

THE JUDGES' COUNCIL OF THE SUPREME PEOPLE'S COURT

**Resolution No. 05/2012/NQ-HDTP of December 3, 2012,
guiding a number of provisions of Part Two
“Procedures for Settling Cases at First-Instance
Courts” of the Civil Procedures Code which was
amended and supplemented under the Law Amending
and Supplementing a Number of Articles of the Civil
Procedure Code**

Pursuant to the Law on Organization of People's Courts;

In order to ensure proper and consistent implementation of provisions of Part Two “Procedures for Settling Cases at First- Instance Courts ” of the Civil Procedure Code, which was amended and supplemented under the March 29, 2011 Law Amending and Supplementing a Number of Articles of the Civil Procedure Code (below referred to as the Code);

After reaching agreement with the Chairperson of the Supreme People's Procuracy and the Minister of Justice,

RESOLVES:

Article 1. Scope of application

This Resolution guides a number of provisions of the Code in order to ensure proper and consistent implementation of the Code's Part Two “Procedures for Settling Cases at First-Instance Courts”.

Article 2. Right to initiate lawsuits provided in Article 161 of the Code

When seeing it necessary to initiate a lawsuit at competent court to request the protection of his/her/its rights and legitimate interests, an individual, agency or organization shall make a petition as prescribed in Clause 2, Article 164 of the Code, and it is needed to distinguish that:

1. A person with full civil procedure act capacity may himself/herself or ask another person to make a petition. In the “lawsuit initiator's name and address” items of the petition, ^* write the name and address of such person; and, at the same time, such person shall sign or press his/her fingerprint at the bottom of the petition.
2. A person aged between full 15 and under 18 who neither losses his/her civil act capacity, nor has restricted civil act capacity and has been employed under a labor contract or entered into a civil transaction with his/her own property may himself/herself or ask another person to make a petition to initiate a lawsuit over disputes related to such labor contract or

civil transaction. In the “lawsuit initiator’s name and address” items of the petition, to write the name and address of such person; and, at the same time, such person shall sign or press his/her fingerprint at the bottom of the petition.

3. For a minor (except the case guided Clause 2 of this Article) or a person who losses his/her civil act capacity or has restricted civil act capacity, his/her lawful representative (a law representative) may himself/herself or ask another person to make a petition. In the “lawsuit initiator’s name and address” items of the petition, to write the name and address of the lawful representative of such person; and, at the same time, the representative shall sign or press his/her fingerprint at the bottom of the petition.

4. In case a person specified in Clause 1, or 3 of this Article is illiterate or sightless c cannot make the petition by himself/herself or cannot give his/her signature or press his her fingerprint, he/she may ask another person to make a petition; in this case, a witness is required. The witness shall sign the petition to certify the initiation and contents of the lawsuit in the presence of a commune-level People’s Committee official competent to make certification. This official shall make certification in the presence of the lawsuit initiator and the witness.

In this case, the witness must be a person with full civil procedure act capacity as prescribed in Article 57 of the Code.

5. For an agency or organization, its lawful representative may himself/herself or ask another person to make a petition. In the “lawsuit initiator’s name and address” items of the petition, to write the name and address of the agency or organization and the name and position of its lawful representative; and, at the same time, the lawful representative shall sign or append the agency’s or organization’s seal at the bottom of the petition.

In case 4he at-law representative of an agency or organization initiates a lawsuit, in the “lawsuit initiator’s name and address” items of the petition, to write the name and position of the at-law representative after the name and address of the agency or organization. In the “lawsuit initiator” item at the bottom of the petition, to write the name of the agency or organization and the position of the at-law representative; and the at-law representative shall sign, write his/ her full name and append the agency’s or organization’s seal.

In case the at-law representative of an agency or organization authorizes another person to initiate a lawsuit, in the “lawsuit initiator’s name and address” items of the petition, to write the full name and position the agency’s or organization’s authorized representative, authorization

document (serial number and date of issuance) and title of the agency's or organization's at-law representative after the name and address of the agency or organization. In the "lawsuit initiator" item at the bottom of the petition, to write the name of the agency or organization and the phrase "Authorized representative"; the authorized representative shall sign, write his/her full name and append the agency's or organization's seal.

In case a representative office or branch of a legal entity initiates a lawsuit over disputes arising from a transaction conducted by such representative office or branch, in the "lawsuit initiator's name and address" items of the petition, to write the full name and position of the head of such representative office or branch, authorization document (serial number and date of issuance) and his/her title after the name and address of the legal entity. In the item "lawsuit initiator" at the bottom of the petition, to write the name of the legal entity and position of the head of the representative office or branch; and the head of the representative office or branch shall sign, write his/her full name and append the seal of the legal entity or the representative office or branch.

6. When all conditions for acceptance of a case are satisfied, the status of plaintiff in the case is identified as follows:

a/ For the cases guided in Clauses 1 and 2 of this Article, the plaintiff is the lawsuit initiator;

b/ For the case guided in Clause 3 of this Article, the plaintiff is the minor or the person without civil act capacity or with restricted civil act capacity. As such person does not have civil procedure act capacity, his/her lawful representative shall discharge the plaintiff's procedural rights and obligations at court;

c/ For an agency or organization guided in Clause 5 of this Article, the plaintiff is the agency or organization that initiates the lawsuit. The agency's or organization's at-law or authorized representative shall participate in procedures and discharge its procedural rights and obligations.

Article 3. Right to initiate civil lawsuits to protect others' rights and legitimate interests, public interests or the State's interests provided in Article 162 of the Code

1. An agency or organization may initiate a civil lawsuit to request courts to protect public interests and the State's interests as prescribed in Clause 3, Article 162 of the Code when the following conditions are fully satisfied:

a/ Such agency or organization has the tasks and powers of performing the state management or social management in a certain field;

b/ Public interests or the State's interests requested for protection by courts fall into the-field managed by such agency or organization.

Example 1: Natural resources and environment agencies may initiate civil lawsuits to request courts to force individuals, agencies and organizations that cause environmental pollution to pay compensation for damage and remedy incidents causing pollution of the public environment.

Example 2: Culture and information agencies may initiate civil lawsuits to request courts to force individuals, agencies and organizations that infringe upon cultural heritages under all-people ownership to pay compensation for damage caused by their infringements.

2. When all conditions for acceptance of a case initiated by an agency or organization under Article 162 of the Code are satisfied the status of plaintiff in the case is identified as follows:

a/ In case a population, family and children agency or the Women's Union initiates a marriage and family-related lawsuit, the plaintiff is:

a. 1 / The person in favor of whom the population, family and children agency or the Women's Union initiates the lawsuit to request courts to force a person who far to voluntarily discharge his/her alimony obligation to fulfill such obligation according to Clause 3, Article 55 of the Law on Marriage and Family;

a.2/ The child in favor of whom the population, family and children agency or the Women's Union initiates the lawsuit to request courts to identify the father or mother for a minor child or an adult child who has lost his/her civil act capacity as prescribed Clause 3, Article 66 of the Law on Marriage and Family;

a.3/ The father or mother in favor of whom the population, family and children agency or the Women's Union initiates the lawsuit to request courts to identify the child for the mother or father who has lost his/her civil act capacity as prescribed in Clause 3, Article 66 of the Law on Marriage and Family.

b/ In case the higher-level trade union of a grassroots trade union initiates a lawsuit over a labor dispute to protect rights and legitimate interests of the employees' collective, the plaintiff is the employees' collective whose rights and legitimate interests need to be protected;

c/ In case an agency or organization initiates a lawsuit to request courts to protect public interests or state interests, the plaintiff is such agency or organization.

Article 4. Scope of lawsuit initiation provided in Article 163 of the Code

Legal relations falling into one of the following cases are regarded as “interrelated legal relations” for settlement in the same case:

a/ The settlement of any of these legal relations requires the concurrent settlement of others;

For example: A initiates a lawsuit to request the court to force B to return the rights to use a land plot. At the same time, A initiates a lawsuit to request the court to force C to dismantle a work C has built on such land plot.

b/ Legal relations involving the same parties over disputes of the same type prescribed correspondingly in Article 25, 27, 29 or 31 of the Code.

For example: A initiates a lawsuit to request the court to force B to pay a debt of VND 100 million. At the same time, he initiates a lawsuit to request the court to force B to return a car B rents from him as the lease term has expired.

Article 5. Form and contents of petitions provided in Article 164 of the Code

In order to ensure that petitions are made properly and uniformly, courts shall request lawsuit initiators to make petitions according to form No. 1 promulgated together with this Resolution. Courts shall post up the petition form at courthouses and guide the filling of such form.

Article 6. Documents and evidences accompanying petitions provided in Article 165 of the Code

On principle, when filing petitions*© courts, lawsuit initiators shall enclose documents and evidences proving their eligibility for initiating the lawsuits as well as the grounds and lawfulness of their claims. However, if, for objective reasons, lawsuit initiators cannot submit all documents and evidences right from the start, they shall submit documents and evidences proving the grounds for the initiation of the lawsuits. They shall add other documents or evidences at their own will or at the request of courts during the Settlement of their cases.

Example 1: When filing a petition to a court to request the settlement of divorce (with lawful marriage registration), child custody or division of property, on principle, the lawsuit initiator shall enclose all documents and evidences proving the marital relation and common children and property of the married couple. In case the lawsuit initiator cannot submit all these documents and evidences, he/she shall enclose with the petition a copy of the marriage registration or copies of the birth certificate(s) of his/her child(ren) (in case of child-custody dispute).

Example 2: When filing a petition to a court to request the settlement of a contractual dispute, the lawsuit initiator 'shall enclose with the petition a copy of the disputed contract, payment receipts, asset delivery receipts, liquidation records, etc. In case the lawsuit initiator cannot submit all these documents and evidences, he/she/ it shall enclose with the petition a copy of the contract.

Article 7. Procedures for receiving petitions provided in Article 167 of the Code

1. Courts must have petition registers to record the date of receiving petitions from involved parties to serve as a ground for determining the date of lawsuit initiation.

2. Courts shall carry out the procedures to receive petitions from lawsuit initiators as follows:

a/ In case a lawsuit initiator directly submits the petition at a court as prescribed at Point a, Clause 1, Article 166 of the Code, the court shall record the date the lawsuit initiator submits petition in the petition register. The date of lawsuit initiation is the date of petition submission;

b/ In case an involved party sends by post a petition to a court as prescribed at Point b, Clause 1, Article 166 of the Code, the court shall record in the petition register the date of receiving the petition and the date the involved party sends the petition as indicated in the postal seal of the post office from which the petition is sent. The envelope appended with the postal seal must be clipped to petition. The date of lawsuit initiation is date inscribed in the postal seal of the post office from which petition is sent. In case the date when the involved party sends the petition cannot be identified based on the postal seal the court shall take a note in the petition register that “date cannot be identified bas on the postal seal.” In this case, the date lawsuit initiation is the date the court receives the petition;

c/ The court shall write (or stamp) the d; of receiving the petition at the upper left con of the petition;

d/ The delivery and receipt of evidences submitted directly by involved parties enclosed with petitions comply with Artie 4 of Resolution No. 04/2012/NQ-HDTP December 3, 2012, of the Judges’ Council the Supreme People’s Court, guiding a numb of provisions on proving and evidence of the Civil Procedure Code, which was amended and supplemented under the Law Amending and Supplementing a Number of Articles - the Civil Procedure Code;

dd/ After receiving a petition, the court she issue a petition receipt notice to the lawsuit initiator; in case of receiving a petition sent t post, the court

shall send the petition receipt notice to the lawsuit initiator for the latter information.

3. After the receipt of a petition, the assignment of judges to consider the petition is as follows:

a/ For the people's court of a rural district, urban district, town or provincial city (below referred to as district-level court), the president of the court or a vice president authorized by the president shall assign a judge to consider the petition;

b/ For the People's Court of a province or centrally run city (below referred to as provincial-level court), the president of the court or a vice president authorized by the president or a chief judge or a deputy chief judge of a tribunal authorized by the president shall assign a judge to consider the petition.

4. Within 5 working days after receiving a petition, the judge assigned to consider the petition shall decide:

a/ To carry out procedures for accepting the case, if the case falls within his/her competence as prescribed in Article 171 of the Code and guided in Article 10 of this Resolution; or,

b/ To transfer the petition to a competent court and notify such in writing to the lawsuit initiator. The procedures for transferring petitions comply with Article 37 of the Code and Article 10 of Resolution No. 03/2012/NQ-HDTP of December 3, 2012, of the Judges' Council of the Supreme People's Court, guiding a number of provisions of Part One "General Provisions" of the Civil Procedure Code, which was amended and supplemented under the Law Amending and Supplementing a Number of Articles of the Civil Procedure Code; or,

c/ To return the petition to the lawsuit initiator, if the case falls within one of the cases prescribed in Article 168 of the Code and guided in Article 8 of this Resolution, and notify such in writing to the lawsuit initiator.

Article 8. Return of petitions provided in Article 168 of the Code and consequences arising from the return of petitions

1. Ineligible lawsuit initiator are those not specified in Articles 161 and 162 of the Code and guided in Articles 2 and 3 of this Resolution.

Lawsuit initiators without full civil procedure act capacity are those who cannot discharge their rights and obligations in civil procedures by themselves or who authorize their representatives to participate in civil procedures as prescribed in Article 57 of the Code.

2. Cases without sufficient conditions to initiate lawsuits are those in which conditions to initiate lawsuits have been agreed between involved parties or prescribed by law (covering also the form and contents of petitions), but involved parties initiate lawsuits when lacking one of these conditions.

Example 1: Pursuant to Article 135 of the Land Law, land-related disputes must go through conciliation procedures at the People's Committees of communes, wards or townships where exist the disputed land plots. Hence, from July 1, 2004 (the effective date of the Land Law), courts shall only consider and settle land-related disputes which have been conciliated at People's Committees of communes, wards or townships. In case land-related disputes have not yet been conciliated at People's Committees of communes, wards or township, courts shall, pursuant to Point d, Clause 1, Article 168 of the Code, return petitions and guide involved parties to carry out conciliation procedures at the People's Committees of communes, wards or townships where exist the disputed land plots.

Example 2: In its/his/her petition, a plaintiff erroneously writes the respondent's address but, past the time limit set by the court, the plaintiff still fails to provide supplementary information as required by the court.

Example 3: Company A and Company B enter into a goods sale and purchase contract which indicates that contractual disputes will be settled by arbitration. When a contractual dispute arises, Company A initiates a lawsuit against Company B at court before bringing the dispute to arbitration for settlement. If seeing that the arbitration agreement between the two parties is lawful under the Law on Commercial Arbitration, the court shall, pursuant to Point d, Clause T, Article 168 of the Code, return the petition and guide the parties to carry out procedures for settlement of the dispute through arbitration.

3. Conditions for initiation of a civil lawsuit over land use rights are determined as follows:

a/ Disputes over who holds land use rights must go through conciliation at the People's Committees of communes, wards or townships where exist the disputed land plots as prescribed in Article 135 of the Land Law;

b/ Disputes related to land use rights such as disputes over transactions related to land use rights and disputes about inheritance land use rights or division of common property which is land use rights of married couple do not need to go through conciliation at the People's Committees of communes, wards townships where exist the disputed land plots but conciliation procedures must be carried out as prescribed by the Code.

4. Cases falling beyond the jurisdiction courts are cases involving disputes other than those prescribed in Articles 25, 27, 29 and 31 of the Code.

5. Courts shall notify in writing the return of petitions to lawsuit initiators and procuracies of the same level, clearly stating the reason which is any of the reasons prescribed in Clause 1, Article 168 of the Code. Notices may be handed directly or sent by post to lawsuit initiators. The handing or sending of notices must be recorded in registers for monitoring.

6. Clause 1, Article 168 of the Code no longer prescribes “expiration of the statute of limitations for lawsuit initiation” as a reason for returning petitions, hence, courts may not invoke the expiration of the statute of limitations for lawsuit initiation as the reason for returning petitions.

In case involved parties wish to re-initiate a lawsuit for which the petition was previously returned by a court for the reason of expiration of the statute of limitations for lawsuit initiation, the court shall accept the case and involved parties shall advance court fees if they are ineligible for court fee exemption as prescribed by law.

If the court has issued a judgment or ruling to reject or terminate the case for the reason of expiration of the statute of limitations for lawsuit initiation, the court shall, pursuant to Point b, Clause 1, Article 168 of the Code, return the petition and explain to involved parties that they may file a request for review of the case according to the cessation or reopening procedures.

7. Lawsuit initiators may file petitions to re-initiate a lawsuit when falling into one of the cases prescribed in Clause 3, Article 168; Points c, e and g, Clause 1, Article 192 of the Code and relevant legal documents.

“Other cases prescribed by law” specified at Point d, Clause 3, Article 168 of the Code are cases not yet prescribed by the Code but already provided in other legal documents or provided in legal documents promulgated before the effective date of the Code or provided in treaties to which the Socialist Republic of Vietnam is a contracting party.

Example 1: A court has successfully conducted conciliation under Article 88 of the Law on Marriage and Family and issued a decision to recognize agreements on family reunion between involved parties. However, involved parties once again enter into disputes during the reunion period and file a divorce request to the court. The court shall, pursuant to Article 85 of the Law on Marriage and Family, accept and settle the case according to general procedures.

Example 2. In case a court has rejected a husband's divorce request filed when his wife is pregnant or nursing an under-12 month child, the court shall accept the divorce lawsuit initiated by the husband only when the conditions for lawsuit initiation prescribed in Clause 2, Article 85 of the Law on Marriage and Family are fully satisfied.

Article 9. Requests for modification or supplementation of petitions provided in Article 169 of Code

1. Upon or after receiving a petition, if considering that the petition does not contain all the details prescribed in Clause 2, Article 164 of the Code, the court shall, depending on the requirements for modification or supplementation of the petition, set a time limit for the lawsuit initiator to modify or supplement the petition, which, however, must not exceed 30 days after the lawsuit initiator receives the court's request for modification or supplementation of the petition. In a special case, the court may extend such time limit for another 15 days at most, counting from the date such time limit expires.
2. Requests for modification or supplementation of petitions must be made in writing, clearly stating contents to be modified or supplemented for lawsuit initiators' information and compliance. Such requests may be handed directly or sent by post to lawsuit initiators. The handing or sending of such requests must be recorded in registers for monitoring.
3. The time limit for modification or supplementation of a petition is not counted into the statute of limitations for lawsuit initiation. The date of lawsuit initiation is still the date of submission of the petition, if the petition is submitted directly, or the date indicated in the postal seal of the post office from which the petition is sent, if the petition is sent by post.
4. After lawsuit initiators modify or supplement the petitions at the courts' requests, courts shall further accept the cases according to general procedures prescribed in Article 171 of the Code. Past the time limit set by courts, lawsuit initiators fail to modify or supplement the petitions as requested by the courts, the courts shall, pursuant to Clause 2, Article 169 of the Code, return the petitions and enclosed documents and evidences to the lawsuit initiators.
5. In case a lawsuit initiator fails to write the accurate and specific name and address of the respondent or person with related rights and obligations in the petition, the court shall request the lawsuit initiator to provide the accurate and specific name and address of the respondent or person with related rights and obligations. If the lawsuit initiator fails to do so, the court shall, pursuant to Clause 2, Article 169 of the Code, return the petition and enclosed documents and evidences to the lawsuit initiator but

not accept the case. The case in which a court, after accepting a case, issues a decision to suspend the settlement of such case for the reason that “the respondent address has not yet been identified” is contrary to the Code as it falls beyond cases of suspension of settlement of cases prescribed in Article 189 of the Code. Courts may not themselves make announcements to find respondents because this is the obligation of involved parties.

6. In case a lawsuit initiator has written the specific and accurate name and address of the respondent or person with related rights and obligations in the petition as prescribed in Clause 2, Article 164 of the Code and guided in Article 5 of this Resolution and form No. 1 promulgated together with this Resolution but such person does not have a stable place of residence but regularly changes his/her place of residence without notifying the new address to the lawsuit initiator or court with a view to concealing his/her address and shirking his/her obligation toward the lawsuit initiator the court shall regard such case as cases in which respondents or persons with related rights and obligations intentionally conceal their addresses and accept and settle the case according to general procedures.

7. If lawsuit initiators do not know addresses of respondents or persons with related right and obligations or write such addresses wrong in the petitions, they must find out the addresses of respondents or persons with related right and obligations.

Article 10. Acceptance of cases provided in Article 171 of the Code

1. According to Clause 1, Article 161 of the 2005 Civil Code, if a lawsuit initiator fails to advance court fees within the 15-day time limit as prescribed in Clause 2, Article 171 of the Code due to a force majeure event or an objective obstacle, the period when such force majeure event or objective obstacle occurs is not counted into the time limit for court fee advance payment.

2. After the 15-day time limit, counting from the date of receiving the court's notice of court fee advance payment, expires, the court shall set a 7-day time limit, for the lawsuit initiator to submit the court fee advance receipt. If the lawsuit initiator submits such receipt to the court when the 7-day time limit has expired:

- a/ If the petition has not yet been returned, a judge shall accept the case;
- b/ If the petition has been returned but the lawsuit initiator can prove that it/he/she advances court fees within the set time limit but fails to submit the court fee advance receipt within the prescribed time limit because of a force majeure event or an objective obstacle, a judge shall request the lawsuit

initiator to re-file the petition and enclosed documents and evidences and accept the case according to general procedures;

c/ If the lawsuit initiator advances court fees and submits the receipt to the court after his/ her/its petition is returned without any force majeure event or objective obstacles, it/he/ she will be regarded as re-filing the petition. A judge shall request the lawsuit initiator to re-file the petition and enclosed documents and evidences and re-accept the case according to general provisions.

3. Past the time limit guided in Clause 2 of this Article, if the lawsuit initiator fails to submit the court fee advance receipt, the court shall notify the lawsuit initiator of non- acceptance of the case for the reason of failure to advance court fees.

Article 11. Assignment of judge to settle cases provided in Article 172 of the Code

1. The president of a district-level court may himself/herself or authorize a vice president to assign judges to settle cases.

The president of a provincial-level court may authorize a vice president or authorize a chief judge or deputy chief judge of a tribunal to assign judges to settle cases.

2. A judge who has been assigned to consider a petition and accept the case shall be assigned to settle such case. In this case, no judge assignment decision is required.

3. For a complicated case the settlement of which may be prolonged, courts shall assign alternative judges to assure uninterrupted trial.

Article 12. Respondents' rights to make counter-claims provided in Article 176 of the Code

1. A claim of a respondent will be regarded as the respondent's counter-claim against a plaintiff or a person with related rights and obligations having independent claims if such claim is independent and differs from the claim of the plaintiff or the person with related rights and obligations having independent claims.

For example: Plaintiff A files a petition to request respondent B to pay a debt of VND 5 million which is the house rent for 2005. Respondent B makes a claim, requesting plaintiff A to pay him an amount of VND 3 million, including housing repair expenses and land use tax which the respondent has paid on behalf of the plaintiff. In this case, respondent B's claim is regarded as a counter-claim against plaintiff A.

2. A claim of a respondent will be regarded only as the respondent's opinion but not a counter-claim against a plaintiff or a person with related rights and obligations having independent claims if such claim is similar to the claim of the plaintiff or person with related rights and obligations having independent claims (such as claims for courts not to accept or to accept part of the claim of the plaintiff or person with related rights and obligations having independent claims).

For example: Plaintiff C files a petition to request the court to recognize his ownership over a car and force respondent D to return such car to him. Respondent D requests the court not to recognize that such car is under C's ownership but his or to recognize that such car is under co-ownership of C and D. In this case, respondent D's claim is not regarded as a counter-claim against plaintiff C.

3. In case a respondent has obligation toward a plaintiff or a person with relate rights and obligations having independent claims and vice versa, therefore, the respondent makes a claim to request court t offset its/his/her obligations against the claim of the plaintiff or person with related right and obligations having independent claims the respondent's claim will be regarded as counter-claim.

For example: See example 1 in Clause 1 c this Article.

4. In case a respondent makes a counter- claim against a plaintiff or person with relate rights and obligations having independent claims the acceptance of which may result in the non-acceptance of part or the whole of the claim of the plaintiff or person with relate rights and obligations having independent claims for the reason of lack of grounds, sue counter-claim will be regarded as a counter- claim leading to the non-acceptance of part c the whole of the claim of the plaintiff or person with related rights and obligations having independent claims.

For example: A sold a car under hi ownership to C but told his child B that h rented the car to C for a monthly rent of VND 5 million. After A dies, B initiates a lawsuit t request C to pay the rent for the last one year which is VND 60 million. C makes a counter-claim to request the court to recognize his/her ownership of the disputed car. If the court accepts C's counter-claim, it will not accept the whole claim for car rent of B.

5. If there is a relation between the counter-claim of a respondent and the claim of a plaintiff or person with related rights and obligations having independent claims which, if being settled under the same case, will make the settlement of the case more accurate and quicker, such counter-claim and claim will be regarded as interrelated.

For example: M initiates a lawsuit to request N to pay a monthly child support of VND 300,000 for P, their common child. N makes a counter-claim to request the court to identify that P is not his child.

Article 13. Procedures for making counter-claims or independent claims provided in Article 178 of the Code

1. The procedures for making counter-claims or independent claims comply with the procedures for initiating lawsuits applicable to plaintiffs prescribed in Articles 164, 165, 166, 167, 168, 169 and 170 of the Code and guided in Articles 5, 6, 7, 8 and 9 of this Resolution.

2. In case a court receives a counter-claim of a respondent or an independent claim of a person with related with and obligations for settlement in a single case, the date of acceptance of the case used for calculating the time limit for trial preparation (the trial preparation time limit is determined from the date on which the procedures for making counter-claims or independent claims are completed) is determined as follows:

a/ In case the respondent or the person with related rights and obligations is exempt from, or not liable to pay, court fee advance or court fees, the date of acceptance of the case is the date the court receives the respondent's counter-claim or the independent claim of the person with related rights and obligations and enclosed documents and evidenced,

b/ In case the respondent or the person with related rights and obligation has to pay court fees advance, the date of acceptance of the case is the date the respondent or person with related rights and obligations submits the court fee advance receipt to the court.

For example: On March 15, 2013, a court accepted a case under the petition ^plaintiff A. The court notified the acceptance of the case to respondent B. After receiving t he notice, on March 31, 2013, respondent B made a counter-claim against plaintiff A. The court proceeded with procedures for considering the counter-claim. On April 15, 2013, respondent B submitted the court fee advance receipt to the court. In this case, the date of acceptance of the case is re-determined as April 15, 2013 (the court shall take a new note of the date of acceptance of the case in the lawsuit register). If respondent B is not liable to pay court fee advance, the date of acceptance of the case is re-determined as March 31, 2013;

c/ In case more than one respondent makes a counter-claim or more than one person with related rights and obligations makes an independent claim, the date of acceptance of the case is:

c1/ The date on which the court receives the last counter-claim or independent claim, if these respondents or persons with related rights and obligations are all exempt from, or not liable to pay, court fee advance or court fees;

c2/ The date on which the last respondent or person; with related rights or obligations submits the court fee advance receipt to the court, if they are all liable to pay court fee advance.

Article 14. Trial preparation time limit provided in Article 179 of the Code Article 79 of the Code provides trial preparation time limit; therefore, the time limits prescribed in this Article will be counted into trial preparation time limits. Depending on each specific case, the trial preparation time limit is calculated as follows:

1. In case a decision to bring the case to trial has been issued:

a/ In case of unnecessary to extend the trial preparation time limit, the trial preparation time limit, counting from the date the court accepts the case, must not exceed:

- Four months, for the cases prescribed in Articles 25 and 27 of the Code;
- Two months, for the cases prescribed in Article 29 and 31 of the Code.

b/ In case of necessity to extend the trial preparation time limit, the trial preparation time limit, counting from the date the court accepts the case, must not exceed:

- Six months, for the cases prescribed in Articles 25 and 27 of the Code;
- Three months, for the cases prescribed in Article 29 and 31 of the Code.

c/ In a case guided at Point a or b, Clause 1 of this Article, if, for plausible reasons, no court hearing is opened within one month after the date on which a decision to bring the case to trial is issued, the trial preparation time limit will be extended for one month at most.

2. In case a decision to suspend the settlement of a civil case is issued, the trial preparation time limit expires on the date on which this decision is issued. The trial preparation time limit is re-counted from the date on which the court resumes the settlement of the case because the reason for suspending the settlement of the case no longer exists.

3. Extension of the trial preparation time limit

In case the trial preparation time limit is going to expire (the remaining duration is 5 days at most) but the judge who is assigned to settle a case cannot make a decision as prescribed in Clause 2, Article 179 of the Code because the case is complicated or due to objective obstacles prescribed at

Points a and b, Clause 1, Article 179 of the Code, he/she shall immediately notify such to the president of the court for the latter to issue a decision to extend the trial preparation time limit. The extended trial preparation time limit must not exceed the time limit prescribed in the last paragraph of Clause 1, Article 179 of the Code and guided at Point b, Clause 1 of this Article. Past the extended time limit, the judge assigned to settle the case shall make a decision as prescribed in Clause 2, Article 179 of the Code.

a/ “Complicated cases” are cases involving many parties or related to many fields; cases with a large number of documents or with evidences contrary to one another, thus requiring more time to study and summarize documents in the case files or consult specialized agencies or requiring complicated technical expertise; cases involving a foreigner residing abroad or a Vietnamese currently residing, studying or working overseas or having assets in foreign countries, thus requiring time to conduct judicial entrustment to Vietnamese consulates or diplomatic missions in foreign countries or foreign courts. Pending opinions of specialized agencies, technical expertise results or judicial entrustment results, if the trial preparation time limit (including also the extended duration) has expired, judges shall, pursuant to Clause 4, Article 189 of the Code, issue a decision to suspend the settlement of civil cases;

b/ “Objective obstacles” are obstacles occurring due to objective circumstances such as natural disaster, sabotage or war which make courts unable to settle cases within the prescribed time limits.

For example: The people’s court of district X of mountainous province H has issued a decision to bring a case to trial, clearly indicating the date of opening a court hearing. However, a flashflood occurs two days before the court hearing is organized. The courthouse of district X is damaged. The people’s court of district X has to remedy the consequences of the flashflood and repair its house and, therefore, cannot open the court hearing within the prescribed time limit.

c/ “Plausible reasons” prescribed in Clause 3, Article 179 of Code are construed as objective and unforeseeable events which prevent courts from opening court hearings within the prescribed time limit such as arising of a need to change or re-assign procedure- conducting persons named in decisions to bring cases to trial but competent .persons cannot assign alternative person; lack of judges to try complicated cases which have been tried at courts of different level due to which the cases must be forwarded to, a higher- level court for trial or judges must be seconded from other courts.

Article 15. Civil cases which must not be conciliated prescribed in Article IM of the Code

1. “State assets” mean assets under the State’s ownership as prescribed in Article 200 of the 2005 Civil Code which was amended under Section 1, Chapter XIII of the 2005 Civil Code.

“Claims for compensation for damage to state assets” are claims made by those assigned to act as the owner of the state assets which are damaged due to illegal acts, invalid contracts or breach of civil obligations.

When applying Clause 1, Article 181 of the Code, it is needed to distinguish that:

a/ For cases involving claims for compensation for damage to state assets assigned to agencies, organizations or armed forces units for management and use or state assets invested in state enterprises for which the State exercises its ownership through competent agencies, courts may not conduct conciliation

for involved parties to reach agreements on the

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settlement of the cases.

b/ For cases involving claims for compensation for damage to state assets invested in state enterprises or state capital contributed in joint ventures invested by others as prescribed in the Enterprises Law or the Investment Law, courts shall conduct conciliation for involved parties to reach agreements on the settlement of the cases according to general procedures if such enterprises have the right to own, use or dispose of such assets and take responsibility before the State for such assets during their production and business activities.

2. Courts may not conduct conciliation for civil cases arising from illegal transactions (transactions involving acts banned by law) or running counter to social ethics, if the conciliation aims to help involved parties continue such transactions. In case parties just enter into disputes over the remedy of consequences of transactions declared invalid as being contrary to law or social ethics, courts shall conduct conciliation for involved parties to reach agreements on the remedy of consequences of such invalid transactions.

Article 16. Civil cases which cannot be conciliated prescribed in Clause 1, Article 182 of the Code

In case a respondent is intentionally absent though having been duly summoned twice by courts, courts shall make a written record of the failure

to conduct conciliation due to the absence of the respondent and issue a decision to bring the case to trial according to general procedures. If the respondent, at the court hearing, requests the court to postpone the court hearing for conciliation, the court shall not accept the request but shall create conditions for parties to reach agreement on the settlement of the case.

Article 17. Participants in a conciliation session prescribed in Article 184 of the Code

1. Courts shall summon all persons related to the settlement of cases prescribed in Clause 3, Article 64 and Article 184 of the Code to participate in conciliation sessions.
2. In case the conciliation is related to all involved parties of a case, if a involved party is absent from the conciliation session, the judge shall postpone the conciliation session before opening another conciliation session in the presence of all involved parties. Judges shall make notices of postponement of conciliation sessions according to form No. 06b promulgated together with this Resolution.
3. For a case involving many legal relations each is related to certain parties and the settlement of the legal relation brought to a conciliation session only involves parties present at the conciliation session and does not involve absent parties, judges shall conduct conciliation for matters related to parties present at the conciliation session.

In the above case, if the involved parties present at the conciliation session reach agreements on the settlement of the case, such agreements are only valid to such parties and will be recognized under a decision issued by the judge if such agreements do not affect rights and obligations of absent parties. Agreements which affect rights and obligations of absent parties will be valid only if the involved parties absent from the conciliation session so agree in writing.

In case involved parties that are absent from the conciliation session have, before such conciliation session is organized, given written opinions but the contents of conciliation reach between parties present at conciliation session differ from their written opinions, courts shall seek written opinions of parties absent from the conciliation session on agreements. The procedures and time limit for seeking written opinions of involved parties comply with the civil procedure law. If such involved parties agree with the conciliation results, the date of receiving written opinions of parties absent from the conciliation session is regarded as the date on which involved parties agree with one another on matters to be settled in the case.

Article 18. Conciliation contents provided in Article 185 of the Code

1. A court shall consider involved parties' specific requests to be settled increase to conduct conciliation for each request in a reasonable order.

For example: In a divorce case involving disputes over child custody and property division, the court should conciliate the marriage relation first. If conciliation for family reunion fails, it will conciliate disputes over child custody and then property division.

2. When conducting conciliation, apart from adhering to the principles specified in Article 184 of the Code, a judge shall, depending on legal relations, brief the involved parties on relevant legal provisions on settlement of the case so that they can relate themselves to their rights and obligations and voluntarily reach agreement on the case settlement; and analyze to the involved parties the legal consequences of successful conciliation (such as the relation between the involved parties, payment of court fees, etc.). A judge may not notify in advance the involved parties of their rightness or wrongness or of how the court will try the case if the involved parties fail to reach agreement, etc.

Article 19. Conciliation order provided in Article 185a of the Code

A judge assigned to settle a case shall conduct conciliation in the following order:

1. The judge presiding over the conciliation session opens the session as follows: "Today, date, month, year, the people's court of... conducts conciliation for the case on... I declare to open the conciliation session".
2. The judge presiding over the conciliation session introduces the full names of the procedure-conducting persons, assessor, interpreter and other persons, agencies and organizations participating in the conciliation session (If any).
3. The court clerk reports to the judge presiding over the conciliation session on the presence or absence of conciliation participants under the court's summons or notices and reasons for their absence. The judge presiding over the conciliation session again checks the presence and identity cards of conciliation participants under the court's summons or noticed (provided in Clauses 3,4 and 5, Article 184 of the Code).
4. The judge presiding over the conciliation session explains all the rights and obligations of the involved parties and other procedure participants provided in relevant articles of the Code.

For example: For the plaintiff, the judge presiding over the conciliation session fully explains the plaintiff's rights and obligations provided in



Articles 58 and 59 of the Code. For the interpreter, the judge requests him/her to pledge to fulfill his/her duty. For an adult witness, the judge requests him/her to pledge to make truthful declaration.

5. The judge presides over the conciliation session according to the conciliation contents provided in Article 185 of the Code and Article 18 of this Resolution.

6. A conciliation session minutes must be made under Article 186 of the Code and Article 20 of this Resolution; before the closure of the conciliation session, the presiding judge considers (making a minutes of successful or unsuccessful conciliation) the settlement of the case at the conciliation session.

Article 20. Conciliation minutes provided in Article 186 of the Code

1. The court clerk shall make a minutes of conciliation according to a set form, which must contain all the details specified in Clause 1, Article 186, and the signatures or fingerprint of the persons specified in Clause 2, Article 186, of the Code.

2. When the involved parties have reached agreement on matters to be settled in the case the judge or court clerk shall make a minutes (successful conciliation according to a set form, which must specify the contents agreed by the involved parties.

The judge presiding over the conciliation session shall sign and append the court seal on the minutes which must contain the signatures or fingerprints of the involved parties participating in the conciliation session. The minutes of successful conciliation must be immediately sent to the involved parties participating in the conciliation session.

For a conciliation falling into the case provided in Clause 3, Article 184 of the Code, the court shall immediately send the minutes of successful conciliation to the absent involved parties.

3. A minutes of successful conciliation should state: “Within 7 days after the date of making the conciliation minutes, any involved party that changes its opinions about the agreement must send a written request to the court”. In case an involved party requests for change of the agreement directly at the court, the judge shall make a written record of such request. This record must contain the signature or fingerprint of the requesting party and be included in the case file. The court shall notify the changing opinion about the agreement to other parties involved in that agreement.

Article 21. Issuance of decisions to recognize agreement of the involved parties provided in Article 187 of the Code

1. Seven days after making a minutes of successful conciliation, if no party changes its opinions about such agreement, the judge presiding over the conciliation session shall issue a decision to recognize the agreement of the involved parties. If this judge cannot do so for an objective reason, the court's president shall assign another judge to issue this decision.

2. A judge may issue a decision to recognize the agreement of the involved parties only when the parties have reached agreement on the settlement of the whole case (legal relations, requests of the involved parties in the case) as well as on the court fee. In case the involved parties reach agreement only on the settlement of the whole case rather than on the responsibility to pay the court fee or on the fee level, the court will not recognize their agreement and shall open a court hearing to try the case.

3. In case the involved parties have reached agreement on settlement of only a part of the case, the court shall record the matters agreed and disagreed by the involved parties in the conciliation minutes under Clause 1, Article 186 of the Code and issue a decision to bring the case to trial, unless there are grounds to suspend or terminate the case settlement.

Article 22. Suspension of settlement of civil cases provided in Article 189 of the Code

1. A judge shall issue a decision to suspend the settlement of a civil case in one of the cases defined in Article 189 of the Code, regardless of whether there is a request from an involved party.

2. The case “an agency or organization has been merged, divided or split up without any agency or organization inheriting its procedural rights and obligations” is the one in which a competent agency or organization has issued a decision on the merger, division or split-up of an agency or organization but a new agency or organization has not been established or has been established but does not have all the conditions for operation as prescribed by law.

The case “an agency or organization has been dissolved without any agency or organization inheriting its procedural rights and obligations” is the one in which the agency, organization or person inheriting the procedural rights and obligations provided at Points a and b, Clause 2, and Clause 3, Article 62 of the Code has not been identified.

3. “Lawful representatives of the involved parties” provided in Clause 3, Article 189 of the Code include at-law representatives and authorized representatives. The lawful representative of an involved party will be identified in accordance with the 2005 Civil Code, Article 73 of the Code and Article 21 of Resolution No. 03/2012/NQ-HDTP of December 3, 2012,

of the Judges' Council of the Supreme People's Court, guiding provisions of Part One "General Provisions" of the Civil Procedure Code, which was amended under the Law Amending and Supplementing a Number of Articles of the Civil Procedure Code.

4. "it is needed to wait for the result of settlement of a related case or matter which, as prescribed by law, must be settled by another agency or organization before the case is settled" provided in Clause 4, Article 189 of the Code is the case in which the result of settlement of a civil, criminal or administrative case or the settlement result of a competent agency or organization serves as a basis for determining the jurisdiction of the court, the right to initiate a lawsuit for the case, the leg: status, procedure participants and the leg; relation under dispute or as another basis for the court to settle the case in a comprehensive, proper and lawful manner.

"Another case related to" the case currently settled by the court is a civil, criminal or administrative case or matter.

"Matter as prescribed by law" must be the one which directly affects the settlement of the case and if this matter is not settled by another agency or organization before the settlement of the case, the court's settlement of the case is unlawful.

Example 1: After accepting the case of dispute over an asset purchase and sale contract between plaintiff A and respondent B, the people's court of district X receives a notice of the people's court of district that the latter is settling a case of dispute over the ownership of the concerned asset between plaintiff C and respondent A. In the case, the people's court of district X needs to issue a decision to suspend the settlement (the dispute over the asset purchase and sale contract between A and B in order to wait for the result of settlement of the dispute over the concerned asset by the people's court of district Y. Based on the settlement result (the people's court of district Y, the people court of district X will continue settling the case of dispute over the asset purchase and sale contract according to the general procedures.

Example 2: The people's court of district X is settling a dispute between plaintiff A and respondent B arising from an unlawful transaction between A and B when it receives a notice of the People's Procuracy of district X that the transaction between A and B shows signs of violation of the criminal law, requesting the people's court of district X to transfer the case file for investigation into violation of the criminal law. In this case, the people's court of district X needs to suspend the settlement of the case in order to wait for a competent agency's result of investigation into such violation. If the investigative agency concludes that the unlawful civil



transaction between A and B is not serious enough for examination of penal liability, the people's court of district X will continue settling the case of dispute over that unlawful transaction between A and B.

5. "It is needed to wait for the result of judicial entrustment or for an agency's or organization's provision of documents and evidences at the court's request for settlement of the case upon expiration of the settlement time limit" provided in Clause 5, Article 189 of the Code is the case in which the court must issue a decision to suspend the case when judicial entrustment procedures are required or when judicial entrustment result is not yet available or when the court has not received documents and evidences from an agency or organization while the time limit (or extended time limit) for trial preparation terminates or when the decision to bring a case to trial has been issued or at the court hearing, it is found necessary to conduct judicial entrustment or to request an agency or organization to provide documents and evidences for settlement of the case.

For example: Under Clause 4, Article 93 of the Code, the court shall entrust the collection of evidences to foreign parties when necessary. In case the time limit (or extended time limit) for trial preparation expires while the result of entrustment for evidence collection under regulations is not available, the court shall issue a decision to suspend the settlement of the case in order to wait for the result of judicial entrustment of a competent foreign agency. After having the result of judicial entrustment of a competent foreign agency or past the time limit for judicial entrustment as prescribed by law, the court will continue settling the case according to the general procedures.

6. "Other cases as prescribed by law" provided in Clause 6, Article 189 of the Code are the cases serving as a basis for a court to issue a decision to suspend the settlement of a civil case, which are not provided in this Code but provided in other legal documents or which are provided in legal documents promulgated after the effective date of the Code or which are provided in treaties to which the Socialist Republic of Vietnam is a contracting party.

Article 23. Consequences of the suspension of settlement of civil cases provided in Clause 3, Article 190 of the Code

1. When a decision to suspend the settlement of a civil case is appealed or protested against according to appellate procedures and such appeal or protest is valid, the first-instance court shall send the case file and the appeal or protest to the appellate court under Article 255 of the Code.

2. When an appeal or a protest against a decision to suspend a civil case is filed after the time limit for appeal or protest, it is needed to distinguish that:

a/ If the first-instance court finds the decision to suspend the settlement of the civil case improper, it shall continue settling the suspended case as the reason for suspension no longer exists;

b/ If the first-instance court finds the decision to suspend the civil case proper and retains such decision, the appeal or protest against such decision must be considered according to the cassation procedures.

Article 24. Termination of the settlement of civil cases provided at Points c and j, Clause 1, Article 192 of the Code

1. When a lawsuit initiator withdraws his/her lawsuit petition, the court should consider if the case has any counter-claim of the respondent or independent claim of a person with related interests and obligations for decision as follows:

a/ If there is neither a counter-claim nor an independent claim, the court shall accept the lawsuit initiator's withdrawal of the lawsuit petition and pursuant to Point c, Clause 1. Article 192 of the Code, issue a decision to terminate the settlement of the civil case;

b / If there is a counter-claim of the respondent and an independent claim of a person with related interests and obligations, the court shall settle the case as follows:

b1/ If the lawsuit initiator withdraws his/ her lawsuit petition, the respondent retains his/her counter-claim and the person with related interests and obligations retains his/ her independent claim, the court shall issue a decision to terminate the settlement of the civil case for the withdrawn claim of the lawsuit initiator;

b2/ If the lawsuit initiator withdraws his/ her lawsuit petition, the respondent wholly withdraws his/her counter-claim but the person with related interests and obligations retains his/her independent claim, the court shall issue a decision to terminate the settlement of the civil case for the withdrawn claims of the lawsuit initiator and respondent;

b3/ If the lawsuit initiator withdraws his/ her lawsuit petition, the person with related interests and obligations wholly withdraws his/her independent claim but the respondent retains his/her counter-claim, the court shall issue a decision to terminate the settlement of the civil case for the withdrawn claims of the lawsuit initiator and the person with related interests and obligations.

c/ After issuing a decision to terminate the settlement of a civil case for withdrawn claims of the involved parties under Point b, Clause 1 of this Article, the court shall continue settling the case according to the general procedures for the respondent's counter-claim or the independent claim of the person with related interests and obligations and based on each specific case, determine the procedural status of the involved parties in accordance with Article 219 of the Code and Article 33 of this Resolution;

d/ If the lawsuit initiator wholly withdraws his/her lawsuit petition, the respondent wholly withdraws his/her counter-claim and the person with related interests and obligations wholly withdraws his/her independent claim, the court shall issue a decision to terminate the settlement of the entire civil case.

2. "Other cases prescribed by law" provided at Point j, Clause 1, Article 192 of the Code are the cases serving as a basis for a court to issue a decision to terminate the settlement of a civil case, which are not provided in the Code but provided in other legal documents or which are provided in legal documents promulgated after the effective date of the Code or which are provided in treaties to which the Socialist Republic of Vietnam is a contracting party.

Article 25. Consequences of termination of the settlement of civil cases provided in Clause 1, Article 193 of the Code

When a decision to terminate the settlement of a civil case is issued, it is needed to distinguish as follows:

1. For termination of the settlement of a civil case provided at Point a, b, d, e, h, i or j, Clause 1, Article 192 of the Code, the involved parties may not initiate a lawsuit to request a court to re-settle that civil case if the initiation of this lawsuit does not bring in any difference from the previous one in terms of the plaintiff, respondent and the disputed legal relation.

Before issuing a decision to terminate the settlement of a case provided at Point d or e, Clause 1, Article 192 of the Code, the court shall clearly explain to the involved parties that the legal consequence of such termination is they may not initiate a lawsuit again for that case.

When an agency or organization (in case there is no plaintiff) or a plaintiff defined at Point d or e, Clause 1, Article 192 of the Code withdraws its/his/her lawsuit petition and does not request the court to further settle the case only on certain conditions under agreement and negotiation between the involved parties, the court needs to clearly write those conditions in the decision to terminate the case settlement as the basis for the involved parties to re-initiate the lawsuit.

As a result, in case of termination of the settlement of a case provided at Point d or e, Clause 1, Article 192 of the Code, the court's decision to terminate the case settlement must clearly state that the legal consequence of such termination is the involved parties may not initiate a lawsuit again for that case if such initiation brings in no difference from the previous case in terms of the plaintiff, respondent and disputed legal relation.

2. For termination of the settlement of a civil case provided at Point c, f or g, Clause 1, Article 192 of the Code or for a case specified in Clause 3, Article 168 of the Code, the involved parties may initiate a lawsuit to request the court to re-settle that civil case according to the general procedures if the statute of limitations for initiating a lawsuit under Article 159 of the Code has not expired even when the initiation of that lawsuit brings in no difference from the previous one in terms of the plaintiff, respondent and disputed legal relation.

3. In case of termination of a case provided at Point g, Clause 1, Article 192 of the Code, or Clause 2, Article 77 of the Bankruptcy Law, if the court issuing the decision to terminate procedures for restoration of business activities later returns the case file to a competent court, that court shall continue settling the case according to the general procedures.

Article 26. Decisions to bring cases to trial provided in Article 195 of the Code

1. A decision to bring a case to trial must contain all the details specified in Clause 1, Article 195 of the Code and be made according to a set form. This decision must be issued at least 7 working days before the date of opening the court hearing.

2. In order not to postpone the court hearing and to comply with the Code, in case a people's juror assigned to participate in a trial cannot do so after the decision to bring the case to trial is issued, it is needed to assign not only an official people's juror but also an alternative juror and concurrently write the full name of this alternative juror in the decision to bring the case to trial.

3. The decision to bring a case to trial must be sent to the involved parties and the procuracy) of the same level immediately after the court issues this decision, regardless of whether the procuracy of the same level participates in the court hearing.

In case the procuracy of the same level participates in the court hearing, the court shall send the civil case file together with the decision to bring the case to trial in accordance with Joint Circular No. 04/2012/TTLT-VKSNDTC- TANDTC of August 1, 2012, of the Supreme People's

Procuracy and the Supreme People's Court, guiding some provisions of the Code on control over the observance of law in civil procedure.

Article 27. Presence of the involved parties, their preventatives or defense counsels of their rights and legitimate interests provided in Article 199 of the Code

In case a respondent with a counter-claim is still absent under the second subpoena of the court and has no representative to participate in the court hearing not because of a force majeure event, the court shall terminate the settlement of the respondent's counter-claim unless this person has filed a petition for trial in his/her absence. The respondent with a counter-claim may initiate a lawsuit again provided that the statute of limitations for initiation of lawsuit has not yet expired.

Article 28. Trial in absence from court hearings of involved parties and defense counsels of their rights and legitimate interests provided in Article 202 of the Code

1. A court shall postpone a court hearing if the involved parties, their representatives or defense counsels of their rights and legitimate interests are absent after the court's first subpoena without filing a petition for the court's trial in their absence provided in Clause 1, Article 199 of the Code and with or without a plausible reason.

The court may proceed with its hearing in the absence of the involved parties or defense counsels of their rights and legitimate interests under the court first's subpoena only in the following cases:

a/ One or some involved parties; representatives of one or some involved parties; defense counsels of the rights and legitimate interests of one or some involved parties have filed a petition for the court's trial in their absence while other involved parties, their representatives or defense counsels of their rights and legitimate interests are present under the court's subpoena;

b/ All the involved parties and their preventatives or defense counsels of their rights and legitimate interests have filed a petition for the court's trial in their absence. In this case, based on the case file, the trial panel shall settle the case in accordance with law.

2. The involved parties or their representatives and defense counsels of their rights and legitimate interests must be present at the court hearing under the court's second lawful subpoena. If they are absent not because of a force majeure event, the case must be settled under Clause 2, Article 199 of the Code.

3. In case the involved parties and defense counsels of their rights and legitimate interests have received the decision to bring the case to trial under Clause 2, Article 195 of the Code, been lawfully summonsed to the court hearing by the court under Articles 150 thru 156 of the Code and prepared to participate in the court hearing but due to a force majeure event (natural disaster, enemy sabotage, accident, serious sickness subject to hospital intensive care, death of relative, etc.) which occurs to them before the opening of the court hearing or when they are on the way to the court hearing and makes them unable to be present at the court hearing under the court's subpoena, the court shall postpone its hearing.

In case the court does not receive a notice from the involved parties and defense counsels of their rights and legitimate interests and proceeds its hearing in their absence, if after the court's judgment or decision takes legal effect, the involved parties lodge a complaint and can relate their absence from the court hearing to a force majeure event, such complaint needs to be considered according to reopening procedures.

Article 29. Time limit for postponement of court hearings and decisions to postpone court hearings provided in Article 208 of the Code

1. The time limit for postponement of a first-instance court hearing is 30 days after the trial panel issues a decision to postpone the court hearing.

If the court hearing is postponed many times, the time limit for each postponement is 30 days after the trial panel issues the decision to postpone the court hearing. The postponement time is not counted into the time limit for trial preparation provided in Article 179 of the Code and Article 14 of this Resolution. Nevertheless, in order to protect the rights and legitimate interests of the involved parties and assure the resumption of the court hearing for the case under regulations, after postponing its hearing, the court shall plan to resume it as soon as possible without waiting for 30 days.

2. A decision to postpone a court hearing must contain all the details specified in Clause 2, Article 208 of the Code and made according to a set form.

3. In case the date of resuming the court hearing is fixed, the decision to postpone the court hearing must state the time and venue for its resumption. If this date is not fixed yet, the decision must state that the time and venue for the court hearing resumption will be notified later by the court.

On behalf of the trial panel, the presiding judge shall publicly notify the decision to postpone the court hearing to procedure participants present at the hearing and hand this decision to them. The court shall immediately send

this decision to the absentees and the procuracy of the same level. This decision is regarded as the new subpoena for the involved parties if it state the time and venue for resumption of the court hearing.

In case there is a change in the time or venue for resumption of the court hearing stated in the decision to postpone it, the court shall immediately notify the procuracy of the same level and procedure participants of the new time or venue.

4. The trial panel may not postpone a court hearing for the reason that at the hearing, an involved party requests the hearing postponement in order to find a defense counsel of his/her rights and legitimate interests or: to authorize a person to participate in legal proceedings for him/her.

5. If at the court hearing, an involved party produces new documents or evidence; and requests additional assessment of those documents or evidences or re-assessment (also in case newly discovered assets need valuation or price appraisal) and the court considers additional assessment or re-assessment (valuation, price appraisal) necessary for the case settlement, the trial panel shall decide on additional assessment or re-assessment (valuation, price appraisal) and issue a decision to postpone the court hearing under Clause 4, Article 230 of the Code.

If the result of assessment or valuation or price appraisal is not available when the time limit for postponing the court hearing is going to expire, the judge shall issue a decision to suspend the settlement of the civil case under Clause 4, Article 189 of the Code.

Article 30. Minutes of court hearings provided in Article 211 of the Code

1. The minutes of a court hearing must contain all the details specified in Clause 1, Article 211 of the Code. Under Clause 1, Article 211 of the Code, the minutes of a court hearing must record all developments at the court hearing from the beginning to the end, but not the ruling.

2. After the court hearing closes, before submitting the minutes of the court hearing to the presiding judge for examination and signing, the court clerk shall himself/herself check the minutes to correct incorrect points. The presiding judge shall check again the minutes and together with the court clerk sign the minutes. If detecting incorrect points in the minutes which need correction after the presiding judge signs the minutes, the court clerk may not make the correction himself/ herself but shall report such to the presiding judge for consideration of the correction. When a person defined in Clause 4, Article 211 of the Code requests to see the minutes, the presiding judge shall let him/her do so. If this person requests the inclusion of amendments or supplements in the minutes, the court clerk shall add

requested amendments or supplements to the minutes rather than erasing or modifying the issues already written in the minutes. A person specified in Clause 4, Article 211 of the Code who requests the inclusion of amendments and supplements in the minutes will have his/her procedural status and full name written in the minutes followed by the issues stated in the minutes which are requested for amendment and supplementation and the specific amendments and supplements. If there is more than one requesting person, the request of one person after another will be written. The requesters shall sign for certification the minutes.

Example 1: (only one person requesting the inclusion of amendments or supplements)

Amendments or supplements at the request of plaintiff Nguyen Van A:

1. The issue written on line (line) from top to bottom (or from bottom to top), page ... of the minutes of the court hearing is requested to be amended or supplemented as follows:

....

2....

Example 2: (two or more persons requesting the inclusion of amendments or supplements)

Amendments or supplements:

1. At the request of procurator Tran Van B:

a. ..

b. ..

2. At the request of respondent Le Thi M:

a. ..

b. ..

Article 31. Opening of court hearings provided in Article 213 of the Code

1. The presiding judge shall open the court hearing and read out the decision to bring the case to trial.

When opening the court hearing, the presiding judge shall request people in the court-room to rise. He/she shall open the court hearing as follows:

“Today, date, month, year, the people’s court of... opens the public (behind-closed-doors) first-instance hearing to try the case of dispute ..., on behalf of the trial panel, I declare to open the hearing” and read out the decision to bring the case to trial.

2. After the court clerk reports on the absent involved parties, the trial panel shall discuss in the deliberation room the postponement of the court hearing under Clause 2, Article 210 of the Code.

3. The presiding judge shall check identity cards of the involved parties present at the court hearing as follows:

a/ The presiding judge asks the involved parties to declare their full names, dates of birth; places of residence (places of registration of permanent residence; places of residence); occupations (for involved parties being individuals); names and addresses of head offices (for involved parties being agencies or organizations). The presiding judge asks the lawful representatives of the involved parties to declare their full names, age; occupations; positions; places of residence; relation with the involved parties;

b/ In case there is a difference in identity of the involved parties between documents < the case file and declarations of the involved parties, it is needed to verify their identity.

4. The presiding judge shall fully explain to the involved parties and other procedure participants their rights and obligations provided in relevant provisions of the Code.

For example: For plaintiffs, to fully explain their rights and obligations provided in Article 58 and 59 of the Code, etc.

The presiding judge shall request t] interpreter and expert to pledge to fulfill their duties and request adult witnesses to pledge make truthful declarations.

5. In case the trial panel decides to postpone the court hearing, the presiding judge will r read out the decision to bring the case to trial when resuming the hearing.

If the trial panel decides to postpone t court hearing and in the course of preparation for the hearing, there is a change or ne assignment of procedure-conducting persons who are named in the decision to bring t case to trial, the court shall notify such to t persons specified in Clause 2, Article 195 the Code.

Article 32. Consideration of change, supplementation or withdrawal of claim provided in Clause 1, Article 218 of the Code

The trial panel may accept the change supplementation of the involved parties' claims at the court hearing only when such change or supplementation does not fall beyond the scope of their original lawsuit, counter-claim or independent claim presented in the plaintiff's lawsuit

petition, the respondent's counter-claim or the independent claim of a person with related interests and obligations.

The change or supplementation of the involved parties' claims must be recorded in the minutes of the court hearing. If the trial panel approves that change or supplementation, such approval must be recorded in the judgment.

In case an involved party voluntarily withdraws part or whole of his/her claim before or at the court hearing, the court shall record such in the assessment and ruling sections of the judgment.

Article 33. Change of the procedural status provided in Article 219 of the Code

When an involved party withdraws his/her claim at the court hearing, depending on each case, the settlement will be as follows:

1. When the plaintiff withdraws the entire lawsuit claim, but the respondent retains his/ her counter-claim under Clause 1, Article 219 of the Code, the trial panel shall:
 - a/ Issue a decision to terminate the trial for the entire claim withdrawn by the plaintiff under Clause 2, Article 218 of the Code;
 - b / Publicly declare change of the procedural status of the involved parties. The respondent retaining his/her counter-claim will become the plaintiff and the plaintiff withdrawing his/her lawsuit claim will become the respondent.
2. When the plaintiff withdraws the entire lawsuit claim, the respondent withdraws the entire counter-claim, but the person with related interests and obligations retains his/her independent claim under Clause 2, Article 219 of the Code, the trial panel shall:
 - a/ Issue a decision to terminate trial for the entire claims withdrawn by the plaintiff and the respondent under Clause 2, Article 218 of the Code;
 - b/ Publicly declare at the court hearing change of the procedural status depending on the relation between the parties involved in the independent claim of the person with related interests and obligations.
3. Change of the procedural status of the involved parties must be recorded in the minutes of the court hearing and in the judgment.

Article 34. Recognition of the involved parties' agreement provided in Clause 1, Article 220 of the Code

1. Before shifting to the questioning session, the trial panel needs to explain to the involved parties Article 220 of the Code and ask them if they can

reach agreement on the settlement of the case. If they can, it will ask them if their agreement is voluntary and free from any constraint; consider if such agreement is contrary to law or social ethics; and inform the involved parties that the consequence of the court's issuance of the decision to recognize their agreement is they may not file an appeal and the procuracy may not file a protest according to the appellate procedures.

The court's decision to recognize the involved parties' agreement of the case settlement is legally effective.

2. The involved parties' agreement must be recorded in the minutes of the court hearing. Under Article 210 of the Code, the trial panel shall discuss and decide on the recognition of the involved parties' agreement on the case settlement in the court room.

Article 35. Deliberation provided in Article 236 of the Code

1. The trial panel members shall settle all case one after another by majority voting; specifically: based on documents and evidence examined and considered at the court hearing, through the questioning and arguing session at the court hearing and consideration of opinions of procedure participants and procurators (if any), to see if there are sufficient grounds to accept the whole or part of the plaintiff's claim, the respondent's counter-claim and independent claims of persons with related interests and obligations. If grounds are sufficient, to invoke the points, clauses and articles of relevant legal documents and the first-instance court fee.

2. For a first-instance trial panel consisting of only one judge and two people's jurors, upon opinion giving (or voting), people's jurors shall give opinions (or vote) first, the presiding judge shall give opinions (or vote) later. For a first-instance trial panel consisting of two judges and two people's jurors, people's jurors shall give opinions (or vote) first, followed by the judge other than the presiding judge and finally the presiding judge.

3. A trial panel member with minority opinions may (rather must) present his/her opinions in a separate document which will be included in the case file.

4. The minutes of deliberation must specify all opinions discussed on each matter and the trial panel's decision by majority on that matter. The deliberation minutes must be signed in the deliberation room by all trial panel members before the judgment is pronounced.

5. For a case involving many complicated circumstances and requiring a longer time for deliberation, the trial panel may decide on the deliberation time which must not exceed 5 working days after the end of arguments at

the court hearing. The trial panel shall inform the involved parties of the hour and date of pronouncing the judgment. If such hour and date change, the trial panel shall inform the involved parties of the change.

Article 36. First-instance judgments provided in Article 238 of the Code

A first-instance judgment must be written in accordance with Article 238 of the Code and presented according to the form promulgated together with Resolution No. 03/2012/NQ- HDTP of December 3, 2012, of the Judges' Council of the Supreme People's Court, guiding a number of provisions of Part One "General Provisions" of the Civil Procedure Code, which was amended and supplemented under the Law Amending and Supplementing a Number of Articles of the Civil Procedure Code.

Together with the deliberation minutes, the original judgment must be approved and signed by the trial panel members in the deliberation room and kept in the case file. Based on the original judgment, the presiding judge shall, on behalf of the trial panel, sign principal judgments and the court shall hand or send the judgments in accordance with Article 241 of the Code.

Article 37. Pronouncement of judgments provided in Article 239 of the Code

Upon pronouncement of a judgment, all people in the court room must rise. The court clerk shall urge any person who does not rise. Before pronouncing the judgment, the presiding judge shall permit a person who cannot rise for a health-related reason to stay seated. The presiding judge or another member of the trial panel shall read out the judgment or may takes turns to do so if the judgment is long.

If the judgment is too long, the presiding judge may request people in the court room to rise only when reading out the introduction and the ruling of the judgment.

After reading out the judgment, depending on each specific case, the presiding judge or another trial panel member shall additionally explain the execution of the judgment and the involved parties' right to appeal.

For an involved party that does not know Vietnamese, after the judgment is pronounced, the interpreter shall interpret the full judgment (including the judgment's part involving this person and the part involving other parties in the case) into the language that he/she knows.

Article 38. Correction or supplementation of judgments provided in Article 240 of the Code

1. A judgment may be corrected or supplemented only in the following cases:

a/ Obvious spelling errors such as incorrect words, accent marks, letters in upper case or lower case or transcription from foreign languages into Vietnamese, or omission of middle names in the full names of the involved parties, etc., are detected.

a/ Figures resulted from confusion or miscalculation (including the court fee) such as incorrect addition, subtraction, multiplication or division which must be corrected.

2. The court shall send a notice of correction or supplementation of the judgment, which is made according to a set form, to the persons specified in Clause 1, Article 240 of the Code.

Article 39. Forms of procedural documents

Promulgated together with this Resolution are the following forms of procedural documents:

1. Lawsuit petition (Form No. 1);
2. Receipt of lawsuit petition (Form No. 2);
3. Notice of return of lawsuit petition (Form No. 3);
4. Notice of advance of court fee (Form No. 4);
5. Notice of case acceptance (Form No. 5);
6. Notice of conciliation session (Form No. 6a);
 - Notice of postponement of conciliation session (Form No. 6b);
7. Conciliation minutes (Form No. 7)|
8. Minutes of successful conciliation (Form1 , No. 8a); .
 - Minutes of voluntary divorce and successful conciliation (Form No.8b);
9. Decision to recognize agreement of involved parties (Form No. 9a);
 - Decision to recognize consented divorce and agreement of involved parties (Form No. 9b);
10. Decision to suspend settlement of civil case (Form No. 10a);
 - Decision to suspend settlement of civil case (Form No. 10b);
11. Decision to terminate settlement of civil case (Form No. 11a);
 - Decision to terminate settlement of civil case (Form No. lib);
12. Decision to bring case to trial (Form No. 12);

13. Minutes of first-instance court hearing (Form No. 13);
14. Decision to postpone court hearing (Form No. 14);
15. Notice of correction or supplementation of judgment (Form No. 15).

Article 40. Effect

1. This Resolution was adopted on December 3, 2012, by the Judges' Council of the Supreme People's Court and takes effect on July 1, 2013.

Resolution No. 02/2006/NQ-HDTP of May 12, 2006, of the Judges' Council of the Supreme People's Court, guiding a number of provisions of Part Two "Case Settlement Procedures ; First-Instance Courts" of the Civil Procedure Code and guidance on the matters guided in this Resolution promulgated by the Supreme People's Court before the effective date of this Resolution ceases to be effective on July 1, 2013.

2. Civil, marriage and family, economic and labor cases and matters which have been accepted by courts but have not gone through first-instance or appellate trial, or which are subject to cassation or reopening trial must be settled in accordance with this Resolution.

This Resolution does not apply to protest against court judgments or decisions which took legal effect before the effective date of this Resolution according to the cassation reopening procedures unless there are different grounds for protest.-

On behalf of the Judges' Council

President

TRUONG HOA BINH

(All forms promulgated together with the Resolution are not translated.)