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## CIVIL PROCEDURE ACT

[Enforcement Date 30. Sep, 2016.] [Act No.14103, 29. Mar, 2016., Partial Amendment]

법무부(법무심의관), 02-2110-3164~5

### PART I GENERAL PROVISIONS

**Article 1 (Ideal of Civil Procedure and Principle of Good Faith)**(1) A court shall endeavor to have the litigation procedures progress fairly, swiftly and economically.

(2) The parties concerned and participants of litigation shall perform the litigation in good faith.

### CHAPTER I COURTS

#### SECTION 1 Jurisdiction

##### Article 2 (General Forum)

A lawsuit is subject to the jurisdiction of a court at the place where a defendant's general forum is located.

##### Article 3 (General Forum of Person)

General forum of a person shall be determined by his/her domicile: Provided, That where the person has no domicile in the Republic of Korea or his/her domicile is unknown, it shall be determined pursuant to his/her residence, and if the residence is unfixed or unknown, it shall be determined pursuant to his/her last domicile.

##### Article 4 (General Forum of Ambassador or Minister, etc.)

In cases where an ambassador, a minister and other citizens of the Republic of Korea who are exempted from an exercise of foreign jurisdiction have no general forum under Article 3, their general forums shall be the place where the Supreme Court is located.

**Article 5 (General Forum of Juristic Person, etc.)**(1) General forum of a juristic person or any other association or foundation shall be determined pursuant to the place where its principal office or business place is located, and in cases where there exists no office and business place, it shall be determined pursuant to the domicile of the person principally in charge of its duties.

(2) In cases where the provisions of paragraph (1) are applied to a foreign juristic person and any other foreign association or foundation, their general forums shall be determined pursuant to their offices, business places, or the domiciles of the persons in charge of their duties, in the Republic of Korea.

##### Article 6 (General Forum of State)

General forum of the State shall be the seat of the government agency, which represents the State in the relevant litigation, or that of the Supreme Court.

#### Article 7 (Special Forum of Workplace)

A lawsuit against a person who works continuously in an office or business place may be brought to the court having the jurisdiction over the seat of such office or business place.

#### Article 8 (Special Forum of Place of Residence or Place of Obligation Performance)

A lawsuit concerning a property right may be brought to the court having the jurisdiction over the place of residence or the place of obligation performance.

#### Article 9 (Special Forum of Payment Place of Bills or Checks)

A lawsuit concerning bills or checks may be brought to the court located in the place of payment thereof.

#### Article 10 (Special Forum for Seamen, Military Servicemen, or Military Service Officials)(1) A

lawsuit concerning a property right against a seaman may be brought to the court located in the place of the registry of a ship.

(2) A lawsuit concerning a property right against a military serviceman or military service official may be brought to the court located in the place of a military installation or in the place of a military ship's registry.

#### Article 11 (Special Forum of Location of Property)

A lawsuit concerning a property right against a person who has no domicile in the Republic of Korea or against a person whose domicile is unknown, may be brought to the court located in the place of the objects of a claim or those of the security, or any seizable property of a defendant.

#### Article 12 (Special Forum of Location of Office or Business Place)

A lawsuit concerning the affairs of an office or business place against a person who keeps such an office or business place may be brought to the court located in the place of such an office or business place.

#### Article 13 (Special Forum of Place of Registry of Ship)

A lawsuit concerning a ship or voyage against the ship-owner or any other person utilizing the ship may be brought to the court located in the place of the ship's registry.

#### Article 14 (Special Forum of Location of Ship)

A lawsuit concerning a claim on a ship and other claims secured on a ship may be brought to the court in the place of a ship's location.

**Article 15 (Special Forum for Company Employees, etc.)**(1) A lawsuit by a company or any other association against its employee, or by an employee against another employee may be brought to the court in the place of the general forum of such a company or such other association, if such lawsuit is attributable to the qualification of such an employee.

(2) The provisions of paragraph (1) shall apply mutatis mutandis to a lawsuit by an association or foundation against its officer or a lawsuit by a company against its promoter or inspector.

#### Article 16 (Special Forum for Company Employees, etc.)

A lawsuit by a creditor of a company or any other association against its employee may be brought to the court as referred to in Article 15, if such lawsuit is attributable to the qualification of such an employee.

#### Article 17 (Special Forum for Company Employees, etc.)

The provisions of Articles 15 and 16 shall apply mutatis mutandis to a lawsuit by a company or other

association or foundation, or an employee thereof or a creditor of an association against the person who was an employee, officer, promoter, or inspector thereof, and to a lawsuit by a former employee thereof against a present employee thereof.

**Article 18 (Special Forum for Locus Delicti)**(1) A lawsuit concerning a tort may be brought to the court in the place of an act.

(2) A lawsuit for damages due to a collision of ships or aircraft or any other accident may be brought to the court in the place where the ships or aircraft involved in accidents first arrived.

**Article 19 (Special Forum for Salvage)**

A lawsuit concerning a salvage may be brought to the court in the place where the salvage was effected or where the salvaged ship first arrived.

**Article 20 (Special Forum of Location of Immovables)**

A lawsuit concerning immovables may be brought to the court in the place where such immovables are located.

**Article 21 (Special Forum for Register or Registration)**

A lawsuit concerning a register or registration may be brought to the court having jurisdiction over the location of a public agency in charge of such a register or registration.

**Article 22 (Special Forum for Inheritance, Bequest, etc.)**

A lawsuit concerning an inheritance, or a bequest and other acts becoming effective by a death may be brought to the court in the place where the general forum of the deceased was located at the time when such inheritance commenced.

**Article 23 (Special Forum for Inheritance, Bequest, etc.)**

A lawsuit concerning an inherited claim and other liability for inherited assets, which does not correspond to Article 22, if the whole or part of the inherited assets is located in a jurisdictional district of the court under Article 22, may be brought to such court.

**Article 24 (Special Forum for Intellectual Property Rights, etc.)**(1) A lawsuit concerning an intellectual property right, excluding a patent right, utility model right, design right, trademark right and plant variety right (hereinafter referred to as "patent right, etc."), or an international transaction may be brought to a district court in the jurisdictional area of a high court which has jurisdiction over the location of a competent court pursuant to Articles 2 through 23: Provided, That a district court in the jurisdictional area of Seoul High Court shall be limited to Seoul Central District Court. [<Amended by Act No. 10629, May 19, 2011; Act No. 13521, Dec. 1, 2015>](#)

(2) A lawsuit concerning an intellectual property right, such as a patent right, shall be under the exclusive jurisdiction of a district court in the jurisdictional area of a high court which has jurisdiction over the location of a competent court pursuant to Articles 2 through 23: Provided, That a district court in the jurisdictional area of Seoul High Court shall be limited to Seoul Central District Court.

[<Newly Inserted by Act No. 13521, Dec. 1, 2015>](#)

(3) Notwithstanding paragraph (2), a party may bring a lawsuit concerning an intellectual property right, such as a patent right, to Seoul Central District Court. [<Newly Inserted by Act No. 13521, Dec. 1, 2015>](#)

**Article 25 (Correlated Forum)**(1) Where several claims are joined in one lawsuit, it may be brought to the court having jurisdiction over one of these several claims pursuant to the provisions of Articles 2

through 24 .

(2) The provisions of paragraph (1) shall apply mutatis mutandis where the right or duty becoming the subject-matter of a lawsuit is common to many persons, or where these many persons become parties thereto as co-litigants due to the same factual or legal causes.

**Article 26 (Computation of Value of Subject-Matter of Lawsuit)**(1) Where any jurisdiction is determined by the value of a subject-matter of a lawsuit in the Court Organization Act, such value shall be determined by calculating on the basis of the benefits as alleged by the lawsuit.

(2) Where the value under paragraph (1) is not calculable, such value shall be governed by the provisions of the Act on the Stamps Attached for Civil Litigation, etc.

**Article 27 (Value of Subject-Matter of Lawsuit in Cases of Joinder of Claims)**(1) Where many claims are joined in one lawsuit, the value of subject-matter of such lawsuit shall be determined by summing up all values of these many claims.

(2) Where a claim for proceeds, compensation for damages, penalty for breach of contract, or costs is an incidental object of a lawsuit, such values shall not be included in the value of subject-matters of the lawsuit.

**Article 28 (Designation of Jurisdiction)**(1) In any of the following cases, an immediately superior court being common to relevant courts shall determine the competent court by its ruling, upon request of the relevant courts or the concerned parties:

1. When the competent court is legally or factually unable to exercise its jurisdiction;
2. When the jurisdictional districts of the courts are not evident.

(2) The ruling under paragraph (1) shall be subject to no appeal.

**Article 29 (Jurisdiction by Agreement)**(1) Parties to a lawsuit may decide by agreement the competent court of the first instance.

(2) The agreement referred to in paragraph (1) shall be valid only when it is made in writing with respect to a lawsuit based on a specific legal relationship.

**Article 30 (Jurisdiction by Pleading)**

If a defendant pleads as to the merits of a case without putting in a demurrer against any lack of jurisdiction before the court of the first instance, or makes statements during the preparatory date for pleading, the said court shall have the jurisdiction thereof.

**Article 31 (Exclusion by Exclusive Jurisdiction)**

The provisions of Articles 2, 7 through 25, 29 and 30 shall not apply to the lawsuits for which an exclusive jurisdiction has been determined.

**Article 32 (Ex Officio Investigation on Jurisdiction)**

A court may investigate ex officio the matters concerning the jurisdiction.

**Article 33 (Time to Become Standard for Jurisdiction)**

The jurisdiction of a court shall be determined on the standard of the time when a lawsuit has been filed.

**Article 34 (Transfer Due to Lack of Jurisdiction or by Discretion)**(1) Where a court finds that the whole or part of a lawsuit does not fall under its jurisdiction, it shall transfer such lawsuit by its ruling to the competent court.

(2) A single judge of a district court may, if he/she deems it proper even where a lawsuit falls under

his/her jurisdiction, transfer the whole or part of the lawsuit to the collegiate panel of the same district court, either ex officio or by its ruling upon request of the concerned parties.

(3) The collegiate panel of a district court may, if it deems it proper even where a lawsuit does not fall under its jurisdiction, deliberate and judge the whole or part of such lawsuit, either ex officio or upon request of the concerned parties.

(4) The provisions of paragraphs (2) and (3) shall not apply to a lawsuit for which an exclusive jurisdiction has been determined.

#### Article 35 (Transfer to Avoid Damage or Delay)

A court may, if deemed necessary to avoid any significant damage or delay even where a lawsuit falls under its jurisdiction, transfer the whole or part of such lawsuit to another competent court either ex officio or by its ruling upon request of the concerned parties: Provided, That the same shall not apply to cases of a lawsuit for which an exclusive jurisdiction has been determined.

**Article 36 (Transfer of Lawsuit about Intellectual Property Rights, etc.)**(1) Where a lawsuit on an intellectual property right other than a patent right, etc. or an international transaction is filed, a court may transfer the whole or part of such lawsuit to the competent court under Article 24 (1), either ex officio or by its ruling upon request of the party concerned: Provided, That where this causes any significant delay in the proceedings, the same shall not apply. [<Amended by Act No. 10629, May 19, 2011; Act No. 13521, Dec. 1, 2015>](#)

(2) Paragraph (1) shall not apply to a lawsuit for which an exclusive jurisdiction has been determined. [<Amended by Act No. 13521, Dec. 1, 2015>](#)

(3) A court having jurisdiction over a lawsuit on an intellectual property right, such as a patent right, pursuant to Article 24 (2) or (3) may transfer the whole or part of such lawsuit to a district court under Articles 2 through 23, either ex officio or by its ruling upon request of the party concerned, when necessary to avoid any significant damage or delay. [<Newly Inserted by Act No. 13521, Dec. 1, 2015>](#)

#### Article 37 (Urgent Disposition after Final Ruling of Transfer)

Even after a ruling of transferring a case has become final and conclusive, the court may, when there exist any imminent circumstances, make a necessary disposition either ex officio or upon request of the concerned parties: Provided, That the same shall not apply after the record thereof has been already transferred.

**Article 38 (Effect of Ruling of Transfer)**(1) A court in receipt of a transfer of a lawsuit shall comply with the ruling of a transfer.

(2) A court in receipt of a transfer of a lawsuit shall not transfer the case again to another court.

#### Article 39 (Immediate Appeal)

An immediate appeal may be raised against a ruling of a transfer and that of the rejection of a request for transfer.

**Article 40 (Effect of Transfer)**(1) When a ruling of a transfer has become final and conclusive, it shall be deemed that the lawsuit has been pending from the beginning before the court in receipt of a transfer.

(2) In cases of paragraph (1), a court official of Grade IV, court official of Grade V, chief clerk or senior clerk of the court rendering a ruling of a transfer (hereinafter referred to as "junior administrative officer, etc. of a court") shall attach the authentic copy of such ruling to the record of a case, and

forward it to the court which is to receive such transfer.

## SECTION 2 Exclusion, Challenge, and Avoidance of Judge, etc.

### Article 41 (Cause of Exclusion)

A judge shall be excluded from performing his/her duties if he/she falls under any of the following subparagraphs: <Amended by Act No. 7427, Mar. 31, 2005>

1. When a judge, his/her spouse, or his/her former spouse becomes a party to a case, or is related to a party to the case as a co-creditor, co-debtor or a person liable for redemption;
2. When a judge is, or has been, related to a party to a case as a relative;
3. When a judge has made a testimony or appraisal on a case;
4. When a judge was, or becomes, an attorney for a party to a case;
5. When a judge has taken part in the trial of previous instance level for the appeal case: Provided, That the same shall not apply where he/she has performed his/her duties pursuant to an entrustment by another court.

### Article 42 (Judgment on Exclusion)

A court shall, when there exists any cause for exclusion, render a judgment on exclusion, either ex officio or upon request of the concerned parties.

**Article 43 (Right to Challenge by Parties)**(1) When there exist any circumstances under which it is difficult to expect a fair trial by a judge, any concerned party may challenge him.

(2) Where any party has pleaded for the merits of a case or made statements during the preparatory date for pleading, while he/she is aware of the existence of reasons for challenging a judge, he/she shall not challenge such judge.

**Article 44 (Method of Motion for Exclusion or Challenge)**(1) A motion for exclusion or challenge of a judge in a collegiate panel shall be made to the said collegiate panel by clarifying the reasons therefor, and a motion for exclusion or challenge of a commissioned judge, entrusted judge, or single judge shall be made to the said judge by clarifying the same.

(2) Reasons for the exclusion or challenge and the method for vindication thereof shall be presented in writing within three days from the date of filing the motion.

**Article 45 (Rejection, etc. of Motion for Exclusion or Challenge)**(1) Where it is obvious that a motion for exclusion or challenge violates the provisions of Article 44 or aims at retarding a lawsuit, a court or a judge in receipt of such motion shall reject it by a ruling.

(2) Any judge against whom a motion for exclusion or challenge has been made shall, except for cases falling under paragraph (1), present promptly his/her opinion in writing on the motion for exclusion or challenge.

**Article 46 (Judgment on Motion for Exclusion or Challenge)**(1) A judgment on the motion for exclusion or challenge shall be rendered by a ruling of the collegiate panel of a court whereto belongs the judge, against whom such motion has been filed.

(2) Any judge against whom the motion for exclusion or challenge has been made shall not participate in the judgment under paragraph (1): Provided, That he/she may state his/her opinion.

(3) Where a court whereto belongs the judge, against whom the motion for exclusion or challenge has been filed, is unable to constitute a collegiate panel, the immediately superior court shall decide thereon.

**Article 47 (Appeal)**(1) The ruling to the effect that the motion for exclusion or challenge is justifiably

well-grounded shall be subject to no appeal.

(2) An immediate appeal may be raised against the ruling of rejection under Article 45 (1), or against the ruling to the effect that the motion for exclusion or challenge is groundless.

(3) No immediate appeal to the ruling of rejection under Article 45 (1) shall have the effect to suspend the execution.

#### Article 48 (Suspension of Proceedings)

A court shall, where a motion for exclusion or challenge has been filed, suspend the proceedings until the time when the judgment on such motion becomes final and conclusive: Provided, That the same shall not apply in cases of the rejection of the motion for exclusion or challenge, the sentence of a final judgment, and such acts as may require urgency.

#### Article 49 (Avoidance of Judge)

Where there are any ground falling under Article 41 or 43, a judge may be avoided with permission from the court having the right of supervision.

**Article 50 (Exclusion, Challenge and Avoidance of Junior Administrative Officer, etc. of Court)**(1) The provisions of this Section shall apply mutatis mutandis to the junior administrative officer, etc. of a court.

(2) A judgment on the exclusion or challenge of the junior administrative officer, etc. of a court under paragraph (1) shall be rendered by the ruling of the court whereto belongs such officer, etc.

## CHAPTER II PARTIES

### SECTION 1 Capacity for being Party and Litigation Capacity

#### Article 51 (Principles as to Capacity for being Party and Litigation Capacity, etc.)

Unless otherwise prescribed in this Act, the capacity for being a party, the litigation capacity, the granting of authorization required for the legal representation of, and for the litigation for, the persons lacking litigation capacity, shall be governed by the Civil Act and other Acts.

#### Article 52 (Capacity for being Party in Cases of Other Association, etc. Than Juristic Person)

Other association or foundation than a juristic person may, where it has a representative or administrator, become a party to a lawsuit in the name of such association or foundation.

**Article 53 (Appointed Party)**(1) Many persons having a common interest may, where they do not fall under the provisions of Article 52, appoint from among them one or more person to act as a party or parties for the entire persons, or alter such appointment.

(2) When the person to act as a party has been altered under the provisions of paragraph (1) subsequent to the pendency of a lawsuit to a court, the former party shall be deemed to have deservedly withdrawn from a lawsuit.

#### Article 54 (Loss of Party Capacity by Some of Appointed Parties)

Where there is anyone who dies or who loses his/her capacity, from among many parties appointed under Article 53, the remaining parties shall conduct the litigation for the entire persons.

**Article 55 (Litigation Capacity of Persons with Limited Capacity)**(1) A minor or an adult ward may conduct litigation only through his/her legal representative: Provided, That the same shall not apply in any of the following cases:

1. Where a minor is able to independently conduct juristic acts;
2. Where a person under adult guardianship is able to conduct irrevocable juristic acts under Article

10 (2) of the Civil Act.

(2) A person under limited guardianship may conduct litigation only through his/her limited guardian having the right to representation if such acts are subject to consent of the limited guardian.

[This Article Wholly Amended by Act No. 13952, Feb. 3, 2016]

**Article 56 (Special Provisions for Litigation by Legal Representatives)**(1) Where a guardian of a minor, an adult guardian having the right to representation, or a limited guardian having the right to representation conducts litigation in regard to a lawsuit or appeal filed by the other party, he/she does not need to obtain any special authorization from his/her supervisor of guardianship.

(2) A legal representative under paragraph (1) shall obtain a special authorization from his/her supervisor of guardianship to effect withdrawal of a lawsuit, compromise, waiver or recognition of a claim, or a secession under Article 80: Provided, That when he/she has no supervisor of guardianship, he/she shall obtain such special authorization from a family court.

[This Article Wholly Amended by Act No. 13952, Feb. 3, 2016]

**Article 57 (Special Provisions for Litigation Capacity of Foreigners)**

Where a foreigner has a litigation capacity under the laws of the Republic of Korea, he/she shall be deemed to have a litigation capacity, even where he/she does not have such capacity pursuant to the laws of his/her home country.

**Article 58 (Attestation of Authority etc. of Legal Representation)**(1) The fact of having an authority of legal representation, or that of having obtained an authorization for litigation, shall be attested in writing. The same shall also apply to cases of an appointment or alteration of a party under the provisions of Article 53.

(2) The documents under paragraph (1) shall be attached to the record of the case.

**Article 59 (Measures for Defects in Litigation Capacity, etc.)**

Where there is any defect in the granting of a litigation capacity, authority of legal representation, or authorization required for litigation, a court shall issue an order, with a fixed a period, to have it corrected, and where there is any concern about causing damages by a delay in correction, the court may allow the party or legal representative before correction to temporarily conduct the litigation.

**Article 60 (Defects in Litigation Capacity, etc. and Ratification Thereof)**

Subsequent to any litigation conducted by a person having defects in the granting of a litigation capacity, authority of legal representation, or authorization required for the litigation, where the revised party or legal representative ratifies them, such litigation shall take effect retroactively at the time when they have been conducted.

**Article 61 (Application Mutatis Mutandis to Appointed Parties)**

The provisions of Articles 59 and 60 shall apply mutatis mutandis where the party under Article 53 conducts the litigation.

**Article 62 (Special Representatives for Persons with Limited Capacity)**(1) Where a minor, a

person under limited guardianship, or a person under adult guardianship is a party, a relative, an interested party (including a person who intends to conduct litigation against a minor, a person under limited guardianship, or a person under adult guardianship), an adult guardian having no right to representation, a limited guardian having no right to representation, the head of a local government or a public prosecutor may file a request with the court of lawsuit to appoint a special representative by vindicating that there exists a concern about the damage to be inflicted by a delay in the litigation

procedures, in any of the following cases:

1. Where the party has no legal representative or his/her legal representative has no power to act as his/her representative in the litigation procedures;
2. Where the legal representative is unable to exercise his/her power of representation due to a factual or legal impediment;
3. Where the litigation process is seriously impeded due to the legal representative's insincerity or inexperience in exercising his/her power of representation.

(2) The court may ex officio appoint, replace, or dismiss a special representative when deemed necessary during the pendency of a lawsuit.

(3) A special representative has the same power as a guardian having the right to representation. The power of a legal representative shall be suspended to the extent that the special representative has the right to representation.

(4) The appointment, replacement or dismissal of a special representative shall be made by a ruling of the court, and such ruling shall be served on the special representative.

(5) Remuneration for a special representative and costs for his/her appointment and litigation shall be included in the costs of lawsuit.

[This Article Wholly Amended by Act No. 13952, Feb. 3, 2016]

#### Article 62-2 (Appointments, etc. of Special Representatives for Persons Devoid of Mental Capacity)

(1) Where necessary for conducting litigation against or by a person devoid of mental capacity, Article 62 shall apply mutatis mutandis to the appointment, etc. of a special representative: Provided, That this shall not preclude a specific guardian or voluntary guardian from making a request for appointing a special representative.

(2) Where a special representative under paragraph (1) effects withdrawal of a lawsuit, compromise, waiver or recognition of a claim, or a secession under Article 80, the court may decide not to permit such act within 14 days from the date such act is effected if it is deemed clearly contrary to the principal's interests. No appeal may be made against such decision.

[This Article Newly Inserted by Act No. 13952, Feb. 3, 2016]

#### Article 63 (Notice of Termination of Authority for Legal Representation)

(1) Where an authority for legal representation was terminated while the litigation procedures were in progress, the effect of such termination shall not be alleged unless the principal or his/her representative notifies the other party of the fact of such termination: Provided, That after the court has become aware of the fact of termination of such authority for legal representation, the relevant legal representative shall not conduct any litigation under Article 56 (2).

(2) The provisions of paragraph (1) shall apply mutatis mutandis where the parties are changed pursuant to the provisions of Article 53.

#### Article 64 (Status of Representatives of Organizations, such as Juristic Persons, etc.)

The provisions relating to the legal representation and legal representatives in this Act shall apply mutatis mutandis to the representative of a juristic person, or the representative or administrator under Article 52.

## SECTION 2 Co-Litigation

#### Article 65 (Requisite for Co-Litigation)

Where the rights or liabilities forming the object of a lawsuit are common to many persons, or are

generated by the same factual or legal causes, these many persons may join in the lawsuit as co-litigants. The same shall also apply where the rights or liabilities forming the object of a lawsuit are of the same sort, or are generated by the same sort of factual or legal causes.

#### Article 66 (Status of Ordinary Co-Litigants)

Litigations by one of the co-litigants, or those by the counter party against them, and the matters regarding one of the co-litigants, shall not affect other co-litigants.

**Article 67 (Special Provisions for Indispensable Co-Litigation)**(1) In cases of a co-litigation in which the objects of such lawsuit are to be unitedly decided on all co-litigants, the litigation by anyone of them shall take effect only for the benefits of all such co-litigants.

(2) In the co-litigation under paragraph (1), the litigation by the counter party against one of the co-litigants shall take effect to all of them.

(3) In the co-litigation under paragraph (1), where there is any reason for interrupting or suspending the litigation procedures for one of the co-litigants, such interruption or suspension shall take effect to all co-litigants.

**Article 68 (Addition of Indispensable Co-Litigants)**(1) Where some of the co-litigants under Article 67 (1) are omitted, the court may permit an addition of a plaintiff or defendant by its ruling, upon request of the plaintiff, not later than the closure of pleadings at the first instance: Provided, That an addition of a plaintiff may be permitted only where a consent is obtained from the person to be added.

(2) When the ruling of permission under paragraph (1) has been rendered, the authentic copy of such ruling of permission shall be served on all the parties, and the duplicates of the written complaint shall also be served on the parties to be added.

(3) Where any co-litigants are added under paragraph (1), the lawsuit shall be deemed to have been raised with such persons included at the time when the first lawsuit was instituted.

(4) Any interested parties may raise an immediate appeal against the ruling of permission under paragraph (1) only in cases of making the fact that the plaintiff to be added has not agreed to it, as the ground therefor.

(5) The immediate appeal under paragraph (4) shall not take any effect to suspend the execution.

(6) An immediate appeal may be raised against a ruling to dismiss the request under paragraph (1).

#### Article 69 (Special Provisions for Indispensable Co-Litigation)

Where any one of co-litigants under Article 67 (1) has raised an appeal, the provisions of Article 56 (1) shall apply mutatis mutandis to the litigation conducted by other co-litigants at such appellate instance.

**Article 70 (Special Provisions for Preliminary or Selective Co-Litigation)**(1) Where any claim by a part of co-litigants is legally incompatible with that by other co-litigants, or any claim against a part of co-litigants is legally incompatible with that against other co-litigants, Articles 67 through 69 shall apply mutatis mutandis: Provided, That the same shall not apply to cases of the waiver or recognition of the claim, compromise between the parties, and the withdrawal of the lawsuit.

(2) In the litigation under paragraph (1), a judgment shall be rendered on the claims related to all co-litigants.

### SECTION 3 Litigation Intervention

#### Article 71 (Supplementary Intervention)

Any third party interested in the result of a lawsuit may intervene in the lawsuit pending before the

court in order to assist either party: Provided, That the same shall not apply where it may retard the litigation procedures significantly.

**Article 72 (Methods of Applying for Intervention)**(1) An application for intervention shall be filed with the court where a lawsuit intended to intervene is pending, by clarifying the purport and ground for such intervention.

(2) Where an application for intervention has been filed in writing, the court shall serve such an application on both parties.

(3) An application for intervention may be filed simultaneously with the litigation performable as an intervenor.

**Article 73 (Judgment on Whether or Not to Permit Intervention)**(1) When a party raises any objection against intervention, the intervenor shall vindicate the grounds for such intervention, and the court shall render a ruling as to whether or not to permit the intervention.

(2) The court may order ex officio the intervenor to vindicate the ground for such intervention, and when it is not admitted that there exists any ground for such intervention, it shall render a ruling of the non-permission for intervention.

(3) An immediate appeal may be raised against the ruling under paragraphs (1) and (2).

**Article 74 (Forfeiture of Right to Object)**

Where a party pleads without raising any objection against an intervention, or makes statements during the preparatory date for pleading, his/her right to object shall be forfeited.

**Article 75 (Intervenor's Participation in Proceedings)**(1) An intervenor may conduct his/her litigation not later than the time when the ruling to disapprove an intervention becomes final and conclusive, even where an objection has been raised against his/her intervention.

(2) Where a party has invoked an intervenor's litigation, such litigation shall be effective, even if the ruling to disapprove an intervention has become final and conclusive.

**Article 76 (Intervenor's Litigation)**(1) An intervenor may conduct the attack, defense, objection, appeal and all other litigations as to a lawsuit: Provided, That the same shall not apply to the litigations which are not performable pursuant to the level of lawsuit's progress at the time of intervention.

(2) Where the intervenor's litigations are contrary to those acts of the intervenee, such intervenor's litigation shall not take any effect.

**Article 77 (Effect of Judgment on Intervenor)**

A judgment shall also be binding on an intervenor, if it does not fall under any one of the following subparagraphs:

1. When the intervenor is unable to conduct any litigation, or such litigation do not become effective, pursuant to Article 76;
2. When the intervenee has obstructed the intervenor's litigation;
3. When the intervenee has failed, by intention or negligence, to conduct the litigations which are not performable by the intervenor.

**Article 78 (Supplementary Intervention alike of Co-Litigation)**

Where the judgment also becomes effective for the intervenors, Articles 67 and 69 shall apply mutatis mutandis to such intervenors and intervenees as well.

**Article 79 (Intervention as Independent Party)**(1) Any third party who claims that the whole or part of

the object of lawsuit is his/her own right, or that his/her rights are likely to be infringed pursuant to the result of lawsuit, may intervene in the lawsuit as a party by making either side or both sides of the parties the other party.

(2) The provisions of Articles 67 and 72 shall apply mutatis mutandis to the cases of paragraph (1).

#### Article 80 (Withdrawal from Lawsuit Intervened by Independent Party)

Where there exists a person who has intervened in a lawsuit in order to claim his/her rights under the provisions of Article 79, the plaintiff or defendant prior to his/her intervention may withdraw from the lawsuit subject to the consent of the other party: Provided, That the judgment shall also become effective for the party who has so withdrawn.

#### Article 81 (Successor's Intervention)

Where a third party has intervened in a lawsuit under Article 79, while the lawsuit is pending before the court, by claiming that he/she succeeded to the whole or part of the right or obligation, which is the object of lawsuit, such intervention shall take effect of an interruption of prescription or an observance of a statutory period, retroactively from the first pendency of lawsuit before the court.

**Article 82 (Successor's Takeover of Lawsuit)**(1) When a third party has succeeded to the whole or part of the right or obligation which is the object of lawsuit, while the lawsuit is pending before the court, the court may cause such third party to take over the lawsuit, upon motion of either party.

(2) When rendering the ruling under paragraph (1), the court shall examine the parties and the third party.

(3) In cases of taking over a lawsuit under paragraph (1), the provisions of Article 80 concerning the withdrawal and the effect of judgment and the provisions of Article 81 concerning the effect of intervention shall apply mutatis mutandis.

**Article 83 (Intervention into Co-Litigation)**(1) Where the objects of lawsuit are to be unitedly decided on either party and a third party, such third party may intervene in the lawsuit as a co-litigant.

(2) The provisions of Article 72 shall apply mutatis mutandis to cases falling under paragraph (1).

**Article 84 (Requirements for Notice of Lawsuit)**(1) Where a lawsuit is pending before a court, the parties may give a notice of a lawsuit to the third party who is entitled to intervene.

(2) The person who has received a notice of lawsuit may in turn give the same notice.

**Article 85 (Methods of Notice of Lawsuit)**(1) In order to give a notice of lawsuit, a document stating the reason therefor and the level of the lawsuit's progress shall be submitted to a court.

(2) The document under paragraph (1) shall be served on the other party.

#### Article 86 (Effect of Notice of Lawsuit)

Even where any person who has received a notice of lawsuit has failed to intervene, he/she shall be deemed to have intervened at the time when he/she was able to intervene, where the provisions of Article 77 are applied.

### SECTION 4 Attorneys

#### Article 87 (Qualification of Attorney)

Except for representatives entitled to conduct the judiciary acts pursuant to Acts, no person may become an attorney, other than attorneys-at-law.

**Article 88 (Exceptions to Qualification of Attorney)**(1) In the cases for which the value of a lawsuit's object falls short of a specific amount, from among the cases to be examined and tried by a

single judge, Article 87 shall not be applicable to the time when such persons have obtained a permit from the court, as those who keep a close living relation with the party and are in a kinship within a specific scope, or those who are in a specific relationship under an employment contract, etc. with the party, such as the handling of, or assistance in, the regular affairs concerning such cases.

(2) Detailed matters concerning the scope of cases permissible by the court under paragraph (1) and the qualification of representatives, etc. shall be prescribed by the Supreme Court Regulations.

(3) The court may revoke the permit under paragraph (1) at any time.

**Article 89 (Attestation of Powers of Attorney)**(1) Powers of attorney shall be attested in writing.

(2) Where the writing under paragraph (1) is a private document, the court may order the attorney to have it authenticated by a notary public or other persons engaged in the notarial business (hereinafter referred to as "notarial office").

(3) The provisions of paragraphs (1) and (2) shall not apply where a party has orally appointed his/her attorney, and the junior administrative officer, etc. of the court has entered such statement in the protocol.

**Article 90 (Scope of Powers of Attorney)**(1) An attorney may, for the case delegated to him, conduct all the litigations relating to a counteraction, intervention, compulsory execution, provisional seizure, provisional disposition, etc. and receive any payment.

(2) An attorney shall separately obtain a particular authority for the matters falling under any of the following subparagraphs:

1. Filing a counteraction;
2. Withdrawal of a lawsuit, compromise, waiver or recognition of a claim, or withdrawal pursuant to the provisions of Article 80;
3. Filing an appeal or the withdrawal thereof;
4. Appointment of a representative.

**Article 91 (Limitations on Powers of Attorney)**

No limitation shall be imposed on the powers of attorney: Provided, That the same shall not apply to an attorney who is not an attorney-at-law.

**Article 92 (Powers of Attorney under Acts)**

The provisions of Articles 90 and 91 shall not apply to the authority of an attorney entitled to conduct the judicial acts under Acts.

**Article 93 (Principle of Individual Representation)**(1) Where there are many attorneys, each of them shall represent the party.

(2) Where the parties have concluded an agreement in contrary to the provisions of paragraph (1), such agreement shall not take any effect.

**Article 94 (Right of Party to Rectify)**

Any de facto statement by an attorney shall lose its effect when it is immediately cancelled or rectified by the party.

**Article 95 (Cases of Non-Extinction of Powers of Attorney)**

Powers of attorney shall not be extinguished even if they fall under any one of the following subparagraphs:

1. Death of the party, or a loss of his/her litigation capacity;
2. Extinction by merger of a juristic person which is a party;

3. Termination of the trust duties of the trustee who is a party;
4. Death of a legal representative, loss of his/her litigation capacity, or extinction or alteration of his/her representative authority.

**Article 96 (Cases of Non-Extinction of Powers of Attorney)**(1) Powers of an attorney of a person who has become a party to a lawsuit in his/her own name for another person by virtue of a specific qualification shall not be extinguished even if the party loses his/her qualification.

(2) The provisions of paragraph (1) shall apply mutatis mutandis where the party appointed under Article 53 has lost his/her qualification.

**Article 97 (Mutatis Mutandis Application of Provisions concerning Legal Representative)**

The provisions of Articles 58 (2), 59, 60 and 63 shall apply mutatis mutandis to the attorney involved.

## CHAPTER III COSTS OF LAWSUIT

### SECTION 1 Imposition of Costs of Lawsuit

**Article 98 (Principle of Bearing Costs of Lawsuit)**

Costs of a lawsuit shall be borne by the losing party.

**Article 99 (Exception to Principles)**

A court may, depending on circumstances, charge the winning party with the whole or part of the costs arising from the acts unnecessary for an extension or defense of his/her rights, or of the costs arising from the acts necessary for an extension or defense of the other party's rights.

**Article 100 (Exception to Principles)**

When a litigation was delayed due to the failure of either party to produce a means of attack or defense at an appropriate time, or to neglect an observance of the appointed date or period, or due to any other causes attributable to either party, the court may charge the winning party with the whole or part of the costs of lawsuit incurred due to such delay.

**Article 101 (Case of Partial Defeat)**

The costs of lawsuit to be borne by the parties in cases of a partial defeat shall be determined by the court: depending on circumstances, the court may charge either of the parties with the whole of the costs.

**Article 102 (Case of Co-Litigation)**(1) Co-litigants shall share the costs of lawsuit equally: Provided,

That the court may, depending on circumstances, cause the co-litigants to bear the costs of lawsuit jointly or through any other means.

(2) Notwithstanding the provisions of paragraph (1), the court may cause the party who has undertaken the acts unnecessary for an extension or defense of rights, to bear the costs of lawsuit incurred by such acts.

**Article 103 (Case of Lawsuit by Intervention)**

The provisions of Articles 98 through 102 shall apply mutatis mutandis to the sharing of the costs of lawsuit by intervention between the intervenor and the other party, and to the sharing of the costs of lawsuit for an objection against intervention between the intervenor and the objecting party.

**Article 104 (Judgment in Each Instance on Costs of Lawsuit)**

A court shall, in a judgment closing a case, render ex officio a decision on the whole costs of lawsuit in the particular instance: Provided, That at a trial on a part of the case or on an interlocutory dispute, it may render a decision on such costs, depending on circumstances.

#### Article 105 (Judgment on Whole Costs of Lawsuit)

Where a higher court alters the judgment on the merits of a case, or where the court to which a case has been remanded or transferred renders a decision closing such case, it shall render a decision on the whole costs of the lawsuit.

#### Article 106 (Sharing of Costs in Cases of Compromise)

Where parties reach a compromise in court (including cases of Article 231), such costs shall be borne by the parties respectively, unless any particular provisions exist as to the bearing of the costs of compromise and those of lawsuit.

**Article 107 (Reimbursement of Costs by Third Party)**(1) Where a legal representative, an attorney, a junior administrative officer, etc. of a court, or an executive officer causes one to pay any useless costs intentionally or by gross negligence, the court of lawsuit may order, either ex officio or upon request of the party, the said person to reimburse the costs.

(2) Where the person having conducted litigation as a legal representative or an attorney, fails to attest that he/she has obtained a power of attorney or an authority required for the litigation, or to obtain the ratification thereof, the provisions of paragraph (1) shall apply mutatis mutandis to the costs of lawsuit incurred by such litigation.

(3) An immediate appeal may be raised against the rulings under paragraphs (1) and (2).

#### Article 108 (Bearing of Costs by Unauthorized Representative)

Where a lawsuit has been rejected in cases of Article 107 (2), the costs of lawsuit shall be borne by the representative who have conducted such litigation.

**Article 109 (Attorney Fees and Costs of Lawsuit)**(1) A fee paid or to be paid by a party to an attorney-at-law who performs a lawsuit on behalf of the party shall be admitted as the costs of lawsuit within the limit of the amounts as prescribed by the Supreme Court Regulations.

(2) When calculating the costs of lawsuit under paragraph (1), even if more than one attorneys-at-law have performed the lawsuit on behalf of the party, it shall be deemed to be representation of one attorney-at-law.

**Article 110 (Ruling to Fix Amount of Costs of Lawsuit)**(1) Where the amount of costs of lawsuit has not been fixed in the trial to determine the bearing of such costs, the court of first instance shall fix the amount of such costs of lawsuit by its ruling, upon receipt of a request of a party, after the judgment of the case has become final, or the judgment on the bearing of costs of lawsuit has come to have executory power.

(2) When filing a request for the ruling to fix the amount under paragraph (1), the statement of costs and its certified copy, and the documents necessary for vindicating the amount of costs, shall be submitted.

(3) An immediate appeal may be raised against the ruling as referred to in paragraph (1).

**Article 111 (Peremptory Notice to Other Party)**(1) A court shall deliver to the other party a certified copy of the statement of costs before fixing the amount of costs of lawsuit, and give him/her a peremptory notice to state an opinion thereon and to submit the statement of costs and the documents necessary for vindicating the amount of costs within a specific period.

(2) When the other party has failed to submit the documents under paragraph (1) within the fixed period, the court may render a ruling only on the costs of the requesting party: Provided, That this shall not prevent the other party from filing a request for the ruling of confirmation under Article 110

(1).

#### Article 112 (Setoff of Costs to be Borne)

Where a court decides on the costs of lawsuit, the costs to be borne by the parties shall be deemed to have been set off against the corresponding amount: Provided, That the same shall not apply to cases of Article 111 (2).

**Article 113 (Fixing of Amount of Costs in Cases of Compromise)**(1) When, in cases of Article 106, the parties have decided only on the principle of bearing the costs of lawsuit, but failed to decide on the amounts thereof, the court shall fix such amounts by its ruling, upon request of a party.

(2) The provisions of Articles 110 (2) and (3), 111, and 112 shall apply mutatis mutandis to cases of paragraph (1).

#### Article 114 (Cases where Lawsuit has been Concluded without Depending upon Judgment)

(1)

Where a lawsuit has been concluded without depending upon a judgment except for the case of Article 113, or where an intervention or an objection against it has been withdrawn, the court shall fix by its ruling the amount of costs of lawsuit upon request of a party, and order the party to bear it.

(2) The provisions of Articles 98 through 103, 110 (2) and (3), 111, and 112 shall apply mutatis mutandis to cases of paragraph (1).

#### Article 115 (Calculation by Junior Administrative Officer, etc. of Court)

A court shall, when there is a request under Article 110 (1), require the junior administrative officer, etc. of the court to calculate the amount of costs of lawsuit.

**Article 116 (Prepayment of Costs)**(1) In regard to the litigation incurring costs, the court may have the party make a prepayment of such costs.

(2) When the costs have not been prepaid, the court may refuse to do such litigation.

## SECTION 2 Security for Costs of Lawsuit

**Article 117 (Obligation to Furnish Security)**(1) Where a plaintiff has no domicile, office or business place in the Republic of Korea, or where it is recognized that furnishing security for the costs of lawsuit is necessary because it is obvious that the claim is groundless based on the complaints, briefs, or other records on lawsuit, the court shall order the plaintiff to furnish security for the costs of lawsuit, upon request from a defendant. This shall also apply where the security is insufficient.

<Amended by Act No. 10373, Jul. 23, 2010>

(2) In cases of paragraph (1), the court may ex officio order the plaintiff to furnish security for the costs of lawsuit. <Newly Inserted by Act No. 10373, Jul. 23, 2010>

(3) Where a part of the claim is not contested, paragraph (1) shall not apply if the amount thereof is sufficient for the security.

#### Article 118 (Forfeiture of Right to Demand Security due to Responding to Lawsuit)

Where a defendant has pleaded for the merits of a case or made statements during the preparatory date for pleading, while he/she knows that there exists a cause for furnishing a security, he/she shall not file a request for furnishing a security.

#### Article 119 (Defendant's Right to Refuse)

A defendant who has filed a request for furnishing a security may refuse to respond to the lawsuit until a plaintiff furnishes such security.

**Article 120 (Ruling of Furnishing Security)**(1) A court shall, in its ruling to order a furnishing of security, fix the amount of such security and the period within which such security is to be furnished.  
(2) The amount of security shall be fixed on the basis of the gross amount of costs to be disbursed by the defendant in each instance.

**Article 121 (Appeal)**

An immediate appeal may be raised against a decision as to a request for furnishing a security.

**Article 122 (Method of Furnishing Security)**

Furnishing of a security shall be made by depositing money or such securities as acknowledged by a court, or by submitting a document concluding an entrustment contract to the effect that a payment is guaranteed under the conditions as prescribed by the Supreme Court Regulations: Provided, That if otherwise agreed upon between the parties, it shall prevail.

**Article 123 (Defendant's Rights over Security)**

A defendant shall have, in respect of the costs of lawsuit, the same right as a pledgee over the security given under Article 122.

**Article 124 (Effect of Failure to Furnish Security)**

When a plaintiff has failed to furnish a security within the period to furnish it, the court may reject the lawsuit by its judgment without holding any pleading: Provided, That the same shall not apply where the security has been furnished prior to the judgment.

**Article 125 (Cancellation of Security)**(1) If the person who has furnished a security files a request for the cancellation thereof while attesting that the cause for providing the security has been extinguished, the court shall render a ruling to cancel such security.

(2) Paragraph (1) shall also apply when the person who has furnished the security attests that he/she has obtained consent from the security right holder to the cancellation of security.

(3) If the person who has furnished a security makes a request therefor after the lawsuit concerned has been closed, the court shall urge the security right holder to exercise such right within a specific period, and when the security right holder has failed to exercise such right, he/she shall be deemed to have consented to the cancellation of security.

(4) An immediate appeal may be filed against the rulings under paragraphs (1) and (2).

**Article 126 (Change of Security)**

A court may, upon request of a person who has furnished a security, order by its ruling to change an object deposited for security: Provided, That when a party makes a request for a change of object deposited for security according to a contract, such contract shall prevail.

**Article 127 (Provisions to Apply Mutatis Mutandis)**

The provisions of Articles 119, 120 (1), and 121 through 126 shall apply mutatis mutandis to the security to be furnished in regard to filing a lawsuit pursuant to other Acts.

## SECTION 3 Litigation Aid

**Article 128 (Requisites for Aid)**(1) A court may grant a litigation aid, either ex officio or upon request of a person who falls short of the solvency to pay the costs of lawsuit: Provided, That the same shall not apply where it is obvious that the lawsuit will fail.

(2) The applicant under paragraph (1) shall vindicate the reason for such aid.

(3) A judgment on the litigation aid shall be rendered by the court which keeps the record of litigation.

(4) Detailed matters on the concrete contents of the requisites for litigation aid as stipulated in paragraph (1) and the procedures for such aid shall be prescribed by the Supreme Court Regulations.

**Article 129 (Objective Scope of Aid)**(1) Scope of the litigation aid for a lawsuit and a compulsory execution shall be as follows: Provided, That a court may, when there exists a proper reason therefor, render a litigation aid within the limit of part of the following subparagraphs:

1. Deferment of a payment of litigation costs;
2. Deferment of a payment of fees and substitute payment for an attorney-at-law and an execution officer;
3. Exemption of the security for the costs of lawsuit;
4. Deferment or exemption of such other expenses as prescribed by the Supreme Court Regulations.

(2) In cases of paragraph (1) 2, if an attorney-at-law or an execution officer fails to receive any fees, a reasonable amount shall be paid to him/her from the National Treasury.

**Article 130 (Subjective Scope of Effect of Aid)**(1) Effect of a litigation aid shall extend only to the persons who have received it.

(2) The court may order the successor to a litigation to pay the costs deferred so far.

#### **Article 131 (Cancellation of Aid)**

When a person who has been granted a litigation aid is found to have the solvency to pay the costs of lawsuit, or comes to have such solvency, the court which keeps the record of litigation may cancel the aid at any time, either ex officio or upon request of an interested person, and order him/her to pay the costs of lawsuit deferred so far.

**Article 132 (Collection of Deferred Costs)**(1) The costs deferred so far for the person who has been granted a litigation aid, may be collected directly from the other party who has been judged to pay them.

(2) In cases of paragraph (1), an attorney-at-law or an execution officer may file a request for the final decision on the amount of his/her fees and substitute payment, and may proceed to a compulsory execution, by virtue of the executive titles of a person who has been granted a litigation aid.

(3) An attorney-at-law or an execution officer may, in subrogation of the party concerned, file a request for a decision under Article 113 or 114 on the fees and substitute payment.

#### **Article 133 (Appeal)**

An immediate appeal may be made against such judgments as stipulated in this Section: Provided, That the other party is not entitled to lodge such an appeal, except for the ruling of a litigation aid under Article 129 (1) 3.

## CHAPTER IV LITIGATION PROCEDURES

### SECTION 1 Pleadings

**Article 134 (Necessity of Pleadings)**(1) The parties shall conduct pleadings in the court in regard to the litigation: Provided, That with respect to the case to be concluded by a ruling, the court shall determine whether or not any pleadings are to be held.

(2) Where any pleading is dispensed with under the proviso of paragraph (1), the court may examine the parties, interested persons, and other reference persons.

(3) The provisions of paragraphs (1) and (2) shall not apply where otherwise provided in this Act.

**Article 135 (Directive Right of Presiding Judge)**(1) Pleadings shall be directed by the presiding judge (referring to the presiding judge of collegiate panel or a single judge; hereinafter the same shall apply).  
(2) The presiding judge may allow a person to speak, or prohibit a person from speaking when he/she does not comply with his/her order.

**Article 136 (Right to Request Elucidation, Right to Ask Questions, etc.)**(1) The presiding judge may, in order to clarify the litigation relations, ask the parties questions, and urge them to testify, on the factual or legal matters.  
(2) A judge of the collegiate panel may perform the acts under paragraph (1) after informing the presiding judge thereof.  
(3) Each party may, if deemed necessary, request the presiding judge to ask questions necessary for elucidation of the other party.  
(4) The court shall give the parties an opportunity to state their opinions on the legal matters, which are deemed to have been evidently overlooked by them.

**Article 137 (Order to Prepare for Elucidation)**

The presiding judge may, under the provisions of Article 136, indicate to the parties the matters to be elucidated or testified, or for which their opinions are to be stated, and may order them to make the preparations therefor prior to the date for pleadings.

**Article 138 (Supervision by Collegiate Panel)**

Where the parties have raised any objection against the presiding judge's order concerning the direction of pleadings, or against any measures taken by the presiding judge or other judges of the collegiate panel under the provisions of Articles 136 and 137, the court shall render by its ruling a decision on such objection.

**Article 139 (Designation of and Entrustment to Commissioned Judge)**(1) Where a commissioned judge is to perform his/her duties, the presiding judge shall designate such a judge.

(2) Except as otherwise prescribed, any entrustment by a court shall be effected by the presiding judge.

**Article 140 (Measures of Court for Elucidation)**(1) A court may take the following measures in order to clarify the litigation relations:

1. To order an appearance of the party himself/herself or his/her legal representative;
2. To order a presentation of the litigation papers or the documents quoted in the litigation and other articles, which are held by the parties;
3. To retain in the court the documents and other articles presented by a party or a third party;
4. To effect an inspection and to order an expert examination;
5. To entrust the required investigation.

(2) The provisions in this Act concerning an investigation of evidence shall apply *mutatis mutandis* to the inspection, expert examination, and entrustment of investigation, under paragraph (1).

**Article 141 (Limitation, Separation or Combination of Pleadings)**

A court may order a limitation, separation or combination of pleadings, or may cancel such order.

**Article 142 (Reopening of Pleadings)**

A court may order the reopening of a pleading which has been closed.

**Article 143 (Interpretation)**(1) In the event that any person taking part in pleadings does not speak

Korean languages, or has any impediment in hearing or speaking, the court shall have an interpreter conduct the interpretation: Provided, That the court may make the person having the said impediment to ask questions, or to make statements, in writing.

(2) The provisions in this Act concerning expert witnesses shall apply mutatis mutandis to the interpreters.

**Article 143-2 (Assistance in Statements)**(1) Where a party has difficulty in making his/her statements necessary to clarify the litigation relations due to his/her mental or physical limitations caused by a disease, disability, age or the like, he/she may be accompanied by his/her statement assistant when appearing before the court to give his/her statements if the court so permits.

(2) The court may revoke the permission under paragraph (1) at any time.

(3) Qualification requirements for statement assistants under paragraphs (1) and (2), their status and roles in lawsuit, requirements and procedures for court permission and other matters concerning permission and revocation shall be prescribed by Supreme Court Regulations.

[This Article Newly Inserted by Act No. 13952, Feb. 3, 2016]

**Article 144 (Measures for Persons Lacking Ability to Plead)**(1) A court may prohibit a party or a representative, who is unable to make the statements required for clarifying the litigation relations, from speaking, and may set a new date for continuing the pleadings.

(2) Where a court prohibits making statements under paragraph (1), the court may order the appointment of an attorney-at-law when it is deemed necessary.

(3) When any statement by a representative has been prohibited or the appointment of an attorney-at-law has been ordered under paragraph (1) or (2), the principal shall be notified of such purports.

(4) When a person who filed a lawsuit or an appeal has failed to appoint an attorney-at-law not later than the new date under paragraph (1), while he/she received an order under paragraph (2), the court may reject by its ruling such lawsuit or appeal.

(5) An immediate appeal may be made against the decision as referred to in paragraph (4).

**Article 145 (Recommendation of Compromise)**(1) A court may, irrespective of the progress of litigation, recommend a compromise, or have a commissioned judge or an entrusted judge recommend it.

(2) In cases of paragraph (1), the court, a commissioned judge, or an entrusted judge may order the principal party or his/her legal representative to appear before the court.

**Article 146 (Principle of Timely Presentation)**

The method of offense or defense shall be produced at a time pertinent to the progress of litigation.

**Article 147 (Restriction on Presentation Period)**(1) The presiding judge may, upon hearing the opinions of the parties, set the period to produce an averment or to apply for examination of evidence for either side or both sides of the parties, in respect of the specified matters.

(2) When the parties have passed the period under paragraph (1), they shall not produce an averment, nor apply for examination of evidence: Provided, That the same shall not apply where the parties have vindicated that they failed to produce or apply within such period for justifiable reasons.

**Article 148 (Case of Non-appearance of Either Party)**(1) When a plaintiff or a defendant has failed to appear on the date of pleadings or failed to make any pleadings on the merits of the case in spite of his/her appearance, it shall be deemed that the matters stated in the written complaint, written defence and other briefs submitted by him/her have been stated, and the other party who has

appeared may be ordered to make pleadings.

(2) When the written defence and other briefs, which are deemed to have been stated by the parties under paragraph (1), contain an indication of intent of a waiver or recognition of claim, and are authenticated by a notarial office, the waiver or recognition of claim shall be deemed to have been constituted pursuant to such purports.

(3) Where the written defence and other briefs, which are deemed to have been stated by the parties under paragraph (1), contain an indication of intent of a compromise, and are authenticated by a notarial office, if the other party himself/herself appears on the date of pleadings and accepts such indication of intent of compromise, it shall be deemed that the compromise has been constituted.

**Article 149 (Rejection of Inopportune Offence and Defense)**(1) Where it is deemed that a party has, in contravention of Article 146, caused a delay of the conclusion of litigation by belatedly producing the means of offence or defence intentionally or by gross negligence, the court may reject it by its ruling, either ex officio or upon motion of the other party.

(2) Where the purport of the means of offence or defence produced by a party is not clear, if the party has failed to make a required elucidation or to appear on the date of elucidation, the court may reject it by its ruling, either ex officio or upon motion of the other party.

**Article 150 (Regarding as Confession)**(1) When a party has failed to evidently contest at his/her pleading the facts alleged by the other party, he/she shall be deemed to have confessed such facts: Provided, That the same shall not apply where it is deemed that a contest has been made against such facts, in view of the purports of entire pleadings.

(2) When a party has professed that he/she was not aware of the facts alleged by the other party, it shall be presumed that he/she has contested against such facts.

(3) The provisions of paragraph (1) shall apply mutatis mutandis where a party fails to appear on the date of pleading: Provided, That the same shall not apply where the party, on whom a written notice of date has been served by means of service by public notice, has failed to appear.

**Article 151 (Right to Object against Litigation Procedures)**

If a party fails to promptly raise any objection where he/she is aware of, or may have become aware of, the contravention of the provisions regarding litigation procedures, he/she shall lose the right for doing so: Provided, That the same shall not apply where the said right is what shall not be waived.

**Article 152 (Preparation of Protocol of Pleadings)**(1) The junior administrative officer, etc. of a court shall, by presenting himself/herself on the dates of pleading, prepare a protocol for each date of pleading: Provided, That the date of pleading may be opened without having any junior administrative officer, etc. of a court participated, where the pleading is tape-recorded or stenographed, and where there exist other special circumstances corresponding thereto.

(2) The presiding judge may, if deemed necessary, open the date other than the date of pleading and that of preparatory pleading, without having any junior administrative officer, etc. of the court participated.

(3) In cases of the proviso of paragraph (1) and paragraph (2), the junior administrative officer, etc. of the court shall, subsequent to the end of such date, prepare the protocol pursuant to an explanation of the presiding judge, and additionally enter such purports.

**Article 153 (Formal Matters to be Entered)**

The following matters shall be entered in a protocol by the junior administrative officer, etc. of a court,

and the presiding judge and the said officer, etc. shall sign and seal thereto: Provided, That where there exists any reason by which the presiding judge is unable to sign and seal, a judge of the collegiate panel shall sign and seal after entering such reason, and where there exists any reason by which all judges thereof are unable to sign and seal, the junior administrative officer, etc. of the court shall enter the reasons therefor:

1. Indication of the case;
2. Names of the judges and the junior administrative officer, etc. of the court;
3. Name of the public prosecutor present;
4. Names of the parties, representatives, and interpreters who have attended, and names of parties absent;
5. Date and place of the pleading;
6. Whether or not the pleading is openly held, and where it was held in closed session, the reason therefor.

#### Article 154 (Substantial Matters to be Entered)

The gist of pleading shall be entered in the protocol, but matters falling under each of the following subparagraphs shall be especially clarified:

1. Compromise, waiver or recognition of claim, withdrawal of litigation, and confession;
2. Oaths and testimonies by witnesses and expert witnesses;
3. Results of inspection;
4. Matters to be entered under an order of the presiding judge, and those to be entered under a permit of the said judge upon motion of the parties;
5. Judgments which have not been prepared in writing;
6. Pronouncement of the judgment.

**Article 155 (Omission, etc. of Entry in Protocol)**(1) Matters to be entered in a protocol may be omitted under the conditions as prescribed by the Supreme Court Regulations: Provided, That the same shall not apply if any objection has been raised by the parties.

(2) Provisions of the main body of paragraph (1) shall not apply to an observance of provisions regarding a method of pleading, compromise, waiver or recognition of claim, withdrawal of litigation, and confession.

#### Article 156 (Quotation and Attachment of Documents, etc.)

Documents, photographs, and any such others as deemed proper by a court may be quoted in a protocol and may be made a part of the protocol by being attached to the record of litigation.

#### Article 157 (Interested Party's Right to Request Reading of Protocol, etc.)

Protocol shall, if requested by an interested party, be read to him/her or be made available for his/her perusal.

#### Article 158 (Verifiability of Protocol)

Compliance with provisions concerning the method of pleadings may be verified only by the protocol: Provided, That the same shall not apply where the protocol has been lost.

#### Article 159 (Stenographing and Tape-recording of Pleadings)

(1) A court may, if deemed

necessary, tape-record the whole or part of pleadings, or order a stenographer to dictate them, and if any party requests to tape-record or stenograph them, it shall order to do so, unless there exists any special reason.

(2) The recorded tapes and stenographic records under paragraph (1) shall be made a part of the protocol.

(3) Where any entry in the protocol has been substituted by the recorded tapes or stenographic records pursuant to paragraphs (1) and (2), upon request by the parties or when otherwise prescribed by the Supreme Court Regulations prior to the closure of litigation, a protocol shall be prepared by adjusting the gist of the recorded tapes or stenographic records.

(4) Where a protocol has been prepared under paragraph (3), the court may destroy the recorded tapes or stenographic records, if the judgment becomes final or both parties consent thereto. In such cases, if the parties fail to raise any objection within two weeks from the date of receiving a notice that the recorded tapes and stenographic records will be destroyed, they shall be deemed to consent to destruction.

#### [Article 160 \(Provisions Applied Mutatis Mutandis to Other Protocols\)](#)

The provisions of Articles 152 through 159 shall apply mutatis mutandis to the interrogation or question, and the examination of evidence by a court or a commissioned or entrusted judge.

#### [Article 161 \(Method of Motion or Statement\)](#)(1) Motions and other statements may be made either in writing or orally, unless there exists a special provision.

(2) Oral statements shall be made in the presence of the junior administrative officer, etc. of a court.

(3) In cases of paragraph (2), the junior administrative officer, etc. of the court shall prepare a protocol or other documents pursuant to the purport of motions or statements, and then sign and seal thereon.

#### [Article 162 \(Request for Perusal of Litigation Record, and for Delivery of Certificates\)](#)(1) A party or a third party vindicating the interests may, as prescribed by the Supreme Court Regulations, file a request with a junior administrative officer, etc. of a court for a perusal and copying of litigation records, and delivery of the authentic copy, a certified copy or an abridged copy of the judicial documents or protocol, or delivery of a certificate of matters related to the litigation.

(2) Anyone may apply for a perusal of litigation records of the final and conclusive judgement for the purpose of relief of right, academic research or public interest to a junior administrative officer, etc. of the court as prescribed by the Supreme Court Regulations: Provided, That to the litigation records concerning oral proceedings that have been prohibited from opening to the public, this shall not apply.

[<Newly Inserted by Act No. 8438, May 17, 2007>](#)

(3) Where the relevant interested parties to the litigation do not agree, the court shall not allow perusal in cases of an application for perusal under paragraph (2). In such cases, matters necessary for the extent of interested parties to litigation, agreement, etc. shall be prescribed by the Supreme Court Regulations. [<Newly Inserted by Act No. 8438, May 17, 2007>](#)

(4) Those who have perused or copied litigation records shall not injure public order or good public morals, nor harm reputation or quiet life of the interested parties by utilizing the matters that they came to know by perusal or copying. [<Newly Inserted by Act No. 8438, May 17, 2007>](#)

(5) For the request under paragraphs (1) and (2), one shall pay the fees as prescribed by the Supreme Court Regulations. [<Amended by Act No. 8438, May 17, 2007>](#)

(6) The authentic copy, a certified copy or an abridged copy of the judicial documents or protocol shall contain their purports, and a junior administrative officer, etc. of the court shall affix his/her name and seal thereto.

#### [Article 163 \(Restriction on Perusal, etc. for Protection of Secrets\)](#)(1) Where there exists a

vindication that it falls under any of the following subparagraphs, the court may limit the parties by its ruling, upon their motion, to the persons eligible to file a request for perusal or copying of the portions containing any secrets from among the litigation records, or for delivery of the authentic copy, a certified copy or an abridged copy of the portions containing any secrets from among the judicial documents or protocol (hereinafter referred to as "perusal, etc. of the portions containing secrets"):

1. When any grave secrets concerning the party's private life are entered in the litigation records, and if the perusal, etc. of the portions containing secrets is allowed to a third party, there exists a concern about causing a great impediment to the party's social life;
2. When any business secrets of the party (referring to the trade secrets as stipulated in subparagraph 2 of Article 2 of the Unfair Competition Prevention and Trade Secret Protection Act) are entered in the litigation records.

(2) Where there exists a request under paragraph (1), no third party may apply for a perusal, etc. of the portions containing secrets not later than the time when the judgment on such request becomes final and conclusive.

(3) The court keeping the litigation records may, upon request of a third party vindicating interests, revoke the ruling under paragraph (1) on the ground that there exists no cause falling under any subparagraph of paragraph (1), or such a cause has been extinguished.

(4) An immediate appeal may be made against the ruling rejecting a request under paragraph (1), or against the ruling as to a request under paragraph (3).

(5) The ruling of revocation under paragraph (3) shall take effect only when it becomes final and conclusive.

**Article 163-2 (Perusal and Duplication of Written Final Judgments)**(1) Notwithstanding Article 162, any person may peruse or duplicate a written judgment (excluding the written judgment in a case to which the Trial of Small Claims Act applies and written judgments issued under Article 4 of the Act on Special Cases concerning Procedure for Trial by the Supreme Court or under the main body of Article 429 of this Act) of a case of which judgment becomes final and conclusive, by using Internet or electronic methods through digital information processing systems, etc.: Provided, That in cases of the written judgment where opening the pleading thereof is prohibited, as prescribed by the Supreme Court Regulations, full or partial perusal or duplication may be restricted.

(2) Junior administrative officers, etc. of a court or other court officials shall take protective measures prescribed by the Supreme Court Regulations to ensure that personal information, such as names, stated in a written judgment is not revealed before perusal and duplication under paragraph (1).

(3) Junior administrative officers, etc. of a court or other court officials who take measures for the protection of personal information pursuant to paragraph (2), shall not assume civil or criminal responsibility for perusal and duplication under paragraph (1), if not intentional or by gross negligence.

(4) Article 162 (4) and (5) and Article 163 shall apply mutatis mutandis to perusal and duplication under paragraph (1).

(5) The methods and procedures for perusal and duplication of a written judgment, the methods and procedures for taking measures to protect personal information, and other necessary matters shall be prescribed by the Supreme Court Regulations.

[This Article Newly Inserted by Act No. 10859, Jul. 18, 2011]

#### **Article 164 (Objection against Protocol)**

When the concerned persons have raised any objection against matters entered in a protocol, the

purports thereof shall be entered in the protocol.

## SECTION 2 Professional Examiners

**Article 164-2 (Participation of Professional Examiners)**(1) In order to clarify litigation relations or to smoothly proceed with litigation procedures (including investigation of evidence, compromise, etc.: hereafter the same shall apply in this Section), the court may designate professional examiners ex officio or upon application of parties pursuant to Article 164-4 (1) and have them participate in the litigation procedures.

(2) Professional examiners may submit a paper stating explanation or opinion, or declare explanation or opinion after attending the litigation procedures that require specialized knowledge on the appointed date: Provided, That in the mutual consent of a judgement, they shall not participate.

(3) Professional examiners may query the parties of litigation, such as parties, witnesses, appraisers, etc. on the appointed date with permission of the presiding judge.

(4) The court shall provide the parties an opportunity to state an opinion orally or in writing with regard to the paper submitted by professional examiners pursuant to paragraph (2), or to the statement of explanation or opinion of professional examiners pursuant to paragraph (2).

[This Article Newly Inserted by Act No. 8499, Jul. 13, 2007]

**Article 164-3 (Revocation of Decision of Participation of Professional Examiners)**(1) When the court recognizes it as appropriate, it may revoke the decision pursuant to Article 164-2 (1) ex officio or upon application of the parties.

(2) When parties apply for the revocation of decision pursuant to Article 164-2 (1) by mutual agreement notwithstanding paragraph (1), the court shall revoke the decision.

[This Article Newly Inserted by Act No. 8499, Jul. 13, 2007]

**Article 164-4 (Designation, etc. of Professional Examiners)**(1) Where the court has professional examiners participate in litigation procedures pursuant to Article 164-2 (1), it shall designate at least one professional examiners for each case after hearing opinions of the parties.

(2) Professional examiners shall be paid allowances as prescribed by the Supreme Court Regulations, and shall also be paid traveling expenses, daily wages and lodging expenses if necessary.

(3) Other matters necessary for the designation of professional examiners shall be prescribed by the Supreme Court Regulations.

[This Article Newly Inserted by Act No. 8499, Jul. 13, 2007]

**Article 164-5 (Exclusion and Challenge of Professional Examiners)**(1) Articles 41 through 45 and 47 shall apply mutatis mutandis to professional examiners.

(2) No professional examiner who has received an application for exclusion or challenge shall participate in litigation procedures of the case that has been applied until a decision on the application is made conclusive. In such cases, the relevant professional examiners may state his/her opinion on the application for exclusion or challenge concerned.

[This Article Newly Inserted by Act No. 8499, Jul. 13, 2007]

**Article 164-6 (Authority of Commissioned Judge, etc.)**

Where a commissioned judge or entrusted judge proceeds litigation procedures, the duties of court or presiding judge pursuant to Article 164-2 (2) through (4) shall be conducted by such commissioned judge or entrusted judge.

[This Article Newly Inserted by Act No. 8499, Jul. 13, 2007]

#### Article 164-7 (Crime of Divulging Confidential Information)

Where a professional examiner or a former professional examiner divulges confidential information of other persons, which he/she learns in the course of performing his/her duties, he/she shall be punished by imprisonment with or without labor for not more than two years, or by a fine not exceeding ten million won.

[This Article Newly Inserted by Act No. 8499, Jul. 13, 2007]

#### Article 164-8 (Fictitious Public Official in Application of Penalty Provisions)

Professional examiners shall be deemed public officials in the application of penalty provisions in Articles 129 through 132 of the Criminal Act.

[This Article Newly Inserted by Act No. 8499, Jul. 13, 2007]

### SECTION 3 Date and Period

**Article 165 (Designation and Alteration of Date)**(1) Dates shall be fixed by the presiding judge either ex officio or upon request of the parties: Provided, That the date of interrogation or questioning by a commissioned judge or an entrusted judge shall be fixed by such commissioned or entrusted judge.

(2) If agreed by the parties, an alteration of the first date of pleading or of the first date of preparatory pleading shall be permitted, even in cases of nonexistence of significant reasons.

#### Article 166 (Date on Legal Holidays)

A date may be fixed for legal holidays, only when it is necessary.

**Article 167 (Notification of Date)**(1) A date shall be notified by serving a written notice of the date or a summons: Provided, That for persons who have appeared for the case in question, a direct notice of date shall suffice.

(2) A court may give notice of a date by such simple method as prescribed by the Supreme Court Regulations. In such cases, the court shall not inflict any legal sanctions and other disadvantages due to a neglect of the date on the parties, witnesses, expert witnesses, etc. who have failed to appear on the date.

#### Article 168 (Effect of Written Consent to Appearance)

When any person involved in a litigation has submitted a letter stating that he/she intends to appear on a specific date, it shall have the same effect as a service of a written notice of date or a summons.

#### Article 169 (Commencement of Date)

A date shall commence by calling out the case and names of the parties.

#### Article 170 (Calculation of Period)

Calculation of the period shall be governed by the provisions of the Civil Act.

#### Article 171 (Commencement of Period)

Where the time of commencement has not been set in a judgment to set a period, the said period shall progress from the time when the judgment takes effect.

**Article 172 (Flexibility of Period and Additional Period)**(1) A court may extend or shorten a statutory period or a period fixed by the court itself: Provided, That the same shall not apply to the invariable period.

(2) A court may, in regard to the invariable period, fix an additional period in favor of persons domiciled or residing in distant places.

(3) The presiding judge, a commissioned judge or an entrusted judge may extend or shorten the period fixed by the court pursuant to the provisions of paragraphs (1) and (2), or that fixed by himself.

[Article 173 \(Subsequent Completion of Litigation\)](#)(1) Where a party could not observe an invariable period due to any cause not attributable to himself, he/she may subsequently complete the litigation which he/she failed to conduct, within two weeks from the date on which such cause ceases to exist: Provided, That for a party who was in a foreign country at the time such a cause was extinguished, such period shall be fixed for 30 days.

(2) The provisions of Article 172 shall not apply to the period under paragraph (1).

## SECTION 4 Service

[Article 174 \(Principle of Service Ex Officio\)](#)

Unless otherwise prescribed in this Act, a service shall be effected by a court ex officio.

[Article 175 \(Persons to Deal with Service Affairs\)](#)(1) Affairs related to service shall be dealt with by the junior administrative officer, etc. of a court.

(2) A junior administrative officer, etc. of a court may entrust the affairs under paragraph (1) to a junior administrative officer, etc. of the court or an execution officer of a district court having jurisdiction over the place of service.

[Article 176 \(Service Agency\)](#)(1) Service shall be carried out by mail or an execution officer, or in such a manner as prescribed by the Supreme Court Regulations.

(2) Service by mail shall be carried out by a mailman.

(3) A service agency may, if required for a service, request a national police official to render assistances. [<Amended by Act No. 7849, Feb. 21, 2006>](#)

[Article 177 \(Service by Junior Administrative Officer, etc. of Court\)](#)(1) A junior administrative officer, etc. of a court may effect a service directly to the persons who have appeared for the relevant case.

(2) When a junior administrative officer, etc. of a court has delivered a document within the relevant court to the person on whom service is to be made, and received a receipt thereof, it shall have the effect of service.

[Article 178 \(Principle of Service by Delivery\)](#)(1) Except as otherwise prescribed, a service shall be effected by delivering a certified copy or duplicate of documents to the person on whom service is to be made.

(2) When a protocol and other documents have been prepared in lieu of a submission of documents to be served, the certified copy or abridged copy thereof shall be delivered.

[Article 179 \(Service on Incompetent to Stand Trial\)](#)

Service to be made on an incompetent to stand trial shall be made to his/her legal representative.

[Article 180 \(Service on Joint Representatives\)](#)

Where several persons jointly exercise the right of representation, it suffices to effect a service upon any one of them.

[Article 181 \(Service on Persons Related to Military\)](#)

Service on a person belonging to an office or vessel for military use shall be effected on the head of such office or vessel.

#### [Article 182 \(Service on Confined Person, etc.\)](#)

Service to be made on the persons arrested, detained or confined in a correctional institution, detention center, or detention room in a national police agency shall be effected on the head of the correctional institution, detention center, or national police agency. [<Amended by Act No. 7849, Feb. 21, 2006>](#)

#### [Article 183 \(Place of Service\)](#)(1) Service shall be made at the domicile, residence, business place, or office of the person on whom service is to be made (hereinafter referred to as "domicile, etc.):

Provided, That a service to be made on a legal representative may be effected even at the business place or office of the principal.

(2) When the place under paragraph (1) is unknown or a service is not attainable at such place, such service may be effected at the domicile, etc. of other person, where a recipient of service is engaged by an employment, entrustment and other legal acts (hereinafter referred to as "work place").

(3) When the domicile, etc. or work place of a person on whom service is to be made is not located in Korea or is unknown, such service may be effected at any place where such person is encountered.

(4) Even in cases of a person who has a domicile, etc. or a work place, a service may, unless he/she refuses to accept the service, be effected at the place where he/she is encountered.

#### [Article 184 \(Report on Place to Accept Service\)](#)

A party or his/her legal representative or attorney may file a report with the court on a place other than his/her domicile, etc. (limited to a place within the Republic of Korea), by determining it as the place of service. In such cases, such a report may be filed by determining the recipient of service.

#### [Article 185 \(Duty to Report Change in Place of Service\)](#)(1) When a party or his/her legal representative or attorney changes the place of service, he/she shall promptly file a report on such purports with the court.

(2) Documents to be served on a person who has failed to make a report under paragraph (1) may, where a place of service otherwise is unknown, be forwarded to the previous place of service, in such a manner as prescribed by the Supreme Court Regulations.

#### [Article 186 \(Supplementary Service, and Service by Leaving\)](#)(1) When a recipient of service has been unavailable at the place of service other than his/her work place, the document may be delivered to his/her clerk, employee or co-habitant, who is man of sense.

(2) When a recipient of service has been unavailable at the work place, the document may be delivered to another person under Article 183 (2), or his/her legal representative or employee, including his/her service worker, who is man of sense, unless he/she refuses an acceptance of the document.

(3) When a recipient of service of a document or a person to whom the document is to be transferred under paragraph (1) refuses to accept such service without any justifiable reason, such document may be left at the place where the service is to be effected.

#### [Article 187 \(Service by Mail\)](#)

When a service is not attainable pursuant to the provisions of Article 186, the junior administrative officer, etc. of a court may forward a document in such a manner as prescribed by the Supreme Court Regulations, such as registered mail, etc.

**Article 188 (Service by Box)**(1) Notwithstanding the provisions of Articles 183 through 187, the documents to be served may be served by installing within a court a box to put them in (hereinafter referred to as "service box").

(2) Service to utilize a service box shall be carried out by the junior administrative officer, etc. of a court.

(3) Where a recipient of service has failed to accept and take the documents from a service box, such documents shall be deemed to have been served if three days have passed since they were put in the service box.

(4) Procedures and fees for using the service box, method of service by using the service box, and matters related to the documents to be served by the service box, shall be prescribed by the Supreme Court Regulations.

#### **Article 189 (Principle of Forwarding)**

Where documents have been forwarded pursuant to the provisions of Article 185 (2) or 187, such documents shall be deemed to have been served at the time of forwarding.

**Article 190 (Service on Legal Holidays, etc.)**(1) Upon request of parties, a service may be effected by an execution officer or such a person as prescribed by the Supreme Court Regulations, even on a legal holiday or before sunrise or after sunset.

(2) When the service is effected under paragraph (1), the junior administrative officer, etc. of a court shall make an additional entry of such reasons in the document to be served.

(3) Service effected in violation of the provisions of paragraphs (1) and (2) shall be effective only when the recipient of a delivery of documents has accepted them.

#### **Article 191 (Method of Service in Foreign Country)**

Service to be effected in a foreign country shall be entrusted by the presiding judge to the Korean ambassador, minister or consul stationed therein or the competent government authorities of such country.

#### **Article 192 (Service on Military Personnel Gone to War, or on Persons, etc. Relevant to Military Who are Stationed Abroad)**

(1) Service to be effected on persons serving in the armed forces gone to war or stationed abroad, or on crews of vessels serving in the armed forces, shall be entrusted by the presiding judge to the competent commanders.

(2) The provisions of Article 181 shall apply mutatis mutandis to the service under paragraph (1).

#### **Article 193 (Notification of Service)**

The agency which has effected a service shall notify the court of reasons for such service in such a manner as prescribed by the Supreme Court Regulations.

**Article 194 (Requirements for Service by Public Notice)**(1) Where the domicile, etc. or the work place of a party is unknown, or where it is impossible to comply with the provisions of Article 191 in regard to a service to be effected in a foreign country, or it is deemed ineffective even if such provisions are complied with, a junior administrative officer, etc. of a court may, either ex officio or upon request from the parties, make service by public notice. [<Amended by Act No. 12882, Dec. 30, 2014>](#)

(2) For the request referred to in paragraph (1), the reasons therefor shall be vindicated.

(3) In cases falling under paragraph (1), the presiding judge may order service by public notice, if deemed necessary to prevent delay in lawsuit. [<Newly Inserted by Act No. 12882, Dec. 30, 2014>](#)

(4) The presiding judge may revoke the disposition of service by public notice taken by a junior administrative officer, etc. of a court, either ex officio or upon request. [<Newly Inserted by Act No. 12882, Dec. 30, 2014>](#)

#### [Article 195 \(Method of Service by Public Notice\)](#)

Service by public notice shall be effected in such a manner that the junior administrative officer, etc. of a court keeps the document to be served and posts the reasons therefor on the court's bulletin board, or in such other manners as prescribed by the Supreme Court Regulations.

[Article 196 \(Taking Effect of Service by Public Notice\)](#)(1) The first service by public notice shall take effect only with the lapse of two weeks since the date of effecting under Article 195: Provided, That any subsequent service by public notice to the same party shall take effect from the day next to its effecting.

(2) In cases of a service by public notice as to the service to be effected in a foreign country, the period under the text of paragraph (1) shall be two months.

(3) The period under paragraphs (1) and (2) shall not be shortened.

#### [Article 197 \(Authority of Commissioned Judge, etc. to Effect Service\)](#)

The authority of the presiding judge for a service may be exercised by a commissioned judge, an entrusted judge, and also any judge of the district court having jurisdiction over the place of service.

### [SECTION 5 Judgement](#)

#### [Article 198 \(Final Judgment\)](#)

A court shall, after completion of its trial on litigation, render a final judgment.

#### [Article 199 \(Period of Pronouncing Final Judgment\)](#)

Judgment shall be pronounced within five months from the date on which a lawsuit has been filed: Provided, That in an appellate trial and in a trial on an appeal to the Supreme Court, it shall be made within five months from the date on which the record of proceedings has been received.

[Article 200 \(Partial Judgment\)](#)(1) A court may, where it has completed a trial on part of a lawsuit, render a final judgment on such part.

(2) The provisions of paragraph (1) shall apply mutatis mutandis to the cases where a trial is completed on one of several lawsuits whose pleadings have been combined, and where a trial on a principal lawsuit or a counter lawsuit is completed.

[Article 201 \(Interlocutory Judgment\)](#)(1) A court may, if a trial on the means of an independent offence or defence or on any other intermediate contests is conducted, render an interlocutory judgment.

(2) Where there exists a contest for the cause and amount of claim, an interlocutory judgment may be rendered even on such cause.

#### [Article 202 \(Principle of Free Evaluation of Evidence\)](#)

A court shall determine, by its free conviction, whether or not an allegation of facts is true, taking account of the whole purport of pleadings and the results of examination of evidence, on the basis of the ideology of social justice and equity in accordance with the principles of logic and experiences.

#### [Article 202-2 \(Calculation of Damages\)](#)

Where it is admitted that damage has occurred, if it is considerably difficult to prove the specific amount of damages in light of the nature of the case, the court may fix as the amount of damages

an amount that is deemed reasonable taking into consideration all circumstances based on the entire purport of pleadings and the results of examination of evidence.

[This Article Newly Inserted by Act No. 14103, Mar. 29, 2016]

#### Article 203 (Principle of Disposition)

A court shall not render any judgment on matters which have not been claimed by the parties.

**Article 204 (Principle of Directness)**(1) Judgment shall be made by the judges who have taken part in the pleadings forming a foundation thereof.

(2) Where a judge has been replaced, the parties shall make a statement on the result of previous pleadings.

(3) Where a judge in the single-judge case has been replaced, the court shall, if a party has again made a motion for examination of the witnesses who have been formerly questioned, execute such examination. The same shall also apply where not less than half the judges in collegiate panel have been replaced.

#### Article 205 (Taking Effect of Judgment)

A judgment shall take effect by a pronouncement thereof.

#### Article 206 (Method of Pronouncement)

The presiding judge shall pronounce a judgment by reading the text thereof pursuant to the original of judgment, and if deemed necessary, he/she may briefly explain the grounds therefor.

**Article 207 (Date of Pronouncement)**(1) A judgment shall be pronounced within two weeks from the date on which pleadings have been concluded, and even in a complex case or when there exists any other special situations, it shall not exceed four weeks from the date on which pleadings have been concluded.

(2) A judgment may be pronounced even if the parties are not present in the court.

**Article 208 (Matters, etc. to be Entered in Written Judgment)**(1) A written judgment shall contain matters falling under each of the following subparagraphs, and the judges who have rendered the judgment shall sign and seal thereon:

1. Parties and their legal representatives;
2. Text;
3. Gist of the claim, and that of the appeal;
4. Grounds;
5. Date on which the pleadings have been concluded: Provided, That where a judgment is rendered without holding any pleadings, the date on which the judgment is pronounced;
6. The court.

(2) On the grounds in a written judgment, a judgment on allegations by the parties and on other means of offence and defence shall be stated to the extent that a propriety of the text is admissible.

(3) Notwithstanding the provisions of paragraph (2), where a judgment in the first instance falls under any one of the following subparagraphs, only the matters necessary for specifying the claims and those as to the judgment under Article 216 (2) may be briefly indicated therein:

1. Judgment made without holding any pleadings under Article 257;
2. Judgment where Article 150 (3) is applied;
3. Judgment where a defendant has failed to appear on the date of pleadings, while he/she received a notification of date under a service by public notice pursuant to Articles 194 through 196.

(4) When a judge has an impediment in signing and sealing on the written judgment, another judge shall enter the reason therefor and sign and seal thereon.

#### Article 209 (Delivery to Junior Administrative Officer, etc. of Court)

A written judgment shall be promptly delivered to the junior administrative officer, etc. of a court, subsequent to the pronouncement.

**Article 210 (Service of Written Judgment)**(1) The junior administrative officer, etc. of a court shall serve a written judgment on the parties within two weeks from the date of receiving it.

(2) The service of a written judgment shall be effected with its authentic copy.

**Article 211 (Correction of Judgment)**(1) When it is evident that there exists a miscalculation, mistaken entry or other similar errors in a judgment, the court may render a ruling of correction, either ex officio or upon request of the parties.

(2) A ruling of correction shall be additionally entered into the original copy and authentic copy of the judgment: Provided, That when such additional entry into the authentic copy is impossible, an authentic copy of the ruling shall be prepared, and served on the parties.

(3) An immediate appeal may be made against a ruling for correction: Provided, That the same shall not apply where a lawful appeal has been lodged against the judgment.

**Article 212 (Omission of Judgment)**(1) Where a court has omitted a judgment on part of a claim, such part of the claim shall remain under the continued judgment by the said court.

(2) Where a judgment on the litigation costs has been omitted, the court shall, either ex officio or upon request of the parties, render a judgment thereon. In such cases, the provisions of Article 114 shall apply mutatis mutandis.

(3) A judgment on the litigation costs under paragraph (2) shall lose its effect when a lawful appeal has been lodged against the judgment on the merits of the case. In such cases, the court of appeals shall render a judgment on the total costs of the litigation.

**Article 213 (Pronouncement of Provisional Execution)**(1) For a judgment on a claim for property rights, the court shall pronounce that a provisional execution may be carried out ex officio with or without any security furnished, unless there exists a fair ground for not attaching a pronouncement of provisional execution: Provided, That in a judgment on a monetary claim for a bill or check, the court shall pronounce that a provisional execution may be carried out without any security.

(2) The court may, either ex officio or upon request of the parties, pronounce that a provisional execution may be exempted by furnishing whole amount of the claims as security.

(3) Pronouncement under paragraphs (1) and (2) shall be entered in the text of judgment.

#### Article 214 (Mutatis Mutandis Application of Provisions on Security for Litigation Costs)

The provisions of Articles 122, 123, 125 and 126 shall apply mutatis mutandis to the security under Article 213.

#### Article 215 (Invalidation of Pronouncement of Provisional Execution, Restoration of Provisional Execution to Original Status, and Compensation for Damages)

(1) Pronouncement of a provisional execution shall lose its effect within the extent of alterations by such pronouncement, or by a pronouncement of a judgment altering a judgment on the merits of the case.

(2) Where a judgment on the merits of a case is altered, the court shall order, at its judgment upon motion of the defendant, the plaintiff to return what has been provided by the pronouncement of a provisional execution, and to compensate the damage incurred by the provisional execution or that

incurred by efforts to obtain the exemption thereof.

(3) The provisions of paragraph (2) shall apply where a judgment on the merits of a case is altered, subsequent to the alteration of a pronouncement of provisional execution.

**Article 216 (Objective Extent of Res Judicata)**(1) A final and conclusive judgment shall have the effect of res judicata in so far as the matters contained in the text thereof are concerned.

(2) An adjudication on whether or not a claim alleging a setoff is constituted shall have the effect of res judicata only in respect of the amount pleaded to offset.

**Article 217 (Recognition of Foreign Country Judgments)**(1) A final and conclusive judgment rendered by a foreign court or a judgment acknowledged to have the same force (hereinafter referred to as "final judgment, etc.") shall be recognized, if all of the following requirements are met:

<Amended by Act No. 12587, May 20, 2014>

1. That the international jurisdiction of such foreign court is recognized under the principle of international jurisdiction pursuant to the statutes or treaties of the Republic of Korea;
2. That a defeated defendant is served, by a lawful method, a written complaint or document corresponding thereto, and notification of date or written order allowing him/her sufficient time to defend (excluding cases of service by public notice or similar), or that he/she responds to the lawsuit even without having been served such documents;
3. That the approval of such final judgment, etc. does not undermine sound morals or other social order of the Republic of Korea in light of the contents of such final judgment, etc. and judicial procedures;
4. That mutual guarantee exists, or the requirements for recognition of final judgment, etc. in the Republic of Korea and the foreign country to which the foreign country court belongs are not far off balance and have no actual difference between each other in important points.

(2) A court shall ex officio investigate whether the requirements under paragraph (1) are satisfied.

<Newly Inserted by Act No. 12587, May 20, 2014>

**Article 217-2 (Recognition of Final Judgment, etc. on Compensation for Damage)**(1) Where final judgment, etc. on compensation for damage give rise to a result being markedly against the basic order of the Acts of the Republic of Korea or international treaties entered into by the Republic of Korea, a court shall not approve the whole or part of relevant final judgment, etc.

(2) Where a court examines requirements under paragraph (1), it shall consider whether the scope of compensation for damage recognized by a foreign court comprises litigation costs and expenses, including attorney fees, and the scope thereof.

[This Article Newly Inserted by Act No. 12587, May 20, 2014]

**Article 218 (Subjective Extent of Res Judicata)**(1) A final and conclusive judgment shall be binding on the parties, successors subsequent to a closure of pleadings (successors subsequent to a pronouncement of judgment, in cases of a judgment without holding any pleadings), or persons possessing the object of claims on their behalf.

(2) In cases falling under paragraph (1), when a party has failed to state the fact of succession not later than a closure of pleadings (when a judgment is pronounced, in cases of a judgment without holding any pleadings), it shall be presumed that such succession has been made after a closure of pleadings (after a pronouncement of judgment, in cases of a judgment rendered without holding any pleadings).

(3) A final and conclusive judgment rendered to the person, who became a plaintiff or defendant for

another person, shall be binding on the said another person also.

(4) The provisions of paragraphs (1) through (3) shall apply mutatis mutandis to the pronouncement of provisional execution.

#### Article 219 (Rejection of Lawsuit without Holding Any Pleadings)

In cases of an unjustifiable lawsuit whose defects are not rectifiable, such lawsuit may be rejected by a judgment without holding any pleadings.

#### Article 220 (Effect of Protocol of Compromise or of Waiver or Recognition of Claims)

When a compromise or a waiver or recognition of claims is entered in the protocol of pleadings or that of the preparatory date for pleading, such protocol shall have the same effect as a final and conclusive judgment.

Article 221 (Notice of Ruling or Order)(1) A ruling or order shall take effect, if it is notified by a reasonable method.

(2) A junior administrative officer, etc. of a court shall make an additional entry of the method, place and date of notice in the original copy of the judgment, and shall affix his/her seal thereon.

#### Article 222 (Cancellation of Ruling and Order relating to Control of Litigation)

A ruling and order relating to the control of litigation may be cancelled at any time.

#### Article 223 (Objection against Disposition Taken by Junior Administrative Officer, etc. of Court)

On the objection against a disposition taken by a junior administrative officer, etc. of a court, the court whereto belongs the said officer, etc. shall render a judgment by its ruling.

Article 224 (Mutatis Mutandis Application of Provisions relating to Judgment)(1) Provisions relating to judgments shall apply mutatis mutandis to rulings and orders, unless they are contrary to the nature of the latter: Provided, That the signature of a judge may be substituted by writing his/her name, and an entry of reasons may be omitted.

(2) Provisions of Articles 248 and 250 of the Non-Contentious Case Litigation Procedure Act relating to the public prosecutor shall not be applicable to a judgment on an administrative fine under this Act.

### SECTION 6 Ruling of Recommendation for Compromise

Article 225 (Recommendation for Compromise by Ruling)(1) A court, commissioned judge or entrusted judge may, on the case during the pendency of action, render ex officio a ruling of recommending a compromise in order to fairly settle the case by taking account of the parties' interest and all other situations, within the limit not contrary to the gist of claim.

(2) The junior administrative officer, etc. of the court shall serve on the parties the authentic copy of a protocol or written ruling in which the contents of ruling under paragraph (1) are entered: Provided, That such service shall not be effected by the methods as stipulated in Article 185 (2), 187 or 194.

Article 226 (Objection against Ruling)(1) The parties may raise an objection against the ruling under Article 225 within two weeks from the date of receiving a service of the authentic copy of the relevant protocol or written ruling: Provided, That such an objection may be raised even before a service of such authentic copy.

(2) The period under paragraph (1) shall be an invariable period.

Article 227 (Method of Objection)(1) An objection shall be made by submitting a written objection to the court rendering a ruling of recommending a compromise.

(2) A written objection shall contain the following:

1. Parties and their legal representatives;
2. Indication of a ruling of recommending a compromise, and the purport of objection against it.

(3) The provisions concerning a preparatory documents shall be applicable mutatis mutandis to a written objection.

(4) When an objection is raised under the provisions of Article 226 (1), the duplicate of the written objection shall be served on the other party to such objection.

**Article 228 (Withdrawal of Objection)**(1) The party who has raised an objection may withdraw his/her objection by obtaining a consent of the other party, not later than the time when a judgment in such instance is declared.

(2) Article 266 (3) through (6) shall be applicable mutatis mutandis to the withdrawal under paragraph (1). In such cases, the term "lawsuit" shall be read as an "objection".

**Article 229 (Waiver of Right to Object)**(1) Rights to object may be waived before the objection is raised.

(2) Any waiver of rights to object shall be made in written statement.

(3) The written statement under paragraph (2) shall be served on the other party.

**Article 230 (Rejection of Objection)**(1) Where an objection is contrary to the legal method, or is found to have been raised subsequent to an extinction of rights to object, the court, commissioned judge or entrusted judge shall, if such defects are not rectifiable, reject it by its ruling; and when a commissioned judge or entrusted judge has not rejected it, the court of lawsuit shall reject it by its ruling.

(2) An immediate appeal may be raised against the ruling under paragraph (1).

**Article 231 (Effect of Ruling of Recommending Compromise)**

A ruling of recommending a compromise shall take the same effect as a judicial compromise, if it falls under any one of the following subparagraphs:

1. When there exists no objection within the period under Article 226 (1);
2. When a ruling of rejecting an objection has become final and conclusive;
3. When the party concerned withdraws his/her objection, or waives his/her right to object.

**Article 232 (Return to Litigation, etc. by Objection)**(1) When an objection is lawful, a litigation shall return to the status prior to a ruling of recommending a compromise. In such cases, any litigation taken earlier shall take effect as they are.

(2) A ruling of recommending a compromise shall lose its effect when a judgment has been declared at the instance of court.

## SECTION 7 Interruption and Suspension of Proceedings

**Article 233 (Interruption due to Party's Death)**(1) Proceedings shall be interrupted upon a party's death. In such cases, the proceedings shall be taken over by his/her successor, an administrator of inherited property, or any other person who is bound to continue the lawsuit pursuant to Acts.

(2) A successor shall not take over the proceedings while he/she is able to waive the succession.

**Article 234 (Interruption due to Merger of Juristic Person)**

Proceedings shall be interrupted when the juristic person which is a party ceases to exist due to a merger. In such cases, the proceedings shall be taken over by a juristic person established by merger, or a juristic person surviving after a merger.

#### [Article 235 \(Interruption due to Loss of Litigation Capacity or Extinction of Legal Representation Authority\)](#)

Proceedings shall be interrupted when a party loses a litigation capacity, or when his/her legal representative dies or loses his/her authority of representation. In such cases, the proceedings shall be taken over by the party who has recovered his/her litigation capacity or by the person who has become his/her legal representative.

#### [Article 236 \(Interruption due to Termination of Trustee's Duties\)](#)

Proceedings shall be interrupted upon termination of the duties of a trustee under a trust. In such cases, the proceedings shall be taken over by a new trustee.

#### [Article 237 \(Interruption due to Disqualification\)](#)(1) Proceedings shall be interrupted when a person, who became a party to a lawsuit, under a specific qualification, in his/her own name and on behalf of another person, loses such qualification or dies. In such cases, the proceedings shall be taken over by a person having the same qualification.

(2) In a lawsuit in which the persons to become parties have been appointed pursuant to Article 53, the proceedings shall be interrupted if all the appointed parties lose their qualification or die. In such cases, the proceedings shall be taken over by all persons who have appointed the parties, or by a person who has been newly appointed as a party.

#### [Article 238 \(Exceptions in Cases of Existence of Attorney\)](#)

The provisions of Articles 233 (1) and 234 through 237 shall not apply where there exists an attorney.

#### [Article 239 \(Interruption due to Party's Bankruptcy\)](#)

Proceedings relating to the bankrupt foundation shall be interrupted when a party has been adjudged bankrupt. In such cases, if the bankruptcy procedures are terminated before a takeover under the Debtor Rehabilitation and Bankruptcy Act has been effected, a person who has been adjudged bankrupt shall deservedly take over the proceedings. [<Amended by Act No. 7428, Mar. 31, 2005>](#)

#### [Article 240 \(Interruption due to Termination of Bankruptcy Procedures\)](#)

Proceedings shall be interrupted when the bankruptcy procedures are terminated subsequent to a takeover of litigation relating to the bankrupt foundation pursuant to the Debtor Rehabilitation and Bankruptcy Act. In such cases, a person who has been adjudged bankrupt shall take over the proceedings. [<Amended by Act No. 7428, Mar. 31, 2005>](#)

#### [Article 241 \(Right of Other Party to Request Takeover\)](#)

Request for a takeover of proceedings may be filed even by the other party.

#### [Article 242 \(Notification of Request for Takeover\)](#)

When there exists a request for a takeover of proceedings, the court shall notify the other party thereof.

#### [Article 243 \(Judgment on Request for Takeover\)](#)(1) A court shall, ex officio, inquire into the request for takeover of proceedings and shall reject it by a ruling if it is deemed groundless.

(2) With respect to the takeover of proceedings which have been interrupted subsequent to the service of a judgment, a ruling thereon shall be made by the court having rendered such judgment.

#### [Article 244 \(Ex Officio Order to Proceed\)](#)

Where parties fail to take over the proceedings, the court may ex officio order them to proceed with

the proceedings.

#### Article 245 (Suspension due to Court's Inability to Perform Functions)

Where a court is unable to perform its functions by a natural disaster or other accidents, the proceedings shall be suspended until such accidents cease to exist.

**Article 246 (Suspension due to Party's Impediments)**(1) Where a party is unable to continue the proceedings due to an impediment of indefinite duration, the court may order by its ruling to suspend the proceedings.

(2) The court may revoke the ruling under paragraph (1).

**Article 247 (Effect of Suspension of Proceedings)**(1) A judgment may be declared even while the proceedings are suspended.

(2) Interruption or suspension of proceedings shall stop a progress of period, and the whole period shall newly progress from the time when the takeover of proceedings is notified or when the proceedings resume.

## PART II PROCEEDINGS IN COURT OF FIRST INSTANCE

### CHAPTER I INSTITUTION OF LAWSUIT

#### Article 248 (Method of Institution of Lawsuit)

A lawsuit shall be instituted by filing a written complaint with a court.

**Article 249 (Matters to be Entered in Written Complaint)**(1) In a written complaint, the parties and their legal representatives, and the gist and counts of the claim shall be entered.

(2) Provisions relating to preparatory documents shall apply *mutatis mutandis* to a written complaint.

#### Article 250 (Lawsuit for Confirmation of Whether or Not Document is Authentic)

A lawsuit for confirmation may also be instituted in order to determine whether or not the document verifying legal relations is authentic.

#### Article 251 (Lawsuit Claiming Future Performance)

A lawsuit claiming a performance in the future may be instituted only if there exists any necessity for claiming in advance.

**Article 252 (Lawsuit for Alteration to Judgment of Periodical Payment)**(1) Subsequent to a final and conclusive judgment ordering the payment of periodic payments, when a special situation occurs which greatly infringes on the equilibrium between the parties, as the situations forming the basis for computing such payments were significantly changed, the parties to such judgment may institute a lawsuit claiming to change the amount of periodic payments to be paid in the future.

(2) A lawsuit under paragraph (1) shall be under the exclusive jurisdiction of the adjudicating court of the first instance.

#### Article 253 (Objective Consolidation of Lawsuits)

Several claims may be instituted in one lawsuit only in cases of conforming to the same kind of proceedings.

**Article 254 (Right of Presiding Judge to Examine Written Complaint)**(1) Where a written complaint is contrary to the provisions of Article 249 (1) and where a stamp referred to in the provisions of Acts is not attached to the written complaint, the presiding judge shall fix a reasonable period and render an order to correct the defects within such fixed period. The presiding judge may require junior

administrative officer, etc. of a court to issue such correction order. [<Amended by Act No. 12882, Dec. 30, 2014>](#)

(2) When the plaintiff has failed to correct the defects within the period under paragraph (1), the presiding judge shall reject the written complaint by an order.

(3) An immediate appeal may be filed against the order referred to in paragraph (2).

(4) The presiding judge may, where he/she deems it necessary while examining the written complaint, order the plaintiff to submit in a detailed writing the instrument of evidence commensurate with the reasons for claim, and where the plaintiff has failed to append a certified copy or a copy of the evidentiary document quoted by him/her in the written complaint, the said judge may order him/her to submit it.

[Article 255 \(Service of Duplicate of Written Complaint\)](#)(1) A court shall serve a duplicate of a written complaint on the defendant.

(2) The provisions of Article 254 (1) through (3) shall apply mutatis mutandis where a duplicate of a written complaint is unable to be served.

[Article 256 \(Liability to Submit Written Defence\)](#)(1) Where a defendant contests the claim of a plaintiff, he/she shall submit a written defence within 30 days from the date of receiving a service of a duplicate of the written complaint: Provided, That the same shall not apply where the defendant has received a service of a duplicate of the written complaint by the method of a service by public notice.

(2) The court shall, when serving a duplicate of the written complaint, notify the defendant of the purport of paragraph (1).

(3) The court shall serve a duplicate of the written defence on the plaintiff.

(4) The provisions relating to the preparatory document shall apply to the written defence.

[Article 257 \(Judgment Rendered without Holding Any Pleadings\)](#)(1) A court may, when a defendant has failed to submit a written defence under Article 256 (1), render a judgment without holding any pleadings by deeming that he/she has confessed the facts constituting the counts of the claim: Provided, That the same shall not apply where there exist any matters to be investigated ex officio, or where the defendant has submitted a written defence with a purport that he/she contests the claim of a plaintiff until a judgment is declared.

(2) The provisions of paragraph (1) shall apply mutatis mutandis to the time when the defendant submits a written defence with a purport of confessing all the facts constituting the counts of the claim and fails to make a separate plea.

(3) The court may, when serving a duplicate of the written complaint on the defendant, concurrently notify him/her of the date of declaring a judgment without holding any pleadings under the provisions of paragraphs (1) and (2).

[Article 258 \(Designation of Date for Pleading\)](#)(1) The presiding judge shall designate the date for pleading immediately, except where an adjudication is given without pleading pursuant to Article 257 (1) and (2): Provided, That this shall not apply where it is required to bring a case to the preparatory proceedings for pleading.

(2) The presiding judge shall, where the preparatory proceedings for pleading are completed, designate the date for pleading immediately.

[This Article Wholly Amended by Act No. 9171, Dec. 26, 2008]

[Article 259 \(Prohibition of Double Lawsuits\)](#)

For the case pending before a court, neither party shall institute any lawsuit again.

**Article 260 (Rectification of Defendant)**(1) Where it is obvious that a plaintiff has mistakenly designated a defendant, the court of first instance may, upon request of the plaintiff, permit by its ruling to rectify the defendant, until a close of pleadings: Provided, That if the defendant has already submitted a preparatory document on the merits of the case or made any statement or pleaded during the preparatory date for pleading, his/her consent shall be obtained.

(2) A rectification of the defendant shall be requested in writing.

(3) The writing under paragraph (2) shall be served on the other party: Provided, That the same shall not apply where a duplicate of the written complaint has not been served on the defendant.

(4) If the defendant fails to raise any objection within two weeks from the date of having received the notice under paragraph (3), he/she shall be deemed to have given his/her consent under the proviso of paragraph (1).

**Article 261 (Service, etc of Ruling as to Request for Rectification)**(1) Any ruling on a request under Article 260 (1) shall be served on the defendant: Provided, That the same shall not apply when a duplicate of the written complaint has not been served on the defendant.

(2) When a ruling has been rendered to permit a request, the authentic copy of such ruling and a duplicate of the written complaint shall be served on the new defendant.

(3) An immediate appeal may be made against the ruling to permit a request, only if the cause of appeal is a lack of consent.

(4) When a ruling has been rendered to permit a request, the lawsuit against the previous defendant shall be deemed to have been withdrawn.

**Article 262 (Alteration in Claims)**(1) A plaintiff may alter the gist or counts of the claim within the extent that the basis of such claim is not altered, not later than when the pleadings are closed (when a judgment is declared, in cases of the judgment without holding any pleadings): Provided, That the same shall not apply where it causes a significant delay in the proceedings.

(2) Any alteration in the gist of the claim shall be requested in writing.

(3) The writing under paragraph (2) shall be served on the other party.

**Article 263 (Disapproval of Alteration in Claims)**

When a court deems that any alteration in the gist or counts of the claim is not rightful, it shall render a ruling to the effect that such alteration is not permitted, either ex officio or upon motion of the other party.

**Article 264 (Lawsuit for Interlocutory Confirmation)**(1) When a judgment is bound up with whether or not a legal relationship is to be constituted, which has become an issue in the progress of the lawsuit, a party may separately file a lawsuit requesting a confirmation of such legal relationship: Provided, That it shall be limited to when the said request for confirmation does not fall under the exclusive jurisdiction of another court.

(2) The request under paragraph (1) shall be made in writing.

(3) The writing under paragraph (2) shall be served on the other party.

**Article 265 (Time to Interrupt Prescription due to Institution of Lawsuit)**

A judicial claim required for interrupting a prescription or for observing a statutory period, shall take effect when the lawsuit has been instituted, or when the writing has been submitted to the court pursuant to the provisions of Article 260 (2), 262 (2) or 264 (2).

**Article 266 (Withdrawal of Lawsuit)**(1) A lawsuit may be wholly or partially withdrawn, before judgment becomes final and conclusive.

(2) Any withdrawal of a lawsuit shall take effect only by obtaining a consent of the other party, if the other party has already submitted the preparatory document on the merits of the case, or made any statement or pleaded during the preparatory date for pleading.

(3) Any withdrawal of a lawsuit shall be made in writing: Provided, That it may be effected orally at the pleading or during the preparatory date for pleading.

(4) Subsequent to a service of the written complaint, the written withdrawal shall be served on the other party.

(5) In cases of the proviso to paragraph (3), when the other party has not appeared at the pleading or during the preparatory date for pleading, a certified copy of the protocol of such date shall be served upon him.

(6) Where the other party has not raised any objection within two weeks from the date a written withdrawal of a lawsuit was served, he/she shall be deemed to have consented to the withdrawal of the lawsuit. In the case of the proviso of paragraph (3), the same shall also apply where the other party fails to raise any objection within two week from the date of withdrawing the lawsuit where he/she appeared on the prescribed date, or within two weeks from the date of serving a certified copy under paragraph (5) where he/she failed to appear on the fixed date.

**Article 267 (Effect of Withdrawal of Lawsuit)**(1) No lawsuit shall be deemed to have been pending before the court so far as the withdrawn part thereof is concerned.

(2) No person who has withdrawn a lawsuit after the final judgment on the merits of the case had been rendered shall bring the same lawsuit again.

**Article 268 (Case of Non-appearance of Both Parties)**(1) When both parties to a lawsuit have failed to appear on the date for pleading, or failed to plead even if they appeared, the presiding judge shall fix another date for pleading, and notify both parties thereof.

(2) When both parties have failed to appear on the new date for pleading under paragraph (1) or on another date for pleading held subsequently, or failed to plead even if they appeared, if any of them fails to file a request for a designation of another date within a month, such lawsuit shall be deemed to have been withdrawn.

(3) When both parties have failed to appear on the other date for pleading designated pursuant to a request for a designation of such date under paragraph (2) or on the subsequent date for pleading, or failed to plead even if they appeared, such lawsuit shall be deemed to have been withdrawn.

(4) The provisions of paragraphs (1) through (3) shall apply mutatis mutandis to the proceedings of appeal: Provided, That in the proceedings of appeal, it shall be deemed that the appeal has been withdrawn.

**Article 269 (Counterclaim)**(1) A defendant may file a counterclaim with the court whereto the principal lawsuit is pending, not later than a conclusion of pleadings, only where it does not remarkably delay the proceedings: Provided, That the same shall apply only where the claim forming an object of lawsuit does not fall under an exclusive jurisdiction of another court, and is mutually related to the claim or the means of defence of the principal lawsuit.

(2) Where the principal lawsuit is a case presided over by a single judge, when the defendant files a counterclaim falling under the jurisdiction of collegiate panel, the court shall, either ex officio or upon request of the parties, transfer the principal lawsuit and the counterclaim to the collegiate panel by its

ruling: Provided, That the same shall not apply where it holds a jurisdiction over the counterclaim pursuant to Article 30.

#### Article 270 (Procedures for Counterclaim)

Any counterclaim shall follow the provisions relating to the principal lawsuit.

#### Article 271 (Withdrawal of Counterclaim)

When a principal lawsuit has been withdrawn, the defendant may withdraw the counterclaim without obtaining a consent of the plaintiff.

## CHAPTER II PLEADING AND PREPARATION THEREFOR

**Article 272 (Concentration of Pleading, and Preparation Therefor)**(1) A pleading shall be concentrated, and the parties shall prepare it in writing.

(2) A pleading for a case presided over by a single judge shall not be required to be prepared in writing: Provided, That the same shall not apply to the matters which are unexplainable if not prepared by the other party.

#### Article 273 (Submission, etc. of Briefs)

Briefs shall be submitted in such a way that the other party may have sufficient period to prepare for the matters as stated therein, and the court shall serve a duplicate thereof on the other party.

**Article 274 (Matters to be Entered in Briefs)**(1) A brief shall contain the matters falling under each of the following subparagraphs, and the party or his/her representative shall put his/her name and seal, or sign thereto:

1. Names, titles or trade names and domiciles of the parties;
2. Names and domiciles of the representatives;
3. Indication of the case;
4. Means of an averment or a defense;
5. Statements on a claim of the other party and on his/her means of averment or defence;
6. Indication of the attached documents;
7. Date of the preparation;
8. Indication of the court.

(2) In the matters under paragraph (1) 4 and 5, the method of evidence to verify a factual allegation, and the opinion on the method of evidence of the other party, shall be concurrently contained.

**Article 275 (Documents Attached to Briefs)**(1) A certified copy or a copy of a document held by the party, which has been quoted in the briefs, shall be attached to the briefs.

(2) If a part of a document is required, it suffices to attach an abridged copy of such a part, and if the document is voluminous, it suffices to indicate such document.

(3) The document under paragraphs (1) and (2) shall, if requested by the other party, be shown to him/her in its original copy.

#### Article 276 (Effect of Non-entry in Briefs)

Facts not stated in the briefs shall not be alleged in pleadings unless the other party is present in the court: Provided, That the same shall not apply where no briefs are required pursuant to the provisions of the text of Article 272 (2).

#### Article 277 (Attachment of Translation)

A translation shall be attached to the document written in a foreign language.

#### Article 278 (Summarized Briefs)

The presiding judge may, if deemed that it is difficult to grasp the point of the means of offence and defence of the parties, order the parties before a closure of pleadings to submit the briefs summarizing the issues and the results of adjusting evidences.

**Article 279 (Execution of Preparatory Proceedings for Pleadings)**(1) In the preparatory proceedings for pleading, the allegations and evidence of the parties shall be adjusted, so as to have the pleadings carried out in an efficient and concentrated manner. <Amended by Act No. 9171, Dec. 26, 2008>

(2) The presiding judge may, when there is any special reason, put the case to the preparatory proceedings for pleadings, even after opening the date of pleadings.

**Article 280 (Progress of Preparatory Proceedings for Pleadings)**(1) Preparatory proceedings for pleadings shall progress, with fixing a period, by means of making the parties submit the briefs and other documents or exchange them between themselves, or letting them apply for examination of evidence to prove the alleged facts.

(2) The progress of preparatory proceedings for pleadings shall be under the charge of the presiding judge.

(3) For the case presided over by a collegiate panel, the presiding judge may designate a member of the collegiate panel as a commissioned judge, and have him/her take charge of the preparatory proceedings for pleadings.

(4) The presiding judge may, if deemed necessary, entrust another judge with the progress of preparatory proceedings for pleadings.

**Article 281 (Examination of Evidence in Preparatory Proceedings for Pleadings)**(1) The presiding judge, commissioned judge, or judge under Article 280 (4) who progresses the preparatory proceedings for pleadings (hereinafter referred to as "presiding judge, etc.") may, if deemed necessary for the preparation for pleadings, render a ruling of evidence.

(2) In cases of a collegiate case, the provisions of Article 138 shall apply mutatis mutandis to an objection by the parties against the ruling of evidence under paragraph (1).

(3) The presiding judge, etc. may conduct an examination of evidence within the limit necessary to achieve the objectives under Article 279 (1): Provided, That an interrogation of the witnesses and parties may be conducted only when they fall under Article 313.

(4) In cases of paragraphs (1) and (3), the presiding judge, etc. shall perform the duties of a court and presiding judge as stipulated by this Act.

**Article 282 (Date for Preparatory Pleading)**(1) The presiding judge, etc. may open a date for preparatory pleading and have the parties attend there, if deemed necessary for arranging the allegations and evidences during the progress of the preparatory proceedings for pleadings.

(2) If four months have elapsed without any designation of the date for preparatory pleading after the case was put to the preparatory proceedings for pleadings, the presiding judge, etc. shall promptly designate the date for preparatory pleading or close the preparatory proceedings for pleadings.

(3) The parties may attend on the date for preparatory pleading together with a third party, by obtaining a permit of the presiding judge, etc.

(4) The parties shall arrange and submit the allegations and evidences necessary for a preparation of pleadings, not later than the end of the date for preparatory pleading.

(5) The presiding judge, etc. may take all measures necessary to prepare for a pleading, not later than the end of the date for preparatory pleading.

**Article 283 (Protocol of Date for Preparatory Pleadings)**(1) The matters as indicated in Article 274

(1) 4 and 5 shall be entered in a protocol of the date for preparatory pleadings pursuant to the statement of the parties. In such cases, especially the statements related to evidences shall be recorded distinctively.

(2) The provisions of Articles 152 through 159 shall apply mutatis mutandis to a protocol of the date for preparatory pleadings.

**Article 284 (Conclusion of Preparatory Proceedings for Pleadings)**(1) The presiding judge, etc.

shall, if it falls under any one of the following subparagraphs, conclude the preparatory proceedings for pleadings: Provided, That the same shall not apply when there is a reasonable ground for continuing preparation for pleadings:

1. When six months have passed since the case was put to the preparatory proceedings for pleadings;
2. When a party has failed to submit the briefs, etc. within the period as stipulated under Article 280 (1), or to apply for examination of evidence;
3. When a party has failed to appear on the date for preparatory pleading.

(2) Where the preparatory proceedings for pleadings are concluded, the presiding judge, etc. may designate in advance the date for pleading.

**Article 285 (Effect of Concluding Date for Preparatory Pleadings)**(1) Means of offence and

defence that have not been submitted on the date for preparatory pleadings may be submitted at the pleading, only when they fall under any one of the following subparagraphs:

1. When a lawsuit is not remarkably retarded by their submission;
2. When it has been vindicated that they were not submitted in the preparatory procedures for pleadings without any grave negligence;
3. When they are the matters to be investigated ex officio by the court.

(2) The provisions of paragraph (1) shall not affect an application of the provisions of Article 276 to the pleadings.

(3) Matters entered in the written complaint or in the briefs submitted before the preparatory procedures for pleadings may be alleged at the pleadings, notwithstanding the provisions of paragraph (1): Provided, That the same shall not apply when withdrawn or altered in the preparatory procedures for pleadings.

**Article 286 (Provisions Applied Mutatis Mutandis)**

The provisions of Articles 135 through 138, 140, 142 through 151, 225 through 232, and 268 and 278 shall apply mutatis mutandis to the preparatory procedures for pleadings.

**Article 287 (Pleadings after Conclusion of Preparatory Procedures for Pleadings)**(1) A court shall,

when it has concluded the preparatory procedures for pleadings, ensure that the pleadings are to be closed immediately after going through the first date for pleading, and the parties shall cooperate therein.

(2) The parties shall state the outcomes of the date for preparatory pleadings at the date for pleading after a conclusion of the date for preparatory pleadings.

(3) The court shall promptly perform, on the date for pleadings, an examination of evidence pursuant

to the results as adjusted in the preparatory procedures for pleadings.

## CHAPTER III EVIDENCE

### SECTION 1 General Provisions

#### Article 288 (Facts not Requiring Attestation)

The facts confessed by the parties in the court and the evident facts do not require any attestation: Provided, That confession contrary to the truth may be revoked when it is attested that it has been made due to any mistake.

**Article 289 (Application for Examination of Evidence, and Investigation Thereof)**(1) In applying for an examination of evidence, the facts to be attested shall be indicated.

(2) An application for an examination of evidence, and an investigation thereof may be made even before the date for pleadings.

#### Article 290 (Adoption or Rejection of Application for Examination of Evidence)

A court may not, if it has deemed that the evidences applied by a party for examination are unnecessary, investigate them: Provided, That the same shall not apply when it is the sole evidence for the party's alleged facts.

#### Article 291 (Impediment in Examination of Evidence)

A court may, where it is unknown whether an examination of evidence is conductible or when it is conductible, dispense with an examination thereof.

#### Article 292 (Ex Officio Examination of Evidence)

A court may, if it fails to obtain a conviction by the evidence offered by parties, or otherwise deems it necessary, conduct ex officio an examination of evidence.

#### Article 293 (Concentration of Examination of Evidence)

An examination of witnesses and parties shall be convergently performed after the allegations and evidences of the parties have been adjusted.

#### Article 294 (Entrustment of Examination)

A court may entrust a public agency, school or other organization and individual, or a foreign public agency with the examination required for matters belonging to its functions, or with the forwarding of a certified copy or a copy of documents kept by it.

#### Article 295 (Examination of Evidence under Non-Appearance of Party)

Any examination of evidence may be undertaken even if a party fails to appear on the designated date.

**Article 296 (Examination of Evidence in Foreign Country)**(1) Any examination of evidence to be undertaken in a foreign country shall be entrusted to the Korean ambassador, minister or consul stationed in that country or to a competent public agency of that country.

(2) Any examination of evidence undertaken in a foreign country shall, even if it is contrary to the laws of that country, be valid unless it is contrary to this Act.

**Article 297 (Examination of Evidence Outside Court)**(1) A court may, if deemed necessary, undertake an examination of evidence outside the court. In such cases, it may order a member of the collegiate panel to do so, or entrust a judge of another district court with such examination.

(2) An entrusted judge may, if deemed necessary, further entrust an examination of evidence to a

judge of another district court. In such cases, he/she shall notify the court of the lawsuit and the parties of the reasons therefor.

#### Article 298 (Forwarding of Record by Entrusted Judge)

An entrusted judge shall promptly forward the record concerning an examination of evidence to the court of the lawsuit.

**Article 299 (Method of Vindication)**(1) Vindication shall be based on the evidence that may be promptly examined.

(2) A court may substitute the vindication by making a party or his/her legal representative deposit a security money or swear to the truth of his/her allegations.

(3) The provisions of Articles 320, 321 (1), (3) and (4), and 322 shall apply mutatis mutandis to the oath under paragraph (2).

#### Article 300 (Confiscation of Security Money)

When a party or his/her legal representative, who deposited security money pursuant to the provisions of Article 299 (2), has made a false statement, the court shall confiscate the security money by its ruling.

#### Article 301 (Sanction against False Statement)

When a party or his/her legal representative, who swore pursuant to the provisions of Article 299 (2) has made a false statement, the court shall impose by its ruling upon him/her an administrative fine not exceeding two million won.

#### Article 302 (Appeal)

An immediate appeal may be made against the ruling under Articles 300 and 301.

## SECTION 2 Examination of Witness

#### Article 303 (Duty of Witness)

Except as otherwise prescribed, a court may examine any person as a witness.

#### Article 304 (Examination of President, Speaker of National Assembly, Chief Justice of Supreme Court, and President of Constitutional Court)

Where a court is to examine, as a witness, the President, the Speaker of the National Assembly, the Chief Justice of the Supreme Court, and the President of the Constitutional Court, or the person who has held such office previously, on matters concerning the official secrets, it shall obtain his/her consent thereto.

#### Article 305 (Examination of Members of National Assembly, Prime Minister, or Members of State Council)

(1) Where a court is to examine, as a witness, a member of the National Assembly or a person who has held such office previously, on matters concerning the official secrets, it shall obtain a consent of the National Assembly.

(2) Where a court is to examine, as a witness, the Prime Minister or a member of the State Council, or a person who has held such office previously, on matters concerning the official secrets, it shall obtain a consent of the State Council.

#### Article 306 (Examination of Public Officials)

Where a court is to examine, as a witness, a public official other than those as prescribed in Articles 304 and 305, or a person who has held such office previously, on matters concerning the official secrets, it shall obtain a consent of the competent or supervisory government agency.

#### Article 307 (Limitation on Right to Refuse)

In cases of Articles 305 and 306, the National Assembly, the State Council, or the government agency under Article 306, shall not refuse to give its consent unless any vital national interests could be impaired.

#### Article 308 (Motion for Examination of Witness)

When a party intends to make a motion for examination of a witness, he/she shall do so by designating such a witness.

#### Article 309 (Matters to be Entered in Writ of Summons)

Matters falling under each of the following subparagraphs shall be entered in a writ of summons for a witness:

1. Indication of parties;
2. Gist of matters to be examined;
3. Legal sanction in the event of non-appearance.

**Article 310 (Submission of Documents Substituting Testimony)**(1) A court may, if deemed reasonable by taking account of a witness and the matters to be attested, have such a witness submit the documents stating the matters to be testified, in substitution for his/her attendance or testimony.

(2) The court may, when there is objection of the other party or if deemed necessary, require a witness under paragraph (1) to appear and testify.

**Article 311 (Administrative Fine, etc. in Cases of Non-Appearance of Witness)**(1) When a witness fails to appear without any justifiable reasons, the court shall, by its ruling, order him/her to bear the costs of lawsuit incurred thereby, and impose on him/her an administrative fine not exceeding five million won.

(2) When a witness again fails to appear without any justifiable reasons even after receiving a judgment of an administrative fine under paragraph (1), the court shall, by its ruling, punish the witness by a detention for not more than seven days.

(3) The court shall deliberate on whether there are any justifiable reasons under paragraph (2), by summoning the witness on the date of detention judgment.

(4) A judgment on the punishment by a detention shall be enforced by the court officials or national police officials through confining the offender in a lockup in police station, correctional institution, or detention center, under the order of the presiding judge of the court rendering such judgment.

<Amended by Act No. 7849, Feb. 21, 2006>

(5) When a witness subjected to a judgment of detention is detained in a detention facility as stipulated in paragraph (4), the head of competent detention facility shall promptly notify the court of such fact.

(6) The court shall, upon receipt of a notice under paragraph (5), open the date for examining the witness without delay.

(7) When a witness subjected to a judgment of detention has testified during the enforcement of his/her detention, the court shall promptly revoke the ruling of detention, and order to release him.

(8) An immediate appeal may be made against the ruling under paragraphs (1) and (2): Provided, That the provisions of Article 447 shall not be applicable.

(9) Procedures for a trial under paragraphs (2) through (8) and an enforcement thereof, and other

necessary matters, shall be prescribed by the Supreme Court Regulations.

**Article 312 (Compulsory Appearance of Witness Failing to Appear)**(1) A court may order a compulsory appearance of the witness who has failed to appear without any justifiable reasons.  
(2) The provisions of the Criminal Procedure Act concerning a compulsory appearance shall apply mutatis mutandis to such compulsory appearance under paragraph (1).

**Article 313 (Examination of Witness by Commissioned or Entrusted Judge)**

A court may, if it falls under any one of the following subparagraphs, have a commissioned judge or an entrusted judge examine a witness:

1. When the witness is unable to appear before the court of the lawsuit for justifiable reasons;
2. When an appearance of the witness before the court of the lawsuit requires undue expenses or time;
3. When there are other reasonable grounds, against which the parties do not raise any objection.

**Article 314 (Right to Refuse Testimony)**

A witness may refuse to testify if his/her testimony is related to such matters that may cause a prosecution or conviction of himself/herself or persons falling under any of the following subparagraphs or may bring a disgrace to himself/herself or to them: [<Amended by Act No. 7427, Mar. 31, 2005>](#)

1. Relatives of the witness, or persons who used to be in such relationship;
2. A guardian of the witness, or a person under the witness's guardianship.

**Article 315 (Right to Refuse Testimony)**(1) A witness may refuse to testify if it falls under any of the following subparagraphs:

1. When an attorney-at-law, patent attorney, notary public, certified public accountant, certified tax consultant, persons engaged in medical care, pharmacist, or a holder of other post liable for keeping secrets under statutes, or of a religious post, or a person who used to be in such post, is examined on matters falling under the secrets of his/her official functions;
2. When he/she is examined on matters falling under his/her technical or professional secrets.

(2) The provisions of paragraph (1) shall not apply where the witness has been exempted from a liability for keeping secret.

**Article 316 (Vindication of Grounds for Refusal)**

Grounds for a refusal of testimony shall be vindicated.

**Article 317 (Adjudication on Refusal of Testimony)**(1) The court of a lawsuit shall judge whether a refusal of testimony is justifiable, by examining the parties.

(2) The parties or the witness may file an immediate appeal against the adjudication under paragraph (1).

**Article 318 (Sanction against Refusal of Testimony)**

The provisions of Article 311 (1), (8) and (9) shall apply mutatis mutandis when a witness has refused to testify after an adjudication became final and conclusive, to the effect that his/her refusal to testify had no justifiable grounds.

**Article 319 (Obligation to Take Oath)**

The presiding judge shall have a witness take oath prior to an examination: Provided, That he/she may administer it subsequent to an examination, when there exists a special reason.

#### Article 320 (Warning of Punishment for Perjury)

The presiding judge shall, prior to administering an oath, clarify the purport of oath, and give a warning of the penalty for perjury.

#### Article 321 (Method of Taking Oath)(1) An oath shall be administered pursuant to the written oath.

(2) The written oath shall state as follows: "I swear that I will tell the truth according to conscience without concealing or adding anything, and will accept punishment on a charge of perjury if I make a false statement."

(3) The presiding judge shall have a witness read the written oath aloud, and put his/her name and seal or sign thereto; and where the witness is unable to read it or to put his/her name and seal or sign thereto, the said judge shall have the participating junior administrative officer, etc. of the court or other court officials act on his/her behalf.

(4) The witness shall stand up and take an oath solemnly.

#### Article 322 (Incompetency to Take Oath)

No oath shall be administered when examining a person falling under any one of the following subparagraphs:

1. A person under the age of 16 years;
2. A person who is unable to comprehend the purport of an oath.

#### Article 323 (Exemption from Taking Oath)

Taking an oath may be dispensed with when examining the witness who falls under Article 314 and has not refused to testify.

#### Article 324 (Right to Refuse to Take Oath)

A witness may refuse to take an oath when he/she is to be examined on matters in which he/she himself/herself or such a specific person as listed in each subparagraph of Article 314 is significantly interested.

#### Article 325 (Entry in Protocol)

When a witness has been examined without taking an oath, the reasons therefor shall be entered in the protocol.

#### Article 326 (Sanction against Refusal of Taking Oath)

The provisions of Articles 316 through 318 shall apply mutatis mutandis where a witness refuses to take an oath.

#### Article 327 (Method of Examining Witness)(1) A witness shall be examined first by the party who requested him/her to appear, and thereafter by the other party.

(2) The presiding judge may examine the witness subsequent to the completion of examinations under paragraph (1).

(3) The presiding judge may examine the witness at any time, notwithstanding the provisions of paragraphs (1) and (2).

(4) The presiding judge may, if deemed adequate, alter the order of examinations pursuant to the provisions of paragraphs (1) and (2) by hearing the parties' opinions.

(5) The presiding judge may restrict examinations by the parties when such examinations are overlapped or irrelevant to the issue, or when other necessary situations exist.

(6) A member of a collegiate panel may examine a witness, by notifying the presiding judge thereof.

#### Article 327-2 (Examination of Witness through Video or Other Transmission System)(1) If

deemed appropriate to examine a person falling under any of the following subparagraphs as a witness, the court may examine him/her through a video or other transmission system after hearing opinions of the party concerned:

1. Where the witness has difficulty in appearing before the court because he/she resides in a remote or barely accessible area or due to other circumstances;
2. Where the witness is likely to become significantly disturbed due to psychological burden when he/she testifies in confrontation with the party, etc. in court, in light of his/her age, physical or mental state and relation with the party or legal representative, the details of examination, and other circumstances.

(2) The examination of a witness under paragraph (1) shall be deemed the examination of a witness through appearance in court.

(3) Procedures and methods for examining witnesses under paragraph (1) and other necessary matters shall be prescribed by Supreme Court Regulations.

[This Article Newly Inserted by Act No. 14103, Mar. 29, 2016]

#### Article 328 (Separate Examination and Exceptions Thereto)(1) Each witness shall be examined separately.

(2) When a witness who has not been examined is present in the court room, the presiding judge shall order him/her to leave the court room: Provided, That the presiding judge may, if deemed necessary, have the witness who is to be examined stay in the court room.

#### Article 329 (Examination by Confrontation)

The presiding judge may, if deemed necessary, order the witnesses to confront with each other.

#### Article 330 (Witness's Obligation to Act)

The presiding judge may, if deemed necessary, have a witness write letters in person or conduct other necessary acts.

#### Article 331 (Principle of Oral Statement by Witness)

A witness shall not testify by any documents: Provided, That the same shall not apply if the presiding judge permits him/her to do so.

#### Article 332 (Authority of Commissioned or Entrusted Judge)

Where a commissioned judge or an entrusted judge examines a witness, he/she shall perform the functions of the court and its presiding judge.

### SECTION 3 Expert Testimony

#### Article 333 (Application Mutatis Mutandis of Provisions relating to Examination on Witnesses)

The provisions of Section 2 shall apply mutatis mutandis to expert testimony: Provided, That the same shall not apply to the cases of Articles 311 (2) through (7), 312, 321 (2), 327 and 327-2.

<Amended by Act No. 14103, Mar. 29, 2016>

#### Article 334 (Obligation to Give Expert Testimony)(1) Any person who has knowledge and experience necessary to give expert testimony shall be liable for giving such testimony.

(2) Any person who may refuse to testify or to take an oath pursuant to the provisions of Article 314 or 324 or who is listed in Article 322 shall not become an expert witness.

#### Article 335 (Designation of Expert Witness)

An expert witness shall be designated by the court of a lawsuit, a commissioned judge or an entrusted judge.

**Article 335-2 (Duty of Expert Witness)**(1) Where an expert witness deems that a matter for expert testimony is not in his/her field of specialization or needs to be dealt with jointly with another expert witness, he/she shall promptly request the court to revoke his/her designation as expert witness or to designate an additional expert witness.

(2) No expert witness shall commission another person to give expert testimony in his/her place.  
[This Article Newly Inserted by Act No. 14103, Mar. 29, 2016]

**Article 336 (Challenge to Expert Witness)**

When any circumstances exist under which an expert witness is unable to faithfully give expert testimony, the parties may challenge him: Provided, That when the parties have been aware of an existence of causes for a challenge before such an expert witness makes a statement on matters for expert testimony, the parties shall not challenge him/her subsequent to a completion of his/her statement on the matters for expert testimony.

**Article 337 (Procedure for Challenge)**(1) A motion for challenge shall be made to the court of a lawsuit, a commissioned judge or an entrusted judge.

(2) Grounds for challenge shall be vindicated.

(3) No appeal shall be made against a ruling that a justifiable ground exists for a challenge, whereas an immediate appeal may be filed against a ruling that the challenge is groundless.

**Article 338 (Method of Taking Oath)**

The written oath shall state as follows: "I swear that I will faithfully give my expert testimony according to conscience, and will accept punishment on a charge of false expert testimony if I make a false statement."

**Article 339 (Method of Stating Expert Testimony)**(1) The presiding judge may have expert witnesses state their opinions either in writing or orally.

(2) The presiding judge may, when he/she orders many expert witnesses to make an expert testimony, have them state their opinions jointly or severally.

(3) Where an expert testimony is made under paragraphs (1) and (2), the court shall give the parties an opportunity to state their opinions either in writing or orally. [<Newly Inserted by Act No. 14103, Mar. 29, 2016>](#)

**Article 339-2 (Method of Examining Expert Witness)**(1) An expert witness shall be examined by the presiding judge.

(2) A judge of the collegiate panel may examine an expert witness after informing the presiding judge thereof.

(3) Each party may examine an expert witness after informing the presiding judge thereof: Provided, That the presiding judge may restrict examinations by a party when such examinations are overlapped or irrelevant to the issue or when other necessary situations exist.

[This Article Newly Inserted by Act No. 14103, Mar. 29, 2016]

**Article 339-3 (Examination of Expert Witness through Video or Other Transmission System)**(1)

If deemed appropriate to examine a person falling under any of the following subparagraphs as an expert witness, the court may examine him/her through a video or other transmission system or Internet-based video conferencing after hearing opinions of the party:

1. Where the expert witness has difficulty in appearing before the court due to any special circumstances:
  2. Where the expert witness resides abroad.
- (2) With respect to the examination of expert witnesses under paragraph (1), Article 327-2 (2) and (3) shall apply mutatis mutandis.
- [This Article Newly Inserted by Act No. 14103, Mar. 29, 2016]

#### Article 340 (Expert Witness)

Examinations as to the facts known from special knowledge and experience shall be governed by the provisions relating to the examination of a witness: Provided, That Article 339-3 shall apply mutatis mutandis to the examination of expert witnesses through a video or other transmission system.

<Amended by Act No. 14103, Mar. 29, 2016>

**Article 341 (Entrustment for Expert Testimony)**(1) A court may, if deemed necessary, entrust an expert testimony to a public agency, school, other organization having an adequate equipment, or a foreign public agency. In such cases, the provisions relating to oaths shall not be applicable.

(2) The court may, if deemed necessary in cases of paragraph (1), have the person designated by a public agency, school, other organization or a foreign public agency make an explanation on a written expert testimony.

(3) Article 339-3 shall apply mutatis mutandis to the case of paragraph (2). <Newly Inserted by Act No. 14103, Mar. 29, 2016>

**Article 342 (Disposition Necessary for Expert Testimony)**(1) Expert witnesses may, where required for an expert testimony, gain access to other person's land, residence, house under management, structure, airplane, vessel, vehicle or other installations, by obtaining a permit of the court.

(2) When facing with any resistance in cases of paragraph (1), the expert witness may request national police officials to provide an assistance. <Amended by Act No. 7849, Feb. 21, 2006>

## SECTION 4 Documentary Evidence

#### Article 343 (Method of Offering Documentary Evidence)

When a party intends to offer any documentary evidence, he/she shall do so by a method of submitting the document, or by filing a request for an order to make the person holding the document submit it.

**Article 344 (Obligation to Submit Document)**(1) In any of the following cases, the holder of a document shall not refuse to submit it:

1. When the party holds the document quoted in a lawsuit;
2. When the applicant holds a judicial right to ask the holder of the document to transfer or show it to him;
3. When the document has been prepared for the benefit of the applicant, or prepared as to a legal relationship between the applicant and the holder of document: Provided, That the same shall not apply to cases falling under any one of the following causes:
  - (a) A document in which matters listed in Articles 304 through 306 are entered, and for which a consent stipulated in the same Articles has not been obtained;
  - (b) A document in which matters listed in Article 314 are entered as to the person holding the document or a person in any such relation with him/her as falling under any subparagraph of the same Article;

(c) A document in which matters stipulated in anyone among those listed in each subparagraph of Article 315 (1) are entered, and for which an obligation to keep secrets has not been exempted.

(2) Even except for cases falling under paragraph (1), where the document (excluding the document kept or held by a public official or ex-public official in connection with his/her duties) does not fall under any one of the following subparagraphs, the person holding the document shall not refuse to submit it:

1. A document listed in paragraph (1) 3 (b) and (c);
2. A document for the exclusive use by its holder.

#### Article 345 (Method of Requesting Submission of Document)

A request for submission of a document shall clarify matters falling under each of the following subparagraphs:

1. Indication of the document;
2. Purport of the document;
3. Holder of the document;
4. Facts to be proved;
5. Causes of an obligation to submit the document.

#### Article 346 (Submission of Document's Catalogue)

A court may, if deemed necessary for a request under Article 345, and pursuant to a request by the party that has generally indicated the purport of documents subject to such a request or the facts to be proved by such documents, order the other party to submit a written statement of the indication and purport concerning the documents held by him/her in relation to the contents of request or those to be submitted as a documentary evidence in relation to the contents of request.

#### Article 347 (Judgment on Whether or not to Admit Request for Submission of Document)(1)

A court may, if deemed that a request for submission of documents is justifiable, order the holder of documents to submit them, by its ruling.

(2) If deemed that a request for submission of documents is well-grounded only as to a part of such documents, the court shall order to submit such part only.

(3) Where a third party is ordered to submit a document, the court shall examine the said person or a person designated by him.

(4) The court may, if deemed necessary for judging on whether a document corresponds to Article 344, order its holder to produce such document. In such cases, the court shall not make such document open to other persons.

#### Article 348 (Appeal)

An immediate appeal may be made against the ruling of a request for an order to submit a document.

#### Article 349 (Effect When Party Fails to Submit Document)

When a party fails to comply with the order under Article 347 (1), (2) and (4), the court may admit that the allegations of the other party as to the entries in such document prove true.

#### Article 350 (Effect When Party Obstructs Any Use)

When a party has, on purpose to prevent any use by the other party of the document which he/she is ordered to submit, destroyed the document or made it unusable, the court may admit that the allegations of the other party as to the entries in such document prove true.

#### Article 351 (Sanction against Non-submission of Document by Third Party)

When a third party fails to comply with the order under Article 347 (1), (2) and (4), the provisions of Article 318 shall apply mutatis mutandis.

#### Article 352 (Entrusting Forwarding of Document)

A request for submission of a documentary evidence may also be made by filing a request for entrusting the holder of document with forwarding such document, notwithstanding the provisions of Article 343: Provided, That the same shall not apply to cases where the parties are entitled to demand delivery of the authentic copy or a certified copy of the document under statutes.

**Article 352-2 (Obligation to Cooperate)**(1) A person who has been entrusted with forwarding documents from the court under Article 352 or a person who keeps documents that are the object of investigation of evidence under Article 297 shall cooperate with it unless justifiable reasons exist.

(2) When the person who has been entrusted with forwarding of documents does not keep the documents or cannot comply with the entrustment of forwarding for unavoidable reasons, he/she shall notify the court of such reasons.

[This Article Newly Inserted by Act No. 8438, May 17, 2007]

#### Article 353 (Custody of Submitted Document)

A court may, if deemed necessary, have custody of the documents which have been submitted or forwarded.

**Article 354 (Examination by Commissioned Judge or Entrusted Judge)**(1) Where a court requires, pursuant to the provisions of Article 297, a commissioned judge or an entrusted judge to conduct an examination of evidence as to a document, it may determine the matters to be entered in the relevant protocol.

(2) A certified copy or an abridged copy of the document shall be attached to the protocol under paragraph (1).

**Article 355 (Method, etc. of Submission of Documents)**(1) When documents are submitted or forwarded to a court, they shall be done in the form of an original copy, an authentic copy, or a certified copy with authentication.

(2) The court may, if deemed necessary, either order to submit an original copy or entrust to forward it.

(3) The court may make a party submit a certified copy or an abridged copy of the document quoted by him.

(4) When a document has not been adopted as an evidence, the court may, upon hearing opinions of the parties, either return or destroy an original copy, authentic copy, certified copy, abridged copy, etc. of the submitted document.

**Article 356 (Presumption of Authenticity of Official Document)**(1) When a document is admitted to have been prepared by a public official in the course of his/her duties, in view of its preparation method and purport, it shall be presumed to be an authentic official document.

(2) When the authenticity of an official document is open to doubt, the court may refer ex officio to the competent public agency.

(3) The provisions of paragraphs (1) and (2) shall apply mutatis mutandis to the documents which are admitted to have been prepared by a foreign public agency.

#### [Article 357 \(Attestation of Authenticity of Private Document\)](#)

Authenticity of a private document shall be attested.

#### [Article 358 \(Presumption of Authenticity of Private Document\)](#)

A private document shall be presumed to be authentic when it bears the signature, seal or thumbprint of the principal or of his/her representative.

#### [Article 359 \(Comparison of Handwritings or Impression of Seals\)](#)

Whether a document has been authentically prepared may be proven by a comparison of handwritings or impression of seals.

[Article 360 \(Procedures for Submission of Documents for Comparison\)](#)(1) The provisions of Articles 343, 347 through 350, and 352 through 354 shall apply mutatis mutandis where the documents or other articles bearing the handwritings or seal impressions required for comparison are submitted or forwarded to a court.

(2) When a third party fails to comply with an order to submit under the provisions of paragraph (1) without any justifiable reasons, the court shall impose upon him, by its ruling, an administrative fine not exceeding two million won.

(3) An immediate appeal may be made against the ruling under paragraph (2).

[Article 361 \(Other Party's Obligation to Write in Person\)](#)(1) When there exists suitable for comparison, the court may order the other party to write down the relevant letters in person.

(2) When the other party fails to comply with the order under paragraph (1) without any justifiable reasons, the court may admit that the allegations of the applicant in respect of the authenticity of document prove true. The same shall also apply where the handwriting has been done in an altered stroke of the pen.

#### [Article 362 \(Attachment of Document for Comparison\)](#)

An original copy, certified copy or abridged copy of the document which has been offered for comparison shall be attached to the protocol.

[Article 363 \(Sanction against Denial of Authenticity of Compared Document\)](#)(1) When a party or his/her representative has contended for the authenticity of a document intentionally or by gross negligence in violation of the truth, the court shall impose on him/her by its ruling an administrative fine not exceeding two million won.

(2) An immediate appeal may be made against the ruling under paragraph (1).

(3) In cases of paragraph (1), when a party or his/her representative who has contended for the authenticity of a document, admits such authenticity during the pendency of action in the court, the court may revoke the ruling under paragraph (1).

### SECTION 5 Inspection

#### [Article 364 \(Application for Inspection\)](#)

When a party intends to apply for an inspection, he/she shall do so by indicating the purpose of the inspection.

#### [Article 365 \(Expert Testimony, etc. at Time of Inspection\)](#)

A commissioned judge or an entrusted judge may, if deemed necessary for an inspection, either give orders for expert testimony, or examine witnesses.

[Article 366 \(Procedures, etc. for Inspection\)](#)(1) The provisions of Articles 343, 347 through 350,

and 352 through 354 shall apply mutatis mutandis to the presenting or forwarding of the objects to be inspected.

(2) When a third party has failed, without any justifiable reasons, to comply with an order for the presentation under paragraph (1), the court shall impose on him/her by its ruling an administrative fine not exceeding two million won. An immediate appeal may be filed against such ruling.

(3) The court may, if deemed necessary for an inspection, make dispositions as stipulated in Article 342 (1). In such cases, when faced with a resistance, it may request national police officials to render assistances. [<Amended by Act No. 7849, Feb. 21, 2006>](#)

## SECTION 6 Examination of Parties

### Article 367 (Examination of Parties)

A court may, either ex officio or upon request of the parties, examine the parties themselves. In such cases, the court shall have the parties take an oath.

### Article 368 (Confrontation)

The presiding judge may, if deemed necessary, order the parties to confront each other or the witnesses.

### Article 369 (Obligation to Appear, Take Oath or Testify)

When a party fails to appear, or refuses to take an oath or to testify without any justifiable reasons, the court may admit the allegations of the other party as to the matters to be examined to be true.

**Article 370 (Sanction against False Testimony)**(1) When the sworn party has made a false testimony, the court may impose on him/her by its ruling an administrative fine not exceeding five million won.

(2) An immediate appeal may be made against the ruling under paragraph (1).

(3) The provisions of Article 363 (3) shall apply mutatis mutandis to the ruling under paragraph (1).

### Article 371 (Examination Protocol)

When a party has been examined, whether an oath has been taken and the details of his/her testimony shall be entered in the protocol.

### Article 372 (Examination of Legal Representatives)

The provisions of Articles 367 through 371 shall apply mutatis mutandis to the legal representatives of parties in the lawsuit: Provided, That this shall not preclude the examination of the parties themselves.

### Article 373 (Mutatis Mutandis Application of Provisions relating to Examination of Witnesses)

The provisions of Articles 309, 313, 319 through 322, 327, and 330 through 332 shall apply mutatis mutandis to the examination under this Section.

## SECTION 7 Other Evidences

### Article 374 (Other Evidences)

Matters related to the examination of evidences which are not documents, but drawings, photographs, recording tapes, video tapes, magnetic discs for computers and other articles created to put the information therein, shall be prescribed by the Supreme Court Regulations, corresponding to the provisions of Sections 3 through 5.

## SECTION 8 Preservation of Evidence

### Article 375 (Requirements for Preservation of Evidence)

When deemed that unless an examination of evidence is conducted in advance, there exist the situations which cause any use of the relevant evidence to be difficult, the court may, upon motion of the parties, examine the evidence pursuant to the provisions of this Chapter.

**Article 376 (Jurisdiction over Preservation of Evidence)**(1) A motion for preservation of evidence shall be made to the court of instance which is to use such evidence, if the lawsuit concerned has already been instituted. However, if no lawsuit is instituted, it shall be made to the district court having jurisdiction over a residence of the person subject to an examination or the person possessing a document, or over the place where the object intended for an inspection is located.

(2) In cases of urgency, a motion for preservation of evidence may be made to the district court as stipulated in the latter part of paragraph (1), even after the lawsuit concerned has been instituted.

**Article 377 (Method of Making Motion)**(1) Matters falling under each of the following subparagraphs shall be clarified in a motion for preservation of evidence:

1. Indication of the other party;
2. Facts to be proven;
3. Evidence intended to preserve;
4. Reasons for preservation of evidence.

(2) Reasons for a preservation of evidence shall be vindicated.

**Article 378 (Cases Where Other Party is Unable to be Designated)**

A motion for preservation of evidence may be made even where it is impossible to designate the other party. In such cases, the court may appoint a special representative for the sake of a person who is to become the opposite party.

**Article 379 (Ex Officio Preservation of Evidence)**

A court may, if deemed necessary, render ex officio a ruling of preservation of evidence during the pendency of a lawsuit.

**Article 380 (Prohibition of Appeal)**

No appeal may be raised against a ruling for preservation of evidence.

**Article 381 (Participation by Parties)**

The date of an examination of evidence shall be notified to the applicant and the other party:  
Provided, That the same shall not apply in cases of urgency.

**Article 382 (Record of Preservation of Evidence)**

The record as to the preservation of evidence shall be forwarded to the court where the record of a lawsuit on the merits is kept.

**Article 383 (Expenses for Preservation of Evidence)**

Expenses required for a preservation of evidence shall be made a part of the costs of a lawsuit.

**Article 384 (Reexamination in Pleading)**

When a party requests that the witness examined already in the procedure for a preservation of evidence be again examined in pleading, the court shall examine the said witness.

## CHAPTER IV COMPROMISE PROCEDURES BEFORE INSTITUTING LAWSUIT

**Article 385 (Method to Request Compromise)**(1) As for a civil dispute, a party may file a motion for compromise with the district court in the place where the general forum of the other party is located, by specifying the gist and counts of a motion and the situations of the dispute.

(2) A party shall not entrust the other party with the right to appoint a representative for the compromise under paragraph (1).

(3) The court may, if deemed necessary, order the appearance of the party himself/herself or his/her legal representative, in order to examine whether or not the right of representation exists.

(4) The provisions relating to the litigation shall apply mutatis mutandis to a motion for compromise, unless they are contrary to the nature of compromise.

#### Article 386 (Case of Compromise Achieved)

When a compromise is achieved, the junior administrative officer, etc. of a court shall indicate in the protocol the parties, their legal representatives, the gist and counts of the motion, the terms of compromise, the date and the court concerned, and the judge and the junior administrative officer, etc. of the court shall put their names and seals thereto.

**Article 387 (Case of Failure to Achieve Compromise)**(1) When a compromise has not been achieved, the junior administrative officer, etc. of a court shall enter the reasons therefor in the protocol.

(2) When the applicant or the other party fails to appear on the date, the court may deem that no compromise has been achieved between them.

(3) The junior administrative officer, etc. of the court shall serve a certified copy of the protocol under paragraph (1) on the parties.

**Article 388 (Motion for Institution of Lawsuit)**(1) In cases of Article 387, a party may file a motion for instituting a lawsuit.

(2) If a lawful motion exists for instituting a lawsuit, it shall be deemed that the lawsuit has been instituted when a motion for a compromise has been filed. In such cases, the junior administrative officer, etc. of the court shall promptly forward the record of litigation to the competent court.

(3) The motion under paragraph (1) shall be filed within two weeks from the date on which a certified copy of the protocol under Article 387 (3) has been served: Provided, That this shall not preclude the filing of the motion prior to the service of a certified copy of the protocol.

(4) The period under paragraph (3) shall be an invariable period.

#### Article 389 (Expenses of Compromise)

Where a compromise has been achieved, the expenses thereof shall be borne by each party unless otherwise agreed upon between the parties, and where a compromise has not been achieved, they shall be borne by the applicant: Provided, That where the motion for instituting a lawsuit has been filed, the expenses of compromise shall be made part of the costs of lawsuit.

## PART III APPEAL

### CHAPTER I APPEAL FROM TRIAL COURT

**Article 390 (Object of Appeal)**(1) An appeal may be filed against a final judgment rendered by a district court in the first instance: Provided, That the same shall not apply where both parties have agreed not to file an appeal subsequent to the final judgment, by withholding the right to file an appeal in the second instance.

(2) The provisions of Article 29 (2) shall apply mutatis mutandis to the agreement under the proviso of paragraph (1).

#### Article 391 (Judgment against Which Independent Appeal is Prohibited)

No independent appeal may be filed against a judgment on the costs of lawsuit and on a provisional

execution.

#### Article 392 (Decision Subject to Judgment of Court of Appeals)

Decisions preceding the final judgment shall be subject to the judgment of the court of appeals: Provided, That the same shall not apply to the decision against which an appeal is not allowed and to a ruling or order over which an appellate court has jurisdiction.

**Article 393 (Withdrawal of Appeal)**(1) An appeal may be withdrawn before a final judgment has been rendered at the appellate trial.

(2) The provisions of Articles 266 (3) through (5) and 267 (1) shall apply mutatis mutandis to the withdrawal of an appeal.

#### Article 394 (Waiver of Right to Appeal)

The right to appeal may be waived.

**Article 395 (Method to Waive Right to Appeal)**(1) Waiver of the right to appeal shall be made in writing to the court of first instance if it is before filing an appeal, and to the court keeping the record of litigation if it is after filing an appeal.

(2) Documents related to a waiver of the right to appeal shall be served on the other party.

(3) Any waiver of the right to appeal subsequent to filing an appeal, shall also have the effect of a withdrawal of the appeal.

**Article 396 (Period for Filing Appeal)**(1) An appeal shall be filed within two weeks from the date on which the written judgment has been served: Provided, That this shall not preclude the filing of an appeal prior to the service of the written judgment.

(2) The period under paragraph (1) shall be an invariable period.

**Article 397 (Method of Filing Appeal, and Matters to be Entered in Petition of Appeal)**(1) An appeal shall be made by filing a petition of appeal with the court of first instance.

(2) Matters falling under each of the following subparagraphs shall be entered in a petition of appeal:

1. Parties and their legal representatives;
2. Indication of the judgment rendered at the first instance, and the gist of an appeal against such judgment.

#### Article 398 (Application Mutatis Mutandis of Provisions Relating to Briefs)

Provisions relating to the briefs shall apply mutatis mutandis to a petition of appeal.

**Article 399 (Right of Presiding Judge in Original Instance, etc. to Examine Petition of Appeal)**(1) Where a petition of appeal is contrary to the provisions of Article 397 (2) or where a stamp under the provisions of Acts is not attached to a petition of appeal, the presiding judge of the original instance shall fix a reasonable period, and order the appellant to correct the defects within such period. The presiding judge of the original instance may require the junior administrative officer, etc. of a court to issue such correction order. <Amended by Act No. 12882, Dec. 30, 2014>

(2) When the appellant fails to amend the defects within the period under paragraph (1) or when it is obvious that he/she has passed the period of appeal, the presiding judge of the original instance shall reject the petition of appeal by his/her order.

(3) An immediate appeal may be made against the order under paragraph (2).

**Article 400 (Forwarding of Record of Appeal)**(1) When a petition of appeal has not been rejected, the junior administrative officer, etc. of the court of the original instance shall forward the record of

(2) When a petition of appeal has not been rejected, the junior administrative officer, etc. of the court of the original instance shall forward the record of

appeal, together with the petition of appeal, to the court of appeal within two weeks from the date of filing the petition of appeal.

(2) When the presiding judge of the original instance, etc. has ordered to amend the defects pursuant to Article 399 (1), the record of appeal shall be forwarded within a week from the date on which such defects are corrected. [<Amended by Act No. 12882, Dec. 30, 2014>](#)

#### [Article 401 \(Service of Duplicate of Petition of Appeal\)](#)

A duplicate of the petition of appeal shall be served on the appellee.

#### [Article 402 \(Right of Presiding Judge of Appellate Instance, etc. to Examine Petition of Appeal\)](#)

(1) Where the presiding judge of the original instance, etc. has failed to issue an order under Article 399 (1) though a petition of appeal was contrary to Article 397 (2) or the stamp referred to in the provisions of Acts was not attached to the petition of appeal, or where it is impossible to serve a duplicate of the appeal petition, the presiding judge of the appellate instance shall fix a reasonable period and order the appellant to correct the defects within such period. The presiding judge of the appellate instance may require the junior administrative officer, etc. of a court to issue such correction order. [<Amended by Act No. 12882, Dec. 30, 2014>](#)

(2) When the appellant has failed to correct the defects within the period under paragraph (1), or when the presiding judge of the original instance has not rejected the petition of appeal under Article 399 (2), the presiding judge of the appellate instance shall reject the petition of appeal by his/her order.

(3) An immediate appeal may be made against the order under paragraph (2).

#### [Article 403 \(Incidental Appeal\)](#)

An appellee may file an incidental appeal not later than a conclusion of the pleadings, even after the right to appeal has been extinguished.

#### [Article 404 \(Subordinate Nature of Incidental Appeal\)](#)

An incidental appeal shall lose its effect if the principal appeal has been withdrawn, or rejected on account of its illegality: Provided, That an incidental appeal filed within the period of appeal shall be deemed to be an independent appeal.

#### [Article 405 \(Method of Filing Incidental Appeal\)](#)

The provisions relating to an appeal shall apply to an incidental appeal.

[Article 406 \(Declaration of Provisional Execution\)](#)(1) The court of appeals may, upon motion of the parties, declare by its ruling a provisional execution against the portion of the judgment in the first instance against which no appeal has been made.

(2) An immediate appeal may be made against the ruling which has rejected a motion under paragraph (1).

[Article 407 \(Scope of Pleading\)](#)(1) Pleadings shall be made only to such an extent as the party demands the alteration of the judgment rendered in the first instance.

(2) Parties shall state the result of pleadings in the first instance.

#### [Article 408 \(Mutatis Mutandis Application of Litigation Procedures in First Instance\)](#)

Except as otherwise prescribed, the provisions of Chapters I through III of Part II shall apply mutatis mutandis to the litigation procedures in an appellate trial.

#### [Article 409 \(Effect of Litigation in First Instance\)](#)

Litigation in the first instance shall continue to be effective even in the appellate trial.

#### Article 410 (Effect of Preparatory Proceedings for Pleading in First Instance)

Preparatory proceedings for pleading in the first instance shall continue to be effective even in the appellate trial.

#### Article 411 (Prohibition of Alleging Violation of Jurisdiction)

@Parties shall not allege, in the appellate trial, violation of jurisdiction by the court of first instance: Provided, that the same shall not apply to exclusive jurisdiction.

**Article 412 (Institution of Counteraction)**(1) A counteraction may be instituted, where there exists no concern about inflicting any damage on the benefit of the other party's instance, or where a consent of the other party has been obtained.

(2) When the other party has made pleadings on the merits of a counteraction without raising any objection, he/she shall be deemed to have consented to the institution of the counteraction.

#### Article 413 (Rejection of Appeal without Holding Pleadings)

If any defects of an illegal appeal are not revisable, such appeal may be rejected by a judgment without holding any pleadings.

**Article 414 (Dismissal of Appeal)**(1) The court of appeals shall dismiss the appeal when it deems that the judgment of the first instance is justifiable.

(2) Even where the grounds for a judgment of the first instance are not justifiable, when it is deemed that such judgment is justifiable on account of other grounds, the appeal shall be dismissed.

#### Article 415 (Scope of Admitting Appeal)

A judgment of the first instance may be altered within the extent of dissatisfaction therewith: Provided, That the same shall not apply when the allegation as to an offset has been admitted.

#### Article 416 (Revocation of Judgment of First Instance)

The court of appeals shall revoke a judgment of the first instance, when it deems such judgment to be unjustifiable.

#### Article 417 (Revocation due to Violation of Adjudication Procedure)

The court of appeals shall revoke a judgment of the first instance, if the procedure for a judgment of the first instance has been in violation of Acts.

#### Article 418 (Essential Remand)

Where a judgment of the first instance, which has rejected a lawsuit on account of its illegality, is revoked, the court of appeals shall remand the case to the court of first instance: Provided, That where the first instance has examined the case to the extent of being able to render a judgment on the merits of the case, or where the parties have consented thereto, the court of appeals may render a judgment on the merits directly.

#### Article 419 (Transfer due to Violation of Jurisdiction)

When a judgment of first instance has been revoked on account of the violation of jurisdiction, the court of appeals shall transfer the case to the competent court, by its judgment.

#### Article 420 (Method of Drafting Written Judgment)

A judgment of the first instance may be quoted in entering the grounds for a judgment: Provided, That the same shall not apply where the judgment of the first instance has been prepared pursuant to Article 208 (3).

#### Article 421 (Return of Litigation Record)

When the appealing period has expired without filing the final appeal subsequent to a conclusion of the litigation, the junior administrative officer, etc. of the court shall forward the litigation record, together with the written judgment or an authentic copy of the order under Article 402, to the court of first instance.

### CHAPTER II APPEAL TO SUPREME COURT

**Article 422 (Object of Final Appeal)**(1) An appeal to the Supreme Court may be made against the final judgment rendered by a high court or against the final judgment rendered by a collegiate panel of a district court as a court of second instance.

(2) In cases of the proviso of Article 390 (1), an appeal to the Supreme Court may be made against the final judgment of the court of first instance.

#### Article 423 (Grounds for Appeal to Supreme Court)

An appeal to the Supreme Court may be filed only when stating as the grounds therefor that there has been a violation of the Constitution, Acts, administrative decrees, or regulations, which has affected the judgment.

**Article 424 (Absolute Grounds for Appeal to Supreme Court)**(1) When there exists in a judgment any one ground of the following subparagraphs, it shall be deemed that there exists a justifiable ground in the appeal to the Supreme Court:

1. When an adjudicating court has not been constituted in compliance with the provisions of Acts;
2. When a judge, who is ineligible to take part in a judgment pursuant to the provisions of Acts, has participated in the judgment;
3. When the provisions as to an exclusive jurisdiction have been violated;
4. When there is any defect in granting a legal representation right, powers of attorney, or a special authority for the litigation by a representative;
5. When the provisions for opening the pleadings to the public have been violated;
6. When the grounds for a judgment are not clarified, or contain any contradiction.

(2) The provisions of paragraph (1) 4 shall not apply when there has been a ratification pursuant to the provisions of Article 60 or 97.

#### Article 425 (Mutatis Mutandis Application of Procedures for Appellate Trial)

Except as otherwise prescribed, the provisions of Chapter I shall apply mutatis mutandis to an appeal to the Supreme Court and a litigation procedures for a trial by the Supreme Court.

#### Article 426 (Notification of Receipt of Litigation Record)

The junior administrative officer, etc. of the court of final appeal shall, upon receipt of the litigation record from the junior administrative officer, etc. of the original court, promptly notify the parties thereof.

#### Article 427 (Submission of Written Statement of Grounds for Appeal to Supreme Court)

When the grounds for appeal to the Supreme Court have not been entered in a petition for the final appeal, the appellant shall submit a written statement of grounds for the final appeal within 20 days from the date of receiving the notice under Article 426.

**Article 428 (Service, etc. of Written Statement of Grounds for Final Appeal and Written Answer Thereto)**(1) The court of final appeal in receipt of a written statement of grounds for final

appeal shall promptly serve a duplicate or a certified copy of such statement to the other party.

(2) The other party may submit a written answer within ten days from the date of the service of a written statement under paragraph (1).

(3) The court of final appeal shall serve on the appellant a duplicate or a certified copy of the written answer under paragraph (2).

#### [Article 429 \(Rejection of Appeal to Supreme Court Due to Lack of Submission of Written Statement of Grounds for Appeal to Supreme Court\)](#)

When an appellant has failed to submit a written statement of grounds for appeal to the Supreme Court in violation of the provisions of Article 427, the court of final appeal shall reject the final appeal by its judgment without holding any pleadings: Provided, That the same shall not apply when there exist any grounds to be investigated ex officio.

[Article 430 \(Procedures for Examination in Trial on Final Appeal\)](#)(1) The court of final appeal may render a judgment without holding any pleadings by virtue of a petition of appeal to the Supreme Court, a written statement of grounds for appeal to the Supreme Court, written answers, and other litigation records.

(2) The court of final appeal may, if deemed necessary to clarify the litigation relations, listen to the statements of relevant witnesses by opening the pleadings as to specified matters.

#### [Article 431 \(Scope of Examination\)](#)

The court of final appeal shall examine within the extent of motion for dissatisfaction, based on the grounds for final appeal.

#### [Article 432 \(Binding Force of Fact-Finding Proceedings\)](#)

The facts lawfully established by a judgment of the original court shall be binding on the court of final appeal.

#### [Article 433 \(Special Provisions for Direct Final Appeal\)](#)

As for an appeal to the Supreme Court pursuant to Article 422 (2), the court of final appeal shall not reverse a judgment of the original court on the grounds that the establishment of facts therein is in violation of the provisions of Acts.

#### [Article 434 \(Exception to Matters to be Inspected Ex Officio\)](#)

The provisions of Articles 431 through 433 shall not apply to the matters to be inspected ex officio by the court.

#### [Article 435 \(Declaration of Provisional Execution\)](#)

The court of final appeal may, upon motion of the parties, declare a provisional execution by its ruling with regard to the portion of a judgment of the original court against which no application for dissatisfaction has been filed.

[Article 436 \(Remand After Reversal, and Transfer\)](#)(1) The court of final appeal shall, if admitted that an appeal to the Supreme Court is justifiably grounded, reverse a judgment of the original court, and either remand the case to the original court, or transfer it to another court of equal level.

(2) The court whereto a case has been remanded or transferred shall render a judgment by going through the pleadings once again. In such cases, the factual and legal findings, which have been regarded by the court of final appeal as the grounds for reversal, shall be binding.

(3) Any judge who has taken part in the judgment of the original court shall not participate in the

judgment under paragraph (2).

#### Article 437 (Reversal and Self-Rendering of Judgment)

The court of final appeal shall, if it falls under any one of the following subparagraphs, render a final judgment on the case:

1. When a judgment is reversed on the grounds that statutes are misapplied to the established facts, and the case suffices for rendering a judgment on the basis of such facts;
2. When a judgment is reversed on the grounds that the case does not fall within the jurisdiction of the court.

#### Article 438 (Forwarding of Litigation Record)

When a judgment to remand or transfer a case has been rendered, the junior administrative officer, etc. of the court shall forward within two weeks the litigation record together with an authentic copy of such judgment to the court whereto the case is to be remanded or transferred.

### CHAPTER III APPEAL FROM RULINGS OR ORDERS

#### Article 439 (Object of Appeal)

An appeal may be made against a ruling or an order which has rejected a motion for litigation procedures.

#### Article 440 (Appeal against Ruling or Order Contrary to Forms)

When a ruling or an order has been rendered on the matters which are not decidable by such a ruling or an order, an appeal may be filed against it.

**Article 441 (Quasi-Appeal)**(1) Any party dissatisfied with a judgment rendered by a commissioned judge or an entrusted judge may raise an objection to the court of lawsuit: Provided, That it shall be limited to where such judgment is that by the court of lawsuit, against which an appeal may be filed.

(2) An appeal may be made against the judgment on raising an objection under paragraph (1).

(3) The provisions of paragraph (1) shall apply mutatis mutandis to the judgment rendered by a commissioned judge or an entrusted judge on a case pending in the court of final appeal or in the court of second instance.

#### Article 442 (Reappeal)

Against a ruling or an order rendered by an appellate court, a high court or a court of appeals, a reappeal may be made only when stating as the grounds therefor that there has been a violation of the Constitution, Acts, administrative decrees, or regulations, which has affected the judgment.

#### Article 443 (Mutatis Mutandis Application of Provisions for Procedures of Appeal and Final

**Appeal)**(1) The provisions of Chapter I shall apply mutatis mutandis to the litigation procedures of an appellate court.

(2) The provisions of Chapter II shall apply mutatis mutandis to a reappeal and the litigation procedures therefor.

**Article 444 (Immediate Appeal)**(1) An immediate appeal shall be made within one week from the date of notifying the trial.

(2) The period under paragraph (1) shall be an invariable period.

#### Article 445 (Method of Filing Appeal)

Any appeal shall be made by submitting a petition of appeal to the court of original judgment.

#### Article 446 (Disposition of Appeal)

When the original court deems that the appeal has merits, it shall revise such judgment.

#### Article 447 (Effect of Immediate Appeal)

An immediate appeal shall have the effect of suspending the execution of the rulings, etc.

#### Article 448 (Suspension of Execution of Original Judgment)

An appellate court or a court of original instance or a judge thereof may order the suspension of execution of the original judgment or other necessary measures, not later than the time when a ruling is made on the appeal.

**Article 449 (Special Appeal)**(1) Against a ruling or an order against which no objection is allowed, a special appeal may be filed with the Supreme Court only when there exists a violation of the Constitution which has affected the judgment, or when stating as the ground that a decision is unreasonable, which has been rendered on whether the administrative decrees, regulations, or dispositions, constituting a premise for the judgment, are in violation of the Constitution or Acts.

(2) An appeal from ruling or orders under paragraph (1) shall be filed within one week from the date of notifying the judgment.

(3) The period under paragraph (2) shall be an invariable period.

#### Article 450 (Mutatis Mutandis Application of Provisions)

The provisions of Article 448 and those concerning appeals to the Supreme Court shall apply mutatis mutandis to a special appeal and litigation procedures therefor.

### PART IV RETRIAL

**Article 451 (Grounds for Retrial)**(1) A petition for a retrial against the final judgment which has become conclusive may be made when falling under any one of the following subparagraphs: Provided, That the same shall not apply when a party has alleged such grounds by an appeal, or has not alleged them even while he/she became aware thereof:

1. When an adjudicating court has not been constituted pursuant to the provisions of Acts;
2. When a judge, who is ineligible to take part in the relevant judgment pursuant to the provisions of Acts, has participated therein;
3. When there is any defect in granting a legal representation right, powers of attorney, or an authority required for the litigation of a representative: Provided, That the same shall not apply when it has been ratified under Article 60 or 97;
4. When a judge, who took part in the judgment, has committed a crime as to his/her official duty in respect of the case;
5. When a party has been led to make a confession, or obstructed in submitting the method of offence and defense to affect the judgment, due to the criminally punishable acts of another person;
6. When a document or any other article used as evidence for the judgment has been forged or fraudulently altered;
7. When the false statements by a witness, an expert witness or an interpreter, or those by a sworn party or legal representative have been adopted as evidence for the judgment;
8. When a civil or criminal judgment or other decisions or administrative dispositions on which the judgment was based have been altered by a different judgment or administrative disposition;
9. When judgment has been omitted in respect of an important matter which might have affected the judgment;

10. When a judgment, against which a petition for retrial is to be filed, is contrary to the final and conclusive judgment which has been previously declared;

11. When a party has, in spite of being aware of an address or residence of the other party, instituted a lawsuit by stating that he/she has been unaware of the latter's whereabouts, or by telling a false address or residence.

(2) In cases falling under paragraph (1) 4 through 7, a lawsuit of retrial may be instituted only when a conviction or a judgment to impose an administrative fine has become final and conclusive against the punishable acts, or when it is impossible to render a final and conclusive conviction or a final and conclusive judgment to impose an administrative fine, on account of other grounds than the lack of evidence.

(3) When the court of appeals has rendered a judgment on the merits of the case concerned, no lawsuit of retrial shall be instituted against the judgment of the first instance.

#### Article 452 (Grounds for Retrial of Trial Constituting Basis)

When there exist the grounds under Article 451 in a trial on which a judgment is based, such grounds may serve as the grounds for a retrial, even where there exists an independent method of filing an appeal against such a trial.

**Article 453 (Competent Court for Retrial)**(1) A retrial shall fall under an exclusive jurisdiction of the court which has rendered the judgment subject to such a retrial.

(2) Lawsuit of retrial against judgments rendered on the same case by courts at different levels shall come under the jurisdiction of the superior court: Provided, That the same shall not apply when independent grounds exist for retrial in the appellate judgment and the judgment of final appeal respectively.

**Article 454 (Interlocutory Judgment on Grounds for Retrial)**(1) A court may carry out in advance a deliberation and judgment on whether a lawsuit of retrial is lawful and on whether there is any ground for retrial, by separating them from the deliberation and judgment on the merits of the case concerned.

(2) In cases falling under paragraph (1), the court shall, if deemed that there is a ground for retrial, render an interlocutory judgment of such purports, and thereafter carry out a deliberation and judgment on the merits of the case.

#### Article 455 (Litigation Procedures for Retrial)

The provisions relating to litigation procedures in each instance shall apply mutatis mutandis to litigation procedures for a retrial.

**Article 456 (Period for Filing Petition for Retrial)**(1) A lawsuit of retrial shall be filed within 30 days from the date the party has become aware of the grounds for a retrial after the judgment became final and conclusive.

(2) The period under paragraph (1) shall be an invariable period.

(3) When five years have elapsed after a judgment became final and conclusive, no lawsuit of retrial therefor shall be filed.

(4) When grounds for retrial have arisen after the judgment became final and conclusive, the period of paragraph (3) shall be reckoned from the date on which such grounds have arisen.

#### Article 457 (Period for Filing Petition for Retrial)

The provisions of Article 456 shall not apply to a lawsuit of retrial instituted by stating, as the grounds, the lack of the authority of representation, or the matters as referred to in Article 451 (1) 10.

#### Article 458 (Essential Matters to be Entered in Petition for Retrial)

Any of the following matters shall be entered in the petition for retrial:

1. Parties and their legal representatives;
2. Indication of a judgment subject to a retrial, and the purport of requesting a retrial against such a judgment;
3. Grounds for retrial.

**Article 459 (Scope of Pleadings and Trial)**(1) Pleadings and judgment on the merits of a retrial case shall be made within the limit of grounds for requesting the retrial.

(2) Grounds for retrial may be altered.

#### Article 460 (Rejection of Petition where Results of Judgment are Justifiable)

A court shall, if admitting that the judgment in question is justifiable, reject a petition for retrial even where it has the grounds for a retrial.

#### Article 461 (Quasi-Retrial)

Where the protocol under Article 220, or a ruling or an order objectionable by an immediate appeal, has become final and conclusive, if it has the grounds as referred to in Article 451 (1), a retrial may be petitioned by correspondingly applying the provisions of Articles 451 through 460 against the final and conclusive judgment.

### PART V DEMANDING PROCEDURE

#### Article 462 (Requisite for Application)

With regard to a claim aiming at the payment of a specific amount of money or other fungibles or securities, the court may, upon a motion of a creditor, issue a payment order: Provided, That it shall be limited where a service other than that by public notice may be effected in the Republic of Korea.

#### Article 463 (Competent Court)

Demanding procedures shall be subject to an exclusive jurisdiction of the district court in the location of the debtor's general forum, or of the competent court under the provisions of Article 7 through 9, 12 or 18.

#### Article 464 (Request for Payment Order)

The provisions relating to a lawsuit shall apply mutatis mutandis to a request for the payment order in so far as they are not contrary to the nature of the payment order.

**Article 465 (Rejection of Request)**(1) If a request for payment order violates the provisions of the text of Article 462 or the provisions of Article 463, or when it is evident that the claim lacks a justifiable ground in view of the claim's purport, the court shall reject such request. When a payment order is not issuable against part of a claim, the same shall also apply to such part.

(2) No appeal shall be made against any ruling rejecting the request.

**Article 466 (Case Where Payment Order is not Issued)**(1) A creditor may, upon receipt of an order from the court to rectify the debtor's address, file a request for instituting a lawsuit.

(2) When it is impossible to serve the payment order without resorting to a service by public notice, or when it must be served to a foreign state, the court may place the case to litigation procedures by its ex officio ruling.

(3) No appeal shall be made against the ruling under paragraph (2).

#### Article 467 (Ex Parte Question)

A payment order shall be issued without questioning the debtor.

#### Article 468 (Matters to be Entered in Payment Order)

A payment order shall contain an entry of the parties, their legal representatives, and the gist and counts of the claim, and an additional entry to the effect that the debtor is entitled to raise an objection within two weeks from the date of receiving the service of the payment order.

**Article 469 (Service of Payment Order)**(1) A payment order shall be served on the parties.

(2) The debtor may raise an objection against the payment order.

**Article 470 (Effect of Objection)**(1) When a debtor has raised an objection within two weeks from the date of receiving a service of the payment order, the said order shall lose its effect within such extent.

(2) The period under paragraph (1) shall be an invariable period.

**Article 471 (Rejection of Objection)**(1) A court shall, when admitting that an objection is unlawful, reject it by its ruling.

(2) An immediate appeal may be made against the ruling under paragraph (1).

**Article 472 (Shifting to Litigation)**(1) Where a creditor has filed a request for instituting a lawsuit under Article 466 (1), or where a court renders a ruling to place the case of requesting a payment order to litigation procedures under Article 466 (2), the lawsuit shall be deemed to have been instituted when a request for a payment order was filed.

(2) Where a debtor has raised a lawful objection against the payment order, it shall be deemed that a lawsuit has been instituted for the value of the claim's objects, which have been raised an objection, when a request for a payment order was filed.

**Article 473 (Dispositions following Shifting to Litigation)**(1) Where it is deemed that a lawsuit has been instituted under Article 472, the court which has issued the payment order shall order the creditor, with fixing a reasonable period, to supplement the stamps in the amount obtained by deducting the amount of stamps which have been put on when the request for lawsuit or for payment order has been filed, from the amount of stamps to be put on a complaint in instituting a lawsuit.

(2) When a creditor fails to supplement the stamps within the period under paragraph (1), the court shall reject by its ruling a request for the payment order. An immediate appeal may be made against such ruling.

(3) If the stamps as stipulated in paragraph (1) are supplemented, the junior administrative officer, etc. of the court shall promptly forward the litigation record to the competent court. In such cases, if the case falls under the jurisdiction of the collegiate panel, the junior administrative officer, etc. of the court shall promptly forward the litigation record to the collegiate panel of the competent court.

(4) In cases of Article 472, the costs of demanding procedures shall constitute part of the costs of lawsuit.

#### Article 474 (Effect of Payment Order)

When no objection has been raised against a payment order, or an objection has been withdrawn, or a ruling of rejection has become final and conclusive, the said payment order shall take the same effect as a final and conclusive judgment.

## PART VI PROCEDURE FOR PUBLIC SUMMONS

#### Article 475 (Scope of Application of Public Summons)

A public summons may be made only where any Act prescribes that a failure to file a report on a right or claim shall result in the forfeiture of such right.

**Article 476 (Court Having Jurisdiction over Procedures for Public Summons)**(1) Except as otherwise prescribed by Acts, a public summons shall fall under the jurisdiction of the district court in the location of a rightful claimant's general forum: Provided, That the public summons to cancel a register or a registration may be requested to the district court in the location of a public agency wherewith such a register or a registration has been filed.

(2) In cases of Article 492, the district court in the place of performance as indicated in the securities or certificates shall have the jurisdiction: Provided, That when no indication of the place of performance exists in the securities or certificates, the district court in the location of the issuer's general forum, and when such court does not exist, the district court in the place where the issuer had his/her general forum at the time of issuance, shall have the jurisdiction, respectively.

(3) The jurisdiction under paragraphs (1) and (2) shall be exclusive.

**Article 477 (Request for Public Summons)**(1) A request for a public summons shall clarify the cause for such request and the purport of requesting a nullification judgment.

(2) A request under paragraph (1) shall be filed in writing.

(3) The court may order a consolidation of several public summons.

**Article 478 (Whether or not to Permit Public Summons)**(1) A judgment on whether a public summons must be permitted shall be rendered by a ruling. An immediate appeal may be made against a ruling of non-permission.

(2) In cases of paragraph (1), an applicant may be questioned.

**Article 479 (Matters to be Entered in Public Summons)**(1) When a request for a public summons has been permitted, the court shall issue a public summons.

(2) A public summons shall contain the following matters:

1. Indication of the requester;
2. Summons to the effect that a report on a right or claim must be filed not later than the date of the public summons;
3. Matters to result in the forfeiture of a right unless a report thereon is filed;
4. Date of the public summons.

**Article 480 (Method of Public Notice)**

A public summons shall be publicly notified under the conditions as determined by the Supreme Court Regulations.

**Article 481 (Period of Public Summons)**

The period of a public summons shall be fixed to run three months from the date on which the public notice has been terminated.

**Article 482 (Report prior to Nullification Judgment)**

Even after the termination of the period of a public summons, a right shall not be forfeited when a report on such a right or claim is filed prior to the nullification judgment.

**Article 483 (Non-Appearance of Requester, and Designation of New Date)**(1) When a requester fails to appear on the date of a public summons, or asks for change in the date, the court shall designate a new date just for once.

(2) The new date under paragraph (1) shall not be later than two months from the date of the public summons, and it does not require any public notice thereon.

#### Article 484 (Treating as Withdrawal)

When a requester has failed to appear on the new date under Article 483, he/she shall be deemed to have withdrawn his/her request for a public summons.

#### Article 485 (Case Where Report is Filed)

When a report is filed that contests a right or claim alleged as a reason for the request, the court shall either suspend the procedure for a public summons or render a nullification judgment by reserving the reported right, until a trial on such a right becomes final and conclusive.

#### Article 486 (Requester' Duty to Make Statement)

A requester for a public summons shall appear on the date of the public summons and state the cause for filing such a request and the purport of requesting a nullification judgment.

**Article 487 (Nullification Judgment)**(1) A court shall, when it admits that a request for a nullification judgment lacks a justifiable ground after a statement of the requester, reject the request by its ruling, and shall, when it admits that such a request is well-grounded, render a nullification judgment.

(2) The court may find ex officio the facts prior to the judgment under paragraph (1).

#### Article 488 (Appeal)

An immediate appeal may be made against a ruling rejecting a request for a nullification judgment, or against the limitations or reservations attached to the nullification judgment.

#### Article 489 (Public Notice on Nullification Judgment)

A court may make a public notice of the gist of a nullification judgment under the conditions as determined by the Supreme Court Regulations.

**Article 490 (Litigation of Objection against Nullification Judgment)**(1) A nullification judgment shall be subject to no appeal.

(2) Against a nullification judgment, an appeal may be filed before the court of summons by a lawsuit against the requester, if it falls under any one of the following subparagraphs:

1. Where any procedure for public summons is not permitted by Acts;
2. When a public notice on the public summons has not been made, or it has not been made in the manner as prescribed by statutes;
3. When the period of public summons has not been observed;
4. When the judge who rendered the judgment has been excluded from the exercise of his/her duties pursuant to Acts;
5. When the provisions as to the exclusive jurisdiction have been violated;
6. When the judgment has been rendered in violation of Acts, even if there has been a report on a right or claim;
7. When the nullification judgment has been obtained by fraud or other improper means;
8. When there is any ground for a retrial under Article 451 (1) 4 through 8.

**Article 491 (Period for Institution of Lawsuit)**(1) The lawsuit under Article 490 (2) shall be instituted within one month.

(2) The period under paragraph (1) shall be an invariable period.

(3) The period under paragraph (1) shall be reckoned from the date the plaintiff has come to know

about the existence of a nullification judgment: Provided, That where the lawsuit is instituted by stating the grounds under Article 490 (2) 4, 7 and 8, it shall be reckoned from the date the plaintiff has come to know about the existence of such grounds.

(4) This lawsuit shall not be instituted if three years have elapsed since the date a nullification judgment has been pronounced.

**Article 492 (Public Summons for Declaration of Nullity of Securities)**(1) The provisions of Articles 493 through 497 shall apply to the procedure of a public summons requesting a declaration of invalidation of stolen, lost or destroyed securities and any other deeds that may be invalidated according to the Commercial Act.

(2) With respect to other deeds for which a public summons is legally admissible, the provisions of paragraph (1) shall apply except as otherwise prescribed by the relevant Act.

**Article 493 (Holder of Right to Apply for Public Summons as to Deeds)**

With respect to the bearer securities or the securities or deeds which are transferable by endorsement or which bear a summary endorsement, the last holder shall be entitled to request the public summons procedure, and regarding other deeds, a person entitled to allege the right by virtue of such deeds shall be entitled to file a request for such procedures.

**Article 494 (Vindication of Grounds for Request)**(1) A requester shall either submit a certified copy of the deed, or present matters necessary to sufficiently inform the existence of the deed and the important purports thereof.

(2) A requester shall vindicate the facts that the deed has been stolen, lost or destroyed, and other facts, etc. constituting grounds for enabling to file a request for the procedures for a public summons.

**Article 495 (Peremptory Notice to File Report, Warning of Forfeiture of Rights)**

A public summons shall urge the holder of the deed to file a report on the right or claim and to submit the deed not later than the date of public summons, and give a warning that, if he/she neglects to do so, it shall result in a forfeiture of his/her right and the invalidity of the deed shall be declared.

**Article 496 (Declaration of Nullification Judgment)**

In a nullification judgment, the invalidity of securities or deeds shall be declared.

**Article 497 (Effect of Nullification Judgment)**

When a nullification judgment has been rendered, the requester therefor may allege the right based on the securities or deeds against the person to bear the obligation pursuant to the securities or deeds.

## PART VII FINALITY OF JUDGMENT AND SUSPENSION OF EXECUTION

**Article 498 (Time When Judgment becomes Final and Conclusive)**

A judgment shall not become final and conclusive during the period in which an appeal may be filed or when a lawful appeal is filed within such period.

**Article 499 (Persons Delivering Certificate of Finality of Judgment)**(1) When a plaintiff or a defendant requests a certificate of the finality of judgment, the junior administrative officer, etc. of the court of first instance shall deliver the same pursuant to the judgment roll.

(2) When the litigation record is kept in the superior instance, the junior administrative officer, etc. of the superior court shall deliver the certificate in respect of only the portion of the judgment which has become final and conclusive.

#### Article 500 (Suspension of Execution due to Request for Retrial or Subsequent Supplement of Appeal)

(1) Where there is a request for a retrial or a subsequent supplement of appeal under Article 173, if the points alleged as the grounds of appeal are deemed to be legally well-founded and there exists a vindication of the facts concerned, the court may, upon a request of the parties, order a temporary suspension of compulsory execution with or without having a security furnished, or may order to perform a compulsory execution with having a security furnished, or may order to revoke the already-effected compulsory dispositions.

(2) Suspension of a compulsory execution without any security shall be effected only when it has been vindicated that such execution may result in the noncompensable damages.

(3) The judgment under paragraphs (1) and (2) may be rendered without holding any pleadings, and such judgment shall be subject to no appeal.

(4) If a litigation record is kept in the court of original instance in cases of a request for subsequent supplement of an appeal, such court shall render the judgment under paragraphs (1) and (2).

#### Article 501 (Suspension of Execution due to Filing Appeal or Instituting Lawsuit for Alteration)

The provisions of Article 500 shall apply mutatis mutandis where an appeal has been filed against a judgment with a declaration of provisional execution or where a lawsuit under Article 252 (1) has been instituted against a final judgment ordering the payment of installments.

#### Article 502 (Court of Security Deposit)

(1) An offer or deposit of a security under the provisions of this Part may be effected either at the district court in the location of the plaintiff's or defendant's general forum, or at the court of execution.

(2) When a security has been offered or deposited, the court shall deliver a certificate thereof, upon request of the parties.

(3) Except as otherwise prescribed, the provisions of Articles 122, 123, 125 and 126 shall apply mutatis mutandis to the security as stipulated in this Part.

#### ⊕ ADDENDA <Act No. 7427, Mar. 31, 2005>

Article 1 (Enforcement Date)

#### ⊕ ADDENDA <Act No. 7428, Mar. 31, 2005>

Article 1 (Enforcement Date)

#### ⊕ ADDENDA <Act No. 7849, Feb. 21, 2006>

Article 1 (Enforcement Date)

#### ⊖ ADDENDUM <Act No. 8438, May 17, 2007>

This Act shall enter into force on January 1, 2008.

#### ⊕ ADDENDA <Act No. 8499, Jul. 13, 2007>

(1) (Enforcement Date) This Act shall enter into force one month after the date of its promulgation.

#### ⊕ ADDENDA <Act No. 9171, Dec. 26, 2008>

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.

#### ⊕ ADDENDA <Act No. 10373, Jul. 23, 2010>

(1) (Enforcement Date) This Act shall enter into force three months after the date of its promulgation.

[ADDENDA <Act No. 10629, May 19, 2011>](#)

[Article 1 \(Enforcement Date\)](#)

[ADDENDA <Act No. 10859, Jul. 18, 2011>](#)

(1) (Enforcement Date) This Act shall enter into force on January 1, 2015.

[ADDENDUM <Act No. 12587, May 20, 2014>](#)

This Act shall enter into force on the date of its promulgation.

[ADDENDA <Act No. 12882, Dec. 30, 2014>](#)

[Article 1 \(Enforcement Date\)](#)

[ADDENDA <Act No. 13521, Dec. 1, 2015>](#)

[Article 1 \(Enforcement Date\)](#)

[ADDENDA <Act No. 13952, Feb. 3, 2016>](#)

[Article 1 \(Enforcement Date\)](#)

[ADDENDA <Act No. 14103, Mar. 29, 2016>](#)

[Article 1 \(Enforcement Date\)](#)

This Act shall enter into force six months after the date of its promulgation.

[Article 2 \(Transitional Measures concerning Pending Cases\)](#)

This Act shall also apply to cases pending in courts as at the time it enters into force.