without requesting the Court to continue settling the case when there are certain conditions under agreement or negotiation between the persons concerned, the Court should specify those conditions in the decision on suspending the settlement of case as basis for re-initiating a lawsuit of the case of the persons concerned;

Therefore, in case of suspending the settlement of case specified at Point d, dd, Clause 1, Article 192 of CCP, in the decision on suspending the settlement of case, the Court must clearly state the legal consequence of the suspension that the persons concerned shall not have the right to re-initiate a lawsuit of that case, if the lawsuit of subsequent case is not different from the previous case in terms of plaintiff, defendant and legal relations in dispute;

2. Where the decision on suspending the civil case specified at Points c, e and g, Clause 1, d 192 of CCP, or the case is subject to the provisions in Clause 3, Articles 168 of CCP, the person concerned has the right to initiate a lawsuit to request the Court to re-settle that case by the general procedure, if the statute of limitations of the case specified in Article 159 of CCP remains, although the lawsuit of subsequent case is not different from the previous case in terms of plaintiff, defendant and legal relations in dispute;

3. In case of decision on suspending the case specified at Point g, Clause 1, Article 192 of CCP and Clause 77 of the Law on bankruptcy, if after that the Court makes a decision on suspending the procedures for recovery of business operation and returns the case record to the competent Court, then that Court shall proceed with the case by the general procedures;

**Article 26. Decision on bringing the case to trial specified in Article 195 of CCP**

1. The decision on bringing the case to trial must have all information specified in Clause 1, Article 195 of CCP and under the Form No.12 issued with this Resolution. The decision on bringing the case to trial must be issued within 07 working days before the date of trial opening;

2. In order not to delay the trial and to ensure the compliance with the provisions of CCP, if the People’s Juror assigned to take part in the proceedings cannot continue the trial after there is a decision on bringing the case to trial, simultaneously with the assignment of official People’s Juror, it is necessary to assign an alternative People’s Juror and specify the name of People’s Juror in the decision on bringing the case to trial;

3. The decision on bringing the case to trial must be sent to the persons concerned, the Procuracy at the same level right after the Court makes a decision regardless of whether the Procuracy at the same level may participate in the trial or not;

Where the Procuracy at the same level participates in the trial, the Court shall send the record of the civil case with the decision on bringing the case to trial as guided in the Joint Circular No.[04/2012/TTLT-VKSNDTC-TANDTC](http://thuvienphapluat.vn/phap-luat/tim-van-ban.aspx?keyword=04/2012/TTLT-VKSNDTC-TANDTC&area=2&type=0&match=False&vc=True&lan=0) dated August 01, 2012 of the Supreme People’s Procuracy, the Supreme People’s Court guiding the implementation of a number of provisions of the Code of Civil Procedure on supervising the compliance with the law in civil proceedings;

**Article 27. Presence of the persons concerned, the representatives and the persons protecting the legitimate rights and interests of the persons concerned specified in Article 199 of CCP**

Where the defendant having his/her counterclaim request has summoned the second time but still absent without any representative participating in the trial not due to the unforeseen events, the Court shall suspend the settlement for the defendant’s counterclaim request, unless that person requests for default judgment. The defendant having the counterclaim request has the right to sue for that counterclaim request if the statute of limitations remains;

**Article 28. Judgment in case of absence at the trial of the persons concerned and the persons protecting the legitimate rights and interests specified in Article 202 of CCP**

1. If the Court sends the first summons but the persons concerned and the persons protecting the legitimate rights and interests are still absent without requesting the default judgment under provisions in Clause 1 Article 199 of CCP, whether or not there is a good reason, the court shall adjourn the trial.

The Court only conducts the hearing without the presence of the persons concerned and the persons protecting the legitimate rights and interests if the Court validly sends the first summons subject to one of the cases as follows:

a) There is one or several persons concerned, representative of one or several persons concerned, person protecting the legitimate rights and interests of one or several persons concerned requesting for the default judgment and the remaining persons concerned, the representative of remaining persons concerned, the person protecting the legitimate rights and interests of the remaining persons concerned still attend the trial by the summons of the Court;

b) All of the persons concerned and their representatives and persons protecting the legitimate rights and interests in the case request the Court for default judgment. In this case, the trial panel shall, based on the documents in the record, settle the case under regulations of law;

2. Where the Court sends the second summons, the persons concerned or their representatives and persons protecting the legitimate rights and interests must be present at the trial. If they are absent not due to the unforeseen events, the handling shall apply as provided for in Clause 2, Article 199 of CCP;

3. Where the persons concerned and their representatives and persons protecting the legitimate rights and interests receive the decision to bring the case to trial specified in Clause 2, Article 195 of CCP and the summons under the provisions from Article 150 to 156 of CCP and the persons concerned and their representatives and persons protecting the legitimate rights and interests have prepared to be present at the trial but due to the foreseen events before the time of opening the trial or at the time on the way to the Court for the trial (due to natural disaster, sabotage, accidents, serious illness to be taken to the hospital emergency, relative’death, ...). Therefore they can not be present at the trial by the Court’s summons, the court shall adjourn the trial.

Where the Court does not receive the notification from the persons concerned and their representatives and persons protecting the legitimate rights and interests and still conduct the trial without their presence. If after the judgment or decision of the Court takes effect, the persons concerned lodge their complaints and provide evidence of their absence from the trial due to the unforeseen events, their complaints shall be considered by the appellate procedures;

**Article 29. Duration of adjournment and decision on adjournment specified in Article 208 of CCP;**

1. The duration of adjournment of the first instance trial is within 30 days from the date the trial Panel make a decision on adjournment;

If the trial for a case is adjournd many times, the duration of each adjournment shall not exceed the permitted limit of 30 days, from the date the trial Panel makes a decision on adjournment of that time. The duration of adjournment is not included in the duration of trial preparation specified in Article 179 of CCP and guided in Article 14 of this Resolution. However, in order to protect the rights and interests of the persons concerned and ensure the re-opening of trial as prescribed, after the adjournment, the Court must have the plan for re-opening of trial as soon as possible without necessarily waiting up to 30 days to re-open the trial;

2. The decision on adjournment must have the main contents specified in Clause 2, Article 208 of CCP and under the Form No.14 issued with this Resolution;

3. Where the date to re-open the trial is fixed, in the decision on adjournment, the time and location to re-open the trial must be specified. If the date to re-open the trial is not fixed, the time and location to re-open the trial in the decision shall be notified later by the Court;

The Chairman of trial shall, on behalf of the trial Panel, announce the decision on adjournment to the persons present at the trial and hand over the decision to them immediately. For the persons absent and the Procuracy at the same level, the Court shall send this decision on adjournment immediately. This decision is regarded as the new sommons for the persons concerned, if the time and location to re-open the trial are specified in the decision;

Where there is a change of time and location to re-open the case specified in the decision on adjournment, the Court must notify immediately the Procuracy at the same level and the persons taking part in the proceedings of the time and location to re-open the case;

4. The trial Panel must not adjourn the trial for the reason that at the trial, the persons concerned request te adjournment to ask someone to protect their legitimate rights and interests or authorize other persons to take part in the proceedings on their behalf.

5. If at the trial, the persons concerned produce new documents and evidences and request for the additional inspection for these new documents and evidences or re-inspection (including new property found in need of valuation or price appraisal) and seeing that the the additional inspection or re-inspection (valuation or price appraisal) are necessary for the settlement of case, the trial Panel shall decide the additional inspection or re-inspection (valuation or price appraisal) and make a decision on adjournment based on the Clause 4, Article 230 of CCP;

If the duration of adjournment is nearly expired without result of inspection, valuation or appraisal, the Judge shall, based on Clause 4, Article 189 of CCP, make a decision on temporarily suspending the settlement of case;

**Article 30. Cour record specified in Article 211 of CCP**

1. The court record must have all contents specified in Clause 1, Article 211 of CCP. As provided for in Clause 1, Article 211 of CCP, the court record must state all developments at the trial from the beginning to the end of trial. In the court record, the it is not required to specify the Court’s decision;

2. After the end of the trial and before submitting the court record to the Chairman of trial to re-check and sign it, the Court Clerk must check the court record by himself/herself to correct its inaccuracies. The Chairman of trial and the Court Clerk must re-check the court record and sign it with the Court Clerk. After the Chairman of trial re-checks and signs the court record, if any inaccuracy is found in the court record and must be modified, the Court Clerk must not correct it by herself but report to the Chairman of trial to consider the amendment. When there is one of persons specified in Clause 4, Article 211 of CCP requesting to read the court record, the Chairman of trial must allow him/her to read the court record. If this person requests to record the amendments or supplements in the court record, the Court Clerk must record these amendments or supplements as required; It is required not to erase or correct directly on the recorded issued but record the amendments or supplements following the contents of the court record. The persons specified in Clause 4, Article 211 of CCP request for the recording of amendments or supplements in the court record, record the legal proceedings or participation in proceedings and full name of those persons. The issues recorded in the court record in need of amendment or supplementation and the specific amendments or supplements must also be recorded. If there are a lot of requesters, record the amendments or supplements of each person one by one. After that, the requesters must sign for certification;

Ex 1 (In case where there is a person requesting the recording of amendments or supplements)

The amendments or supplements as requested by plaintiff Nguyen Van A :

1. On the issues recorded in the line (lines) from the top (or bottom up) page…of the court record for amendment or supplementation to be recorded as follows :

...

2. ...

Ex 2 (In case where there is two or more persons requesting the recording of amendments or supplements)

Amendments or supplements:

1. As requested by Prosecutor Tran Van B:

a. ...

b. ...

2. As requested by defendant Le Thi M:

a. ...

b. ..

**Article 31. Opening of trial specified in Article 213 of CCP**

1. The Chairman opens the trial and reads the decision on bringing the case to trial;

When opening the trial, the Chairman requests the all people in the courtroom to stand up. The Chairman opens the trial as follows : “Today, on date….the People’s Court …opens the public (non-public) the first instance trial for the judgment of the case in dispute over…on behalf of the trial Panel, I declare the opening of trial’’ and reads the decision on bringing the case to trial;

2. After hearing the Court Clerk to report that there are persons concerned absent from the trial, the trial Panel must go into the deliberation room to discuss the adjournment as provided for in Clause 2, Article 210 of CCP;

3. The Chairman shall conduct the checking of ID of the persons concerned present at the trial as follows :

a) The Chairman ask the persons concerned about their full names, date of birth, place of residence (permanent residence), occupation (if the persons concerned are individuals); name and address of head office (if the persons concerned are agencies or organizations); for the legal representative of the person concerned: full name, age, occupation, position, residence, relation with the person concerned;

b) Where the documents in the record and the declaration of the persons concerned on ID are different, it is required to verify the accuracy of their ID;

4. For the announcement of rights and obligations of the persons concerned and of the other persons taking part in the proceedings, the Chairman of trial shall announce their rights and obligations in the corresponding articles of law of CCP;

Ex : For plaintiffs, explaining their rights and obligations specified in Article 58 and 59 of CCP,…

For the interpreter and inspector, the Chairman shall require them to commit their fulfilment of task; for the witnesses as adults, require them to give truthful declaration;

5. In case the trial Panel decides the adjournment, when re-opening the trial, the Chairman shall not read the decision on bringing the case to trial again;

If the trial Panel decides the adjournment but during the time of preparing the opening of trial, there are changes or re-assignment of proceeding conducting persons named in the list of decision on bringing the case to trial, the Court shall notify the persons specified in Clause 2, Article 195 of CCP;

**Article 32. Considering the change, supplementation or withdrawal of request specified in Clause 1, Article 218 of CCP**

The change or supplementation of request of the persons concerned at the trial is only accepted by the trial Panel if this change or supplementation does not exceed the scope of lawsuit request, counterclaim request or independent request initially expressed in the petition of plaintiff, the counterclaim petition of defendant, petition of independent request of the persons with related interest and obligations;

The change or supplementation of request of the persons concerned must be recorded in the court record. In case where the trial Panel accepts the request for supplementation or change of the persons concerned, it must record it in the judgment;

Where the persons concerned withdraw a part of request before and at the trial, the Court shall record it in the remark and decision in the judgment and the decision on withdrawal of request of the persons concerned;

**Article 33. Change of proceeding status specified in Article 219 of CCP**

Where there is a person concerned withdrawing his/her request, depending on each case, do as follows :

1. If the plaintiff withdraw all his/her lawsuit request but the defendant still keeps his/her counterclaim request as provided for in Clause 1, Article 219 of CCP, the trial Panel shall :

a) Make a decision on suspending the trial for the entire request withdrawn of the plaintiff as provided for in Clause 2, Article 218 of CCP;

b) Announce the change of proceeding status of the persons concerned. The defendant still keeping his/her counterclaim request becomes the plaintiff; the plaintiff withdrawing his/her entire request becomes the defendant;

2. If the plaintiff withdraws his/her lawsuit request and the defendant withdraws his/her counterclaim request, but the person with related interests and obligations still keep his/her independent request as provided for in Clause 2, Article 219 of CCP, the trial Panel shall :

a) Make a decision on suspending the trial for the entire request withdrawn of plaintiff and defendant as provided for in Clause 2, Article 219 of CCP;

b) Announce at the trial the change of proceeding status depending on the relation between the persons concerned related to the independent request of the person with related interests and obligations;

3. The change of proceeding status of the persons concerned must be recorded in the court record and in the judgment;

**Article 34. Recognizing the agreement of the persons concerned specified in Clause 1, Article 220 of CCP**

1. Before moving on to the question, the trial Panel need to explain the contents specified in Article 220 of CCP, asking them if they have agreed with each other on the settlement of case; if yes, ask them whether they are voluntary or not or coerced or not and consider if the agreement is in contradiction with the law or social morality or not or tell them the consequence of the Court’s decision on recognizing that agreement, then the persons concerned must not appeal against this decision. The Procuracy must not protest the decision under the appellate procedures; the decision of the Court to recognize the agreement of the persons concerned on the settlement of case shall take legal effect.

2. The agreement of the persons concerned must be recorded in the court record. According to the provisions in Article 210 of CCP, the trial Panel shall discuss and make a decision on recognizing the agreement of the persons concerned on the settlement of case at the courtroom;

**Article 35. Deliberation specified in Article 236 of CCP**

1. The members of the trial Panel must settle all issues of the case by majority voting on each issue, particularly the main issues : based on the documents and evidences verified and considered at the trial, through the questions and arguments at the trial, by considering the opinions of the persons taking part in the proceedings, the prosecutor (if any) has sufficent grounds to accept the whole or a part of all requests of the plaintiff, the counterclaim request of the defendant, the independent request of the person with related interest and obligations or not accept the whole or a part of all requests of the persons concerned. If having sufficient grounds for acceptance, specify the Point, Clause and Article of the corresponding legal normative documents and the civil court fee of first instance.

2. Where the trial Panel of the First Instance Court only has a Judge and two People’s Jurors, upon expression of opinion (or voting), the People’s Jurors shall express their opinions (or vote) first, the Judge as the Chairman of the trial shall express hid/her opinions (or vote) later. Where the trial Panel has two Judges and three People’s Jurors, the People’s Jurors shall express their opinions (or vote) first, then the Judge not as the Chairman and finally the Judge as the Chairman shall express his/her opinions (or vote);

3. The members of the trial Panel with minority opinions have the right (not obligation) to express their opinions in separate document and this document is attached to the case record;

4. In the deliberation record, the opinions discussed about each issue and decision by majority of the trial Panel on each issue must be fully recorded. The members of the trial Panel must sign on the deliberation record at the deliberation room before sentencing;

5. In case where there are many complicated circumstances, the deliberation requires a long time, the trial Panel may decide the deliberation time but not later than five working days after the end of arguments at the trial. The trial Panel shall inform the sentencing date to the the persons concerned. If the sentencing date has been fixed but changed, then the trial Board must notify the persons concerned of such change.

**Article 36. Sentence of first instance specified in Article 238 of CCP**

The sentence of first instance must be written in accordance with the provisions in Article 238 of CCP, the way of writing and presentation must be in line with the Form No.01 issued together with Resolution No. [03/2012/NQ-HDTP](http://thuvienphapluat.vn/phap-luat/tim-van-ban.aspx?keyword=03/2012/NQ-HDTP&area=2&type=0&match=False&vc=True&lan=0) dated December 03, 2012 of the Council of Judges of the Supreme People’s Court guiding the implementation of a number of provisions in the first Part “General provisions’’ of the Code of Civil Procedure amended and supplemented under the Law amending and supplementing a number of Articles of the Code of Civil Procedure;

Together with the deliberation record, the original sentence must be adopted and signed by the members of the trial Panel at the deliberation room and kept in the case record. On the basis of original sentence, the presiding Judge of the trial shall, on behalf of the trial Panel, sign the main sentences and the Court shall hand over or send the sentences as provided for in Article 241 of the CCP;

**Article 37. Sentence declaration specified in Article 239 of CCP**

When the sentence is declared, all of the people in the courtroom shall stand up. If any person does not stand up, the Court Clerk shall remind him/her. If that person says he/she cannot stand up due to bad health, the Chairman of the trial shall permit him/her to sit in place and then declare the sentence. The Chairman or another member of the trial Panel shall read the verdict. If the verdict is long, the Chairman and that member can take turns reading the verdict;

Where the verdict is too long, the Chairman only tell the people in the court room to stand up when reading the introduction and the decision of the verdict;

After finishing the reading of verdict, depending on each specific case, the Chairman or another member of the trial Panel shall give further explanation about the enforcement of sentence and right of appeal of the persons concerned;

For the persons concerned who do not speak Vietnamese, after the declaration of sentence, the interpreter must translate the whole verdict for them into the language they know (including the part of verdict related to them and the part of verdict related to the other persons concerned in the case);

**Article 38. Amendment or supplementation of verdict specified in Article 240 of CCP**

1. The verdict is only amended or supplemented in the following cases:

a) Obvious errors found in spelling such as: incorrect written words, accent marks, uppercase or lowercase letters, foreign language transliterated into Vietnamese, omitted middle name in the full name of the persons concerned,...

b) Data by mistake or miscalculation (including court fees) as: wrong addition, subtraction, multiplication, division, ... that have to be corrected.

2. The Court must send a written notce of the amendment or supplementation of verdict to ther persons specified in Clause 1, Article 240 of CCP. This notice is presented under the Form No. 15 issued together withi this Resolution.

**Article 39. Forms of written proceedings**

Issued together with this Resolution are the forms of written proceedings as follows :

1. Petition (Form No. 01) ;

2. Petition receipt notice (Form No.02) ;

3. Petition returning notice (Form No.03) ;

4. Notice of payment of court fee (Form No.04) ;

5. Notice of handling of case (Form No.05) ;

6. Notice of mediation session (Form No.06a) ;

- Notice of adjournment of mediation (form No. 06b) ;

7. Record of mediation (Form No.07) ;

8. Record of successful mediation (Form No. 08a) ;

- Record of recognizing the voluntary divorce and successful mediation (Form No. 08b) ;

9. Decision on recognizing the agreement of the persons concerned (Form No. 09a) ;

- Decision on recognizing the consensual divorce and the agreement of the persons concerned (Form No.09) ;

10. Decision on temporarily suspending the settlement of civil case (Form No.10a) ;

- Decision on temporarily suspending the settlement of civil case (Form No.10b) ;

11. Decision on suspending the settlement of civil case (Form No.11a) ;

- Decision on suspending the settlement of civil case (Form No.11b) ;

12. Decision on bringing the case to trial (Form No.12) ;

13. Record of trial of first instance trial (Form No.13) ;

14. Decision on adjournment of trial (Form No.14) ;

15. Notice of amendment or supplementation of verdict (No. 15) ;

**Article 40. Effect**

1. This Resolution was adopted by the Council of Judges of the Supreme People’s Court on December 03, 2012 and takes effect on July 01, 2013

Resolution No. [02/2006/NQ-HDTP](http://thuvienphapluat.vn/phap-luat/tim-van-ban.aspx?keyword=02/2006/NQ-HDTP&area=2&type=0&match=False&vc=True&lan=0) dated May 12, 2006 of the Council of Judges of the Supreme People’s Court guiding the implementation of a number of provisions in the second Part “Procedures for settlement of the case at the First Instance Court” of the Code of Civil Procedure and the guidelines for the issues guided in this Resolution of the Supreme People’s Court issued before the effective date of shall expire on July 01, 2013 ;

2. For the civil cases, marriage and family cases and economic or labor cases that the Court has handled but not judged at the first instance, appeal or cassation trial, the guidelines in this Resolution shall apply;

For the sentence and decision of the Court that has taken legal effect before the effective date of this Resolution, the guidelines in this Resolution shall not apply for protest under the appellate or cassational procedures, except where there are other grounds for protest.

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|  | **FOR THE COUNCIL OF JUDGESTRIBUNAL PRESIDENT****Truong Hoa Binh** |