

# Rules of Civil Procedure

(Rules of the Supreme Court No. 5 of December 17, 1996)

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**Part I General Provisions**  
**Chapter I General Rules**

(A Method of Filing a Petition)

Article 1 (1) A petition or any other statement may be filed in writing or orally, except as otherwise provided.

(2) In order to file a statement orally, the statement must be made in the presence of a court clerk. In this case, the court clerk must prepare a record

and affix their name and seal thereto.

(Matters to be Contained in a Document Which a Party is to Submit to a Court)

Article 2 (1) A complaint, brief or any other document to be submitted to a court by a party or an agent is to contain the following matters, and the party or the agent is to affix their name and seal thereto:

- (i) the name and address of the party and the name and address of the agent;
- (ii) indication of the case;
- (iii) indication of any annexed documents;
- (iv) date; and
- (v) indication of the court.

(2) Notwithstanding the provision of the preceding paragraph, if a party or an agent has submitted the document set forth in the same paragraph which contains their address, they are not required to include their address in any document set forth in the same paragraph which they submit to the court subsequently.

(Submission by Facsimile of a Document to be Submitted to a Court)

Article 3 (1) A document to be submitted to a court, excluding any of the following, may be submitted by transmitting it by facsimile:

- (i) a document for a petition for which fees are required to be paid pursuant to the provisions of the Act on Costs of Civil Procedure (Act No. 40 of 1971);
- (ii) a document which commences, continues, stays or concludes litigation proceedings when submitted (excluding documents that fall under the preceding item);
- (iii) a document for proving the authority of statutory representation, the delegation of powers necessary for performing procedural acts, or the authority as a litigation representative, or any other document for proving significant matters in litigation proceedings; and
- (iv) a statement of reasons for final appeal, a statement of reasons for petition for acceptance of final appeal, or other statements of reasons equivalent thereto.

(2) If a document has been submitted by facsimile, the document is deemed to have been submitted to the court at the time when the court received it.

(3) If a court finds it to be necessary to do so in the case prescribed in the preceding paragraph, it may have the submitter hand in the document sent in the relevant transmission.

(Provision of Information Contained in a Document Submitted to a Court by an Electronic or Magnetic Means)

Article 3-2 In cases of making use for preparing a judgment document or in

other cases in which a court finds it to be necessary to do so, if a party has an electronic or magnetic record (meaning a record prepared in an electronic form, a magnetic form, or any other form not recognizable to human perception, which is used in information processing by computers; hereinafter the same applies in this Article) recording the contents of information contained in a document that the party has submitted or intends to submit to the court, the court may request the party to provide the information recorded in that electronic or magnetic record by an electronic or magnetic means (meaning a method using an electronic data processing system or a method using other information communications technology) which the court specifies.

(A Requisition and Notice)

Article 4 (1) A requisition and a notice in procedures for civil suits may be made or given by a method that is found to be appropriate.

(2) If a court clerk has made a requisition or has given a notice, the court clerk must make this and the method of the requisition or notice clear in the case record.

(3) It is sufficient to make a requisition by giving public notice of the matters to be required, if the location of the person who is to receive the requisition is unknown or that person is located in a foreign country. In this case, the public notice is given with a document stating the matters to be required posted at the posting area in the court or at another place within the court that is easily visible to the public.

(4) A requisition under the preceding paragraph becomes effective when one week has elapsed from the day of the public notice.

(5) There is no requirement to give a notice under these Rules (excluding a notice under Article 46 (A Method of Service by Publication), paragraph (2)), if the location of the person who is to receive the notice is unknown or that person is located in a foreign country. In this case, a court clerk must make the grounds therefor clear in the case record.

(6) It is permissible to have a court clerk give a notice to a party or any other persons concerned.

(A Manner of Writing a Case Document)

Article 5 A case document must be written in concise sentences and an orderly and clear manner.

**Chapter II Courts**

**Section 1 Jurisdictions**

(Designation of Location of General Venue; Article 4 of the Code)

Article 6 The place specified by the Rules of the Supreme Court as set forth in Article 4 (Jurisdiction by General Venue), paragraph (3) of the Code of Civil Procedure (Act No. 109 of 1996; hereinafter referred to as the "Code") is Chiyoda Ward, Tokyo Prefecture.

(A Method of Filing a Petition for Transfer; Article 16 of the Code)

Article 7 (1) A petition for transfer must be filed in writing, except in cases of filing the petition on an appearance date.

(2) If the petition set forth in the preceding paragraph is filed, the reasons for the petition must be made clear.

(Handling in Discretionary Transfer; Article 17 of the Code)

Article 8 (1) If the petition set forth in Article 17 (Transfer to Avoid Delay, etc.), Article 18 (Discretionary Transfer by Summary Court), or Article 20-2 (Transfer of Suit Pertaining to Action Relating to Patent Right, etc.) of the Code has been filed by a party, the court is to issue an order after hearing the opinion of the opponent.

(2) If a court issues an order of transfer under Article 17, Article 18 or Article 20-2 of the Code by its own authority, it may hear the opinion of the parties.

(Forwarding a Record Due to Transfer; Article 22 of the Code)

Article 9 If a judicial decision of transfer has become final and binding, a court clerk of the court that has made the judicial decision of transfer must forward the case record to a court clerk of the court that has accepted the suit transferred thereto.

## **Section 2 Disqualification of, Challenge to and Withdrawal of Court Officials**

(A Method of Filing a Petition for Disqualification or Challenge; Article 23 of the Code)

Article 10 (1) A petition for disqualification of or to challenge a judge must be filed with the court to which the judge belongs, with the cause therefor indicated clearly.

(2) The petition set forth in the preceding paragraph must be filed in writing, except in cases of filing the petition on an appearance date.

(3) A prima facie showing must be made with regard to the cause for the disqualification or challenge within three days from the day of filing the petition. The same applies to the facts prescribed in the proviso in Article 24 (Challenge to Judge), paragraph (2) of the Code.

(Statement of Opinions by a Judge with Regard to Disqualification or Challenge; Article 25 of the Code)

Article 11 A judge may state their opinions with regard to the petition for disqualification of or challenge to the judge.

(Withdrawal of a Judge)

Article 12 In the cases prescribed in Article 23 (Disqualification of Judge), paragraph (1) or Article 24 (Challenge to Judge), paragraph (1) of the Code, a judge may withdraw by obtaining the permission of the court that has the power of supervision.

(Application, Mutatis Mutandis, to a Court Clerk; Article 27 of the Code)

Article 13 The provisions of this Section apply mutatis mutandis to a court clerk. In this case, a summary court's permission for a court clerk's withdrawal is given by the judge prescribed in Article 37 (Judicial Administration Affairs) of the Court Act (Act No. 59 of 1947) of the court to which the relevant court clerk belongs.

### **Chapter III Parties**

#### **Section 1 Capacity to Be a Party and Capacity to Sue or Be Sued**

(Submission of Materials for Determining an Unincorporated Association's Capacity to Be a Party; Article 29 of the Code)

Article 14 A court may have a party that has sued or has been sued as an unincorporated association or foundation for which a representative or administrator is designated submit the articles of incorporation or any other materials necessary for determining whether or not the relevant party has the capacity to be a party.

(Proof of the Authority of Statutory Representation; Article 34 of the Code)

Article 15 The authority of statutory representation or the delegation of powers necessary for performing procedural acts must be proved in writing. The same applies to the appointment as an appointed party and their change.

(Announcement of a Judicial Decision of Appointment or Replacement of a Special Agent; Article 35 of the Code)

Article 16 An announcement of a judicial decision of the appointment or replacement of a special agent must also be made to the special agent.

(Notification of Extinction of Authority of Statutory Representation; Article 36 of the Code)

Article 17 A person who has given a notice of extinction of the authority of statutory representation must notify the court to that effect in writing. The same applies to a person who has given a notice of rescission of the appointment as an appointed party or their change.

(Application, Mutatis Mutandis, to a Representative of a Corporation; Article 37 of the Code)

Article 18 In these Rules, the provisions concerning statutory representation and a statutory agent apply mutatis mutandis to a representative of a corporation and to a representative or administrator of an unincorporated association or foundation that is capable of suing or being sued in its name.

### **Section 2 Joint Suits**

(Revocation of Application for Simultaneous Trial and Decision; Article 41 of the Code)

Article 19 (1) The application set forth in Article 41 (Joint Suit upon Application for Simultaneous Trial and Decision), paragraph (1) of the Code may be revoked at any time until the time of the conclusion of the oral argument in the court of second instance.

(2) The application set forth in the preceding paragraph and the revocation thereof must be filed or made in writing, except in cases of filing the application or making the revocation on an appearance date.

### **Section 3 Intervention**

(Service of a Written Application for Supporting Intervention; Article 43 of the Code)

Article 20 (1) A written application for supporting intervention must be served upon both parties.

(2) The service prescribed in the preceding paragraph is made by serving a duplicate submitted by the person who has filed the application for supporting intervention.

(3) The provisions of the preceding paragraph apply mutatis mutandis to service of a written application for intervention under Article 47 (Intervention as Independent Party), paragraph (1) and Article 52 (Intervention as Co-Party), paragraph (1) of the Code.

(A Method of Filing a Petition for Assumption of a Suit; Article 50 of the Code)

Article 21 A petition for the assumption of a suit must be filed in writing, except in cases of filing the petition on an appearance date.

(Service of a Written Notice of Suit to a Third Party; Article 53 of the Code)  
Article 22 (1) A written notice of suit must be served upon a person who is to receive the notice of suit.

- (2) The service prescribed in the preceding paragraph is made by serving a duplicate submitted by the party who has given the notice of suit.
- (3) The court must serve the document set forth in paragraph (1) upon the opponent.

#### **Section 4 Litigation Representatives**

(Proof of Authority of Representation in a Suit; Article 54 of the Code)  
Article 23 (1) The authority as a litigation representative must be proved in writing.

- (2) If the document set forth in the preceding paragraph is a private document, the court may order the litigation representative to receive certification from a notary or any other public officer having the authority to certify.
- (3) A person who has given a notice of the extinction of the authority as a litigation representative must notify the court to that effect in writing.

### **Chapter IV Court Costs**

#### **Section 1 Bearing Court Costs**

(A Method of Filing a Petition Seeking to Fix Amount of Court Costs; Article 71 of the Code)

Article 24 (1) The petition set forth in Article 71 (Procedure to Fix Amount of Court Costs), paragraph (1), Article 72 (Procedure to Fix Amount of Costs in Cases of Settlement), or Article 73 (Handling When Litigation Is Concluded Not by Judicial Decision or Settlement) of the Code must be filed in writing.

- (2) When seeking a disposition to fix the amount of the court costs or costs for settlement (hereinafter referred to as the "court costs, etc." in this Section) to be borne, by filing the petition set forth in the preceding paragraph, a party must submit to a court clerk a statement of costs and documents necessary for making a prima facie showing of their amount, and carry out the direct sending of the document set forth in the preceding paragraph and the statement of costs as provided under Article 47 (Sending Documents), paragraph (1).

(Requisition to the Opponent; Article 71 of the Code)

Article 25 (1) Before issuing a disposition to fix the amount of court costs, etc. to be borne, a court clerk must make a requisition for the opponent to submit, within a certain period, the statement of costs and documents necessary for



making a prima facie showing of their amount as well as a document containing the opponent's statement on the contents of the petitioner's statement of costs; provided, however, that this does not apply if only the opponent is to bear the court costs, etc., and the amount of the court costs, etc. which the petitioner has borne is clear from the records.

(2) If the opponent fails to submit the statement of costs or documents necessary for making a prima facie showing of their amount within the period set forth in the preceding paragraph, the court clerk may issue a disposition to fix the amount of court costs, etc. to be borne only with regard to the costs of the petitioner; provided, however, that this does not preclude the opponent from filing a petition seeking a disposition to fix the amount of the court costs, etc. to be borne.

(A Method of Issuing a Disposition to Fix Amount of Costs; Article 71 of the Code)

Article 26 For the issuance of a disposition to fix the amount of court costs, etc. to be borne, a document stating the disposition must be prepared, and the court clerk who issues the disposition must affix their name and seal to that document.

(Cases Specified by Rules of Supreme Court as Set Forth in Article 71, Paragraph (2) of the Code)

Article 27 The cases specified by the Rules of the Supreme Court as set forth in Article 71 (Procedure to Fix Amount of Court Costs), paragraph (2) of the Code are those in which the opponent fails to submit the statement of costs or documents necessary for making a prima facie showing of their amount within the period set forth in Article 25 (Requisition to the Opponent), paragraph (1).

(A Method of Filing a Petition for Correction of Disposition to Fix Amount of Costs; Article 74 of the Code)

Article 28 A petition for correction of disposition to fix the amount of the court costs, etc. to be borne must be filed in writing.

## **Section 2 Security for Court Costs**

(A Method of Providing Security Specified by Rules of Supreme Court as Set Forth in Article 76 of the Code)

Article 29 (1) Security under the provision of Article 76 (Method of Providing Security) of the Code may be provided by the method through which, with the permission of the court, the person who has been ordered to provide security concludes a contract for consignment of payment guarantee that satisfies the

following requirements with a bank, an insurance company, the Shoko Chukin Bank, Ltd., the Norinchukin Bank, a federation of credit unions whose district is the entire nation, a credit union, or a labor bank (hereinafter referred to as the "bank, etc." in this Article):

- (i) the bank, etc., on behalf of the person who has been ordered to provide security, pays the security interest holder money in the amount indicated in the title of the obligation to the right to reimbursement of court costs in relation to the security or a document that confirms the existence of that right to reimbursement of court costs and has the same effect as a final and binding judgment, within the limit of the amount specified by the court;
  - (ii) the contract ceases to be effective at the time when an order of rescission of security has become final and binding;
  - (iii) it is not possible to change or cancel the contract; and
  - (iv) upon request from the security interest holder, the bank, etc. delivers a document proving that the contract has been concluded, to that holder.
- (2) The provisions of the preceding paragraph apply mutatis mutandis to the method of providing security specified by the Rules of the Supreme Court set forth in Article 76 (Method of Providing Security) of the Code as applied mutatis mutandis pursuant to Article 81 (Application Mutatis Mutandis to Security Provided under Other Laws and Regulations), Article 259 (Declaration of Provisional Execution) (including as applied mutatis mutandis pursuant to the Code), paragraph (6), Article 376 (Declaration of Provisional Execution), paragraph (2), Article 405 (Provision of Security), paragraph (2) (including as applied mutatis mutandis pursuant to other laws and regulations) of the Code, and any other laws and regulations. In this case, the phrase "right to reimbursement of court costs" in item (i) of the preceding paragraph is deemed to be replaced with "claim" and the phrase "a document that confirms the existence of such right to reimbursement of court costs and has the same effect as a final and binding judgment" in the same item is deemed to be replaced with "a final and binding judgment that confirms the existence of such right to reimbursement of court costs or a document that has the same effect as such judgment."

### **Section 3 Judicial Aid**

(Prima Facie Showing of Grounds for Aid; Article 82 of the Code)

Article 30 A prima facie showing must be made with regard to the grounds for judicial aid.

## **Chapter V Litigation Proceedings**

### **Section 1 Proceedings of a Suit**

(Designation of an Authorized Judge and Commissioning Procedures of Court)  
Article 31 (1) In cases of having an authorized judge perform their duties, the presiding judge designates that judge.  
(2) The commissioning procedures of a court are carried out by a court clerk, except as otherwise provided.

(Measures for Settlement; Article 89 of the Code)  
Article 32 (1) A court, an authorized judge, or a commissioned judge may order or direct a party or the statutory agent to appear for the purpose of settlement.  
(2) A court, an authorized judge, or a commissioned judge may arrange a settlement outside the court, if they find it to be appropriate to do so.

(A Form of an Authenticated Copy of a Case Record; Article 91 of the Code)  
Article 33 An authenticated copy, a transcript or an extract of a case record must state that it is an authenticated copy, a transcript or an extract, and the court clerk must affix their name and seal thereto.

(A Method of Filing a Petition for Restriction on Inspection, etc.; Article 92 of the Code)  
Article 34 (1) A petition seeking an order to limit the persons who may make a request for inspection, etc. of a secret part to the parties must be filed in writing and by specifying a secret part of the case record.  
(2) A secret part of the case record must be specified in the order set forth in the preceding paragraph.

## **Section 2 Technical Advisors**

### **Subsection 1 A Technical Advisor**

(Participation of a Technical Advisor on a Date for a Scheduling Conference; Article 92-2 of the Code)  
Article 34-2 (1) If the order set forth in Article 92-2 (Participation of a Technical Advisor), paragraph (1) of the Code has been issued, the presiding judge may have a technical advisor give an explanation orally on a date for the scheduling conference.  
(2) The provisions of Article 92-3 (Participation of a Technical Advisor Through Communication by Audio Transmissions) of the Code apply mutatis mutandis to the explanation by a technical advisor on the date for a scheduling conference under the preceding paragraph.

(Handling of an Explanation by a Technical Advisor Other Than on an

Appearance Date; Article 92-2 of the Code)

Article 34-3 (1) If the presiding judge has requested a technical advisor to give an explanation other than on an appearance date, and the matter on which the explanation is requested is important for making the matters related to the suit clear, a court clerk must notify both parties of that matter.

(2) If a technical advisor has submitted a document stating an explanation other than on an appearance date, a court clerk must send a copy thereof to both parties.

(Measures by a Presiding Judge on a Date for Examination of Evidence; Article 92-2 of the Code)

Article 34-4 (1) If a technical advisor participates in the proceedings pursuant to the provisions of Article 92-2 (Participation of a Technical Advisor), paragraph (2) of the Code, and the presiding judge finds it to be necessary to do so for having the technical advisor give an explanation on a date for examination of a witness, the presiding judge may have the witness leave the court or take other appropriate measure to ensure that the explanation by the technical advisor does not affect the testimony of the witness, after hearing the opinions of the parties as to the relevant measure.

(2) A party may request the presiding judge to take the measure set forth in the preceding paragraph.

(Grant of an Opportunity for Parties to State their Opinions; Article 92-2 of the Code)

Article 34-5 The court must give the parties an opportunity to state their opinions on the explanation given by a technical advisor.

(Instruction to a Technical Advisor to Make Preparations; Article 92-2 of the Code)

Article 34-6 (1) If the presiding judge finds it to be necessary to do so for having a technical advisor give an explanation pursuant to the provisions of Article 92-2 (Participation of a Technical Advisor) of the Code or Article 34-2 (Participation of a Technical Advisor on a Date for a Scheduling Conference), the presiding judge may instruct the technical advisor to confirm the current status of the subject matter in dispute and to make any other preparations.

(2) If the presiding judge has given the instruction prescribed in the preceding paragraph, a court clerk is to notify both parties to that effect and of the contents of the instruction.

(Participation of a Technical Advisor Through Communication by Audio Transmissions; Article 92-3 of the Code)

Article 34-7 (1) When having a technical advisor give an explanation or ask questions by the method prescribed in Article 92-3 (Participation of a Technical Advisor Through Communication by Audio Transmissions) of the Code on the date set forth in Article 92-2 (Participation of a Technical Advisor), paragraph (1) or paragraph (2) of the Code, the court must confirm the called party and their location.

(2) If a technical advisor has been made to give an explanation or ask questions under the preceding paragraph, a statement to that effect and the telephone number of the called party must be entered in the record. In this case, the location of the called party may be stated in addition to the telephone number of that party.

(3) The provisions of paragraph (1) apply mutatis mutandis to cases of having a technical advisor give an explanation by the method set forth in paragraph (1) on the date set forth in Article 92-2, paragraph (3) of the Code or a date for a scheduling conference.

(A Method of Filing a Petition for Revocation of an Order of Participation of a Technical Advisor; Article 92-4 of the Code)

Article 34-8 (1) A petition for the revocation of an order of participation of a technical advisor must be filed in writing, except in cases of filing the petition on an appearance date.

(2) If the petition set forth in the preceding paragraph is filed, the reasons for the petition must be made clear; provided, however, that this does not apply if both parties file the petitions simultaneously.

(Disqualification of, Challenge to and Withdrawal of a Technical Advisor; Article 92-6 of the Code)

Article 34-9 The provisions of Articles 10 through 12 (A Method of Filing a Petition for Disqualification or Challenge; Statement of Opinions by a Judge with Regard to Disqualification or Challenge; and Withdrawal of a Judge) apply mutatis mutandis to a technical advisor.

(Powers of an Authorized Judge; Article 92-7 of the Code)

Article 34-10 If an authorized judge or a commissioned judge conducts the procedures set forth in the paragraphs of Article 92-2 (Participation of Technical Advisor) of the Code, that judge performs the duties of the court and the presiding judge under Article 34-2 (Participation of a Technical Advisor on a Date for a Scheduling Conference), Article 34-4 (Measures by a Presiding Judge on a Date for Examination of Evidence), Article 34-5 (Grant of an Opportunity for Parties to State their Opinions), Article 34-6 (Instruction to a Technical Advisor to Make Preparations), paragraph (1), and Article 34-7

(Participation of a Technical Advisor Through Communication by Audio Transmissions), paragraph (1) and paragraph (3).

### **Subsection 2 Disqualification of, Challenge to and Withdrawal of a Judicial Research Official in Cases Relating to Intellectual Property**

(Application, Mutatis Mutandis, of Provisions on Disqualification, Challenge and Withdrawal; Article 92-9 of the Code)

Article 34-11 The provisions of Articles 10 through 12 (A Method of Filing a Petition for Disqualification or Challenge; Statement of Opinions by a Judge with Regard to Disqualification or Challenge; and Withdrawal of a Judge) apply mutatis mutandis to a judicial research official who is to conduct the affairs set forth in Article 92-8 (Affairs of Judicial Research Official in Cases Relating to Intellectual Property) of the Code.

### **Section 3 Dates and Periods**

(Designation of a Date by an Authorized Judge; Article 93 of the Code)

Article 35 A date for proceedings to be conducted by an authorized judge or a commissioned judge is designated by that judge.

(A Petition for Change of a Date; Article 93 of the Code)

Article 36 A petition for a change of a date must be filed with the grounds for requiring the change of the date made clear.

(Restriction on Change of a Date; Article 93 of the Code)

Article 37 A change of a date must not be allowed if it is based on any of the following grounds; provided, however, that this does not apply if there are unavoidable grounds therefor:

- (i) if there are two or more litigation representatives for either of the parties, grounds for a change have risen for one or any of those litigation representatives; or
- (ii) after the date has been designated, the same day has been designated as the date for another case.

(Extension and Shortening of a Period Specified by the Presiding Judge; Article 96 of the Code)

Article 38 The presiding judge, an authorized judge, or a commissioned judge may extend or shorten a period which they have specified.

### **Section 4 Service**

(Commissioning of the Handling of Affairs Related to Service; Article 98 of the Code)

Article 39 The handling of the affairs related to service may be commissioned to a court clerk of the district court having jurisdiction over the place of service.

(A Document to be Served; Article 101 of the Code)

Article 40 (1) The document to be served is a transcript or duplicate of the relevant document, except as otherwise provided.

(2) If a record has been prepared in lieu of the document to be served having been prepared, service of that record is made by delivering its transcript or extract.

(A Method of Notification of a Place Where the Relevant Person is to be Served; Article 104 of the Code)

Article 41 (1) Notification of the place where service is to be received and notification of a designated service recipient must be made in writing.

(2) The notification set forth in the preceding paragraph must be made with the relevant information written in a complaint, a written answer, or a written objection against a demand for payment, insofar as possible.

(3) A document for the notification of the place where the relevant person is to be served must contain the fact that the place subject to the notification is a workplace or any other matter that makes the connection clear between the party, statutory agent or litigation representative and the place subject to the notification.

(Notification of Change in a Place Where the Relevant Person is to be Served; Article 104 of the Code)

Article 42 (1) A party, statutory agent, or litigation representative may make a notification of a change in the place of which they have made a notification as the place where the relevant person is to be served, or in the person of whom they have made a notification as the designated service recipient.

(2) The provisions of paragraph (1) and paragraph (3) of the preceding Article (A Method of Notification of a Place Where the Relevant Person is to be Served) apply mutatis mutandis to the notification of change prescribed in the preceding paragraph.

(Notice of Substituted Service at a Workplace; Article 106 of the Code)

Article 43 If substituted service under Article 106 (Substituted Service and Service by Leaving Documents), paragraph (2) of the Code has been made, a court clerk must notify the person who has been served to that effect.

(Notice of Service by a Registered Mail; Article 107 of the Code)

Article 44 If service by a registered mail under Article 107 (Service by a Registered Mail) paragraph (1) or paragraph (2) of the Code has been made, a court clerk must notify the person who has been served to that effect and of the fact that the relevant document is deemed to have been served at the time when the document was sent by that registered mail.

(Powers of an Authorized Judge concerning Service in Foreign Country; Article 108 of the Code)

Article 45 If service is to be effected in a foreign country in proceedings conducted by an authorized judge or a commissioned judge, that judge may also commission the service as prescribed in Article 108 (Service in a Foreign Country) of the Code.

(A Method of Service by Publication; Article 111 of the Code)

Article 46 (1) Service by publication of a writ of summons is made with the writ of summons posted at the posting area.

(2) A court clerk may publish, in an official gazette or a newspaper, the fact that service by publication has been made. With regard to service that is to be effected in a foreign country, a court clerk may give a notice of the fact that service by publication has been made, in lieu of publishing it in an official gazette or a newspaper.

(Sending Documents)

Article 47 (1) Direct sending (meaning a party sending documents directly to the opponent; the same applies hereinafter) and any other sending of documents is carried out by delivering a copy of the document to be sent or by sending that document by facsimile.

(2) Affairs related to the sending of documents which a court is to send to a party or any other person concerned are handled by a court clerk.

(3) If a court is required to send a document which a party has submitted to the court, to the opponent (excluding the case in which the court is required to serve that document), and the party has carried out direct sending of that document, the court is not required to send that document.

(4) If a party is required to carry out direct sending of a document, but there are grounds that make the direct sending difficult or other grounds that are found to be appropriate, that party may request the court to have a court clerk send the document (or in cases of a brief, serve or send it) to the opponent.

## **Section 5 Judicial Decisions**



(A Certificate of a Judgment Having Become Final and Binding; Article 116 of the Code)

Article 48 (1) A court clerk of the court of first instance, upon request by a party or a third party who has made a prima facie showing of having an interest, delivers a certificate of a judgment having become final and binding, based on the case record.

(2) If the suit is still pending in an appellate instance, notwithstanding the provisions of the preceding paragraph, a court clerk of the appellate court delivers the certificate set forth in same paragraph only for the portion of the judgment that has become final and binding.

(A Document to be Attached to a Complaint for Filing an Action Set Forth in Article 117, Paragraph (1) of the Code)

Article 49 The complaint for filing the action set forth in Article 117 (Action to Seek Modification of Final and Binding Judgment Ordering Compensation by Periodic Payments), paragraph (1) of the Code must have a copy of the final and binding judgment of which modification is sought attached to it.

(A Method of Issuing an Order or Direction; Article 119 of the Code)

Article 50 (1) The judge who has issued an order or direction must affix their name and seal to the written order or written direction.

(2) If an announcement of an order or direction has been made, a court clerk must make this and the method of the announcement clear in the case record.

(3) In addition to what is provided for in the preceding two paragraphs, the provisions concerning judgments apply mutatis mutandis to orders and directions, unless they run contrary to the nature of those orders and directions.

(A Record in Lieu of a Written Order)

Article 50-2 If the Supreme Court issues an order, and it finds it to be appropriate to do so, it may have the contents of the order entered in the record in lieu of preparation of a written order.

## **Section 6 Continuance of Litigation Proceedings**

(A Method of Filing a Petition for Substitution of a Party in Litigation Proceedings; Article 124 of the Code)

Article 51 (1) A petition for substitution of a party in litigation proceedings must be filed in writing.

(2) The document set forth in the preceding paragraph must have materials making it clear that the person who is substituted as a party in the litigation

proceeding is the person specified in the relevant item of Article 124 (Continuance of Litigation Proceedings and Substitution), paragraph (1) of the Code attached to that document.

(Notification by a Litigation Representative of Grounds for Continuance;  
Article 124 of the Code)

Article 52 If any of the grounds listed in the items of Article 124 (Continuance of Litigation Proceedings and Substitution), paragraph (1) of the Code have risen, the litigation representative must notify the court to that effect in writing.

### **Chapter VI Dispositions on the Collection of Evidence prior to Filing of an Action.**

(Matters to be Contained in a Document of an Advance Notice; Article 132-2 of the Code)

Article 52-2 (1) In the document of an advance notice, the following matters are contained in addition to the gist of the claim and the points of the dispute prescribed in Article 132-2 (Inquiry prior to the Filing of an Action), paragraph (3) of the Code, and the person giving the advance notice or their agent is to affix their name and seal thereto:

(i) names and addresses of the person giving the advance notice and the party to whom the advance notice has been given, and the names and addresses of their agents;

(ii) date of the advance notice; and

(iii) the fact that it is an advance notice under Article 132-2, paragraph (1) of the Code.

(2) The gist of the claim and the points of the dispute set forth in the preceding paragraph must be stated specifically.

(3) In an advance notice, the planned timing of filing an action must be made clear insofar as possible.

(Matters to be Contained in a Document of Response to an Advance Notice;  
Article 132-3 of the Code)

Article 52-3 (1) In the document of a response to an advance notice, the matters prescribed in item (i) of paragraph (1) of the preceding Article (Matters to be Contained in a Document of an Advance Notice), the date of the response, and the fact that it is a response under Article 132-3, paragraph (1) of the Code are to be contained in addition to the gist of answers prescribed in Article 132-3 (Inquiry prior to the Filing of an Action), paragraph (1) of the Code, and the person making the response or their agent is to affix the name and seal thereto.

(2) The gist of the answers set forth in the preceding paragraph must be stated specifically.

(Matters to be Contained in a Document of Inquiry prior to the Filing of an Action or in a Document of Response Thereto; Article 132-2 of the Code)

Article 52-4 (1) The inquiry set forth in Article 132-2 (Inquiry prior to the Filing of an Action), paragraph (1) of the Code or the response thereto is to be made by sending the document of inquiry or the document of response to the opposite party. In this case, if the opposite party has an agent, the document of inquiry is to be sent to that agent.

(2) In the document of inquiry set forth in the preceding paragraph, the following matters are to be contained, and the person making the inquiry or their agent must affix their name and seal thereto:

- (i) names of the person making the inquiry, the person receiving the inquiry, and their agents;
- (ii) indication of the advance notice on which the inquiry is based;
- (iii) the date of the inquiry;
- (iv) matters that are inquired into (hereinafter referred to as the "matters inquired into" in this Article) and the necessity of the inquiry;
- (v) the fact that the inquiry is made pursuant to the provisions of Article 132-2, paragraph (1) of the Code;
- (vi) the period in which the response should be made; and
- (vii) the address, postal code, and facsimile number of the person making the inquiry.

(3) In the document of response set forth in paragraph (1), the matters listed in items (i) and (ii) of the preceding paragraph, the date of the response, and the response to the matters inquired into are to be contained, and the person who received the inquiry or their agent is to affix their name and seal thereto. In this case, if, among the matters inquired into, there are any matters for which response is to be refused due to the reason that the inquiry is one that is set forth in Article 132-2, paragraph (1), item (i) of the Code, which of the items of Article 163 (Inquiry to an Opponent) of the Code the inquiry falls under is also to be contained in that document; and if, among the matters inquired into, there are any matters for which response is to be refused due to the reason that the inquiry is one that is set forth in Article 132-2, paragraph (1), item (ii) or item (iii) of the Code, which of the items the inquiry falls under is also to be contained in that document.

(4) The matters inquired into are to be stated in an itemized form, and the response to the matters inquired into are to be stated in accordance with the itemization of the matters inquired into and specifically, insofar as possible.

(5) The provisions of the preceding paragraphs apply mutatis mutandis to the

inquiry prescribed in Article 132-3, paragraph (1) (Inquiry prior to the Filing of an Action) of the Code and the response thereto.

(A Method of Filing a Petition for a Disposition on the Collection of Evidence;  
Article 132-4 of the Code)

Article 52-5 (1) The petition for the disposition set forth in any of the items of Article 132-4 (Disposition on the Collection of Evidence prior to the Filing of an Action), paragraph (1) of the Code must be filed in writing.

(2) In the document set forth in the preceding paragraph, the following matters must be contained:

(i) a name and address of the adverse party to whom the petitioner's advance notice or response on which the petition is based has been given (the relevant party is hereinafter simply referred to as the "adverse party" in this Chapter);

(ii) contents of the disposition subject to the petition;

(iii) a gist of the claim and the points of the dispute related to the petitioner's or the adverse party's advance notice (hereinafter simply referred to as the "advance notice" in this paragraph and in the items of paragraph (1) and paragraph (2) of the following Article (Documents to be Attached to a Written Petition for a Disposition on the Collection of Evidence)) on which the petition is based;

(iv) the facts that are to be proved in cases in which the action subject to the advance notice is filed, and the relationship between those facts and the materials that are to be obtained through the disposition related to the petition and serve as evidence;

(v) grounds that make it difficult for the petitioner to collect the materials that are to serve as evidence set forth in the preceding item; and

(vi) the fact that the petition has been filed within an unextendable period of four months from the day on which the advance notice was given or the fact that the adverse party has given consent to the filing of the petition after the expiration of this period.

(3) In addition to the matters listed in the items of the preceding paragraph, the matters specified in the following items must be contained in the document set forth in paragraph (1) for the cases set forth in those items:

(i) Cases of filing a petition for the disposition set forth in item (i) of paragraph (1) of Article 132-4 of the Code	Residence of the holder of the document
(ii) Cases of filing a petition for the disposition set forth in item (ii) of paragraph (1) of Article 132-4 of the Code	Location of the public agency, etc. prescribed in said item which is to undertake the commissioning

(iii) Cases of filing a petition for the disposition set forth in item (iii) of paragraph (1) of Article 132-4 of the Code and said petition pertains to the commissioning of a statement of opinions about a specific object	Location of the specific object
(iv) Cases of filing a petition for the disposition set forth in item (iv) of paragraph (1) of Article 132-4 of the Code	Location of the object pertaining to the examination

- (4) When including the matters set forth in paragraph (2), item (ii) in a petition for the disposition set forth in Article 132-4, paragraph (1), item (i) of the Code, the petitioner must give the information clearly enough for identifying the document which that petitioner is requiring (including the object prescribed in Article 231 (Application, Mutatis Mutandis, to Objects Equivalent to Documents) of the Code). The same applies to the object specified in item (iii) or item (iv) of the preceding paragraph in a petition for the disposition set forth in Article 132-4, paragraph (1), item (iii) or item (iv) of the Code.
- (5) When including the matters set forth in paragraph (2), item (ii) in a petition for the disposition set forth in Article 132-4, paragraph (1), item (ii) or item (iv) of the Code, the petitioner must clearly give the information for which that petitioner is requiring an examination. The same applies to the matters for which statements of opinion are sought in a petition for the disposition set forth in item (iii) of paragraph (1) of the same Article.
- (6) A prima facie showing must be made with regard to the grounds set forth in paragraph (2), item (v).

(Documents to be Attached to a Written Petition for a Disposition on the Collection of Evidence; Article 132-4 of the Code)

Article 52-6 (1) The document set forth in paragraph (1) of the preceding Article (A Method of Filing a Petition for a Disposition on the Collection of Evidence) (hereinafter referred to as the "written petition" in this Article) must have the following documents attached to it:

- (i) a copy of the document of advance notice; and
  - (ii) if the unextendable period of four months from the day on which the advance notice was given has passed, a document proving the consent of the opposite party set forth in paragraph (2), item (vi) of the preceding Article.
- (2) If the recipient of the advance notice who has made a response to that advance notice files a petition for the disposition set forth in Article 132-4 (Disposition on the Collection of Evidence prior to the Filing of an Action), paragraph (1) of the Code, the written petition must have a copy of the document of that response attached to it, in addition to the documents listed in

the items of the preceding paragraph.

- (3) In cases of filing a petition for the disposition set forth in Article 132-4, paragraph (1), item (iii) of the Code, if that disposition seeks to commission the relevant person to state opinions on a specific object and rights relating to that specific object are registrable, the written petition must have a certificate of the registered information of the specific object or a document proving the information stated in its registry attached to it. The same applies if, in cases of filing a petition for the disposition set forth in item (iv) of the same paragraph, rights relating to the object subject to the examination are registrable.

(Procedure for a Disposition on the Collection of Evidence; Article 132-6 of the Code)

- Article 52-7 (1) If the court finds it to be necessary to do so, the court may hear the opinion of the person to be commissioned or any other person of reference.
- (2) In the sending of the document prescribed in Article 132-4 (Disposition on the Collection of Evidence prior to the Filing of an Action), paragraph (1), item (i) of the Code, not only the original, an authenticated copy, or a certified transcript of the document, but also a copy of the document is acceptable if the court finds it to be appropriate in consideration of the burden on the person to receive a commission and any other circumstances.
  - (3) The provisions of Article 103 (Commissioning Procedures for Examination of Evidence in a Foreign Country) apply mutatis mutandis to the commissioning procedures relating to the dispositions set forth in Article 132-4, paragraph (1), items (i) through (iii) of the Code to be made in a foreign country pursuant to the provisions of Article 184 (Examination of Evidence in a Foreign Country), paragraph (1) of the Code as applied mutatis mutandis pursuant to Article 132-6 (Procedures for a Disposition on the Collection of Evidence, etc.), paragraph (5) of the Code.
  - (4) When conducting the examination set forth in Article 132-4, paragraph (1), item (iv) of the Code, a court execution officer must specify the date and place for conducting that examination and notify the petitioner and the adverse party of the date and place.
  - (5) The provisions of Article 4 (A Requisition and Notice), paragraph (1), paragraph (2), and paragraph (5) apply mutatis mutandis to the notice prescribed in the preceding paragraph. In this case, in paragraph (2) and paragraph (5) of the same Article, the term "court clerk" is deemed to be replaced with "court execution officer," and the phrase "in the case record" is deemed to be replaced with "in the report."
  - (6) The report on the results of the examination set forth in Article 132-4, paragraph (1), item (iv) of the Code must contain the name of the court execution officer who conducted the examination, an indication of the object

examined, the date and time of the commencement of the examination, the date and time of its termination, the place where the examination was conducted, the name of a person who attended the examination, if any, the matters on which the examination was ordered, and the examination results.

(Announcement of Whether or Not the Filing of an Action is Planned)

Article 52-8 If four months have passed from the day on which a person gave the advance notice, or if there is a request by the recipient of the advance notice even before that period has passed, the person who has given the advance notice must make it clear whether or not the filing of an action subject to the advance notice is planned, and also make the planned timing of that filing clear, to the recipient of the advance notice.

## **Part II Litigation Proceedings in First Instance**

### **Chapter I Actions**

(Matters to be Contained in a Complaint; Article 133 of the Code)

Article 53 (1) A complaint must contain the object and statement of the claim (meaning the facts necessary for identifying the claim), contain the factual circumstances that are the reason for action in a concrete manner, and contain material facts relevant to those circumstances and evidence for the respective grounds that require proof.

(2) When allegations are made concerning the factual circumstances in a complaint, the factual circumstances that are the reason for the action and the factual circumstances relevant to them must be alleged separately, insofar as possible.

(3) A complaint stating allegations and evidence is also to serve as a brief.

(4) A complaint must contain the postal code and telephone number (including the facsimile number) of the plaintiff or their agent, in addition to the matters prescribed in paragraph (1).

(Matters to be Contained in a Complaint in Cases in Which Preservation of Evidence Was Conducted Before the Filing of an Action)

Article 54 If an examination of evidence was conducted for preservation of the evidence before the filing of an action, the complaint must contain an indication of the court that conducted the examination, and that of the case in which the examination was conducted, in addition to the matters prescribed in paragraph (1) and paragraph (4) of the preceding Article (Matters to be Contained in a Complaint).

(Documents to be Attached to a Complaint)

Article 55 (1) A complaint for the cases listed in the following items must have the documents specified in those items attached to it:

- (i) a case relating to real property: a certificate of registered matters; and
- (ii) a case relating to a bill, a note, or a check: a copy of the bill, the note, or the check.

(2) In addition to what is prescribed in the preceding paragraph, a complaint must have a copy of any document that is to serve as evidence (hereinafter referred to as a "copy of documentary evidence") which is material attached to it, for any grounds that require proof.

(Urging Correction of a Complaint; Article 137 of the Code)

Article 56 In cases of urging the plaintiff to make the necessary corrections to statements in a complaint, the presiding judge may direct a court clerk to urge the plaintiff to do so.

(An Immediate Appeal against Order to Dismiss a Complaint without Prejudice; Article 137 of the Code)

Article 57 When an immediate appeal is filed against an order to dismiss a complaint without prejudice, the petition for immediate appeal must have the dismissed complaint attached to it.

(Service of a Complaint; Article 138 of the Code)

Article 58 (1) A complaint is served by serving a duplicate submitted by the plaintiff.

(2) The provisions of the preceding paragraph apply mutatis mutandis to service of the document set forth in Article 143 (Amendment of Claim), paragraph (2) of the Code (including as applied mutatis mutandis pursuant to Article 144 (Addition of Appointers' Claims), paragraph (3), and Article 145 (Action with an Interlocutory Declaration), paragraph (3) of the Code).

(A Counterclaim; Article 146 of the Code)

Article 59 The provisions concerning an action are applied to a counterclaim.

## **Chapter II Oral Argument and Preparation Thereof**

### **Section 1 Oral Argument**

(Designation of the First Date for Oral Argument; Article 139 of the Code)

Article 60 (1) When an action has been filed, the presiding judge must promptly designate a date for oral argument; provided, however, that this does not apply in cases of referring the case to preparatory proceedings (limited to a case in which neither party has any objection to the referral) or referring the case to



written preparatory proceedings.

- (2) Except cases in which any special circumstances exist, the presiding judge must designate a date within thirty days from the day on which the action was filed as the date set forth in the preceding paragraph.

(Hearing of Matters for Reference before the First Date for Oral Argument)

Article 61 (1) The presiding judge may hear opinions on the process of the suit and other matters that are to serve as reference with regard to the process of the suit from the parties before the first date for oral argument.

- (2) In cases of conducting the hearing set forth in the preceding paragraph, the presiding judge may direct a court clerk to conduct the hearing.

(Commencement of Proceedings on a Date for Oral Argument)

Article 62 Proceedings on a date for oral argument are commenced by declaration of the specific information of the case.

(A Method of Asking for an Explanation Other Than on the Date for Oral Argument; Article 149 of the Code)

Article 63 (1) In cases of taking measures to ask for an explanation under Article 149 (Authority to Ask for an Explanation, etc.), paragraph (1) or paragraph (2) of the Code other than on the date for oral argument, the presiding judge or an associate judge may direct a court clerk to take that measure.

- (2) If, other than on the date for oral argument, the presiding judge or an associate judge has taken a measure set forth in the preceding paragraph with regard to a matter which could cause a material change to a party's allegations or evidence, a court clerk must clarify the contents thereof in the case record.

(Restriction on Change of a Date for Oral Argument)

Article 64 A change of a date for oral argument must not be allowed for a case in which proceedings to arrange issues and evidence have already been conducted, if it is based on the reason that facts and evidence have not been researched sufficiently.

(Notice to Prohibit a Litigation Representative from Making Statements; Article 155 of the Code)

Article 65 If the court has prohibited a litigation representative from making statements or has ordered the attendance of an attorney at law, a court clerk shall notify the relevant party themselves thereof.

(Formal Matters to be Entered in a Record of Oral Argument; Article 160 of the Code)

Article 66 (1) The following matters must be entered in a record of oral argument:

- (i) indication of the case;
  - (ii) names of the judges and the court clerk;
  - (iii) names of public prosecutors in attendance;
  - (iv) names of the parties, agents, assistants in court, and interpreters who appeared;
  - (v) the date, time and place of the oral argument;
  - (vi) the fact that the oral argument was held in public or, if it was not held in public, a statement to that effect and the reason therefor
- (2) The court clerk must affix their name and seal to the record set forth in the preceding paragraph, and the presiding judge must affix a seal of approval thereto.
- (3) In the cases referred to in the preceding paragraph, if the presiding judge has difficulty affixing a seal of approval, an associate judge must affix the seal of approval while appending a supplementary note about the grounds therefor. If any other judges have difficulty affixing a seal of approval, it is sufficient for the court clerk to include a statement to that effect in the record.

(Substantial Matters to be Entered in a Record of Oral Argument; Article 160 of the Code)

Article 67 (1) A record of oral argument must contain the summary of the oral argument, with the following matters in particular made clear:

- (i) withdrawal of the action, settlement, waiver or acknowledgment of a claim, or admission, if any;
  - (ii) if the plan for trial set forth in Article 147-3 (A Plan for a Trial), paragraph (1) of the Code has been formulated pursuant to the provisions of that paragraph or has been modified pursuant to the provisions of paragraph (4) of the same Article, the contents so formulated or modified;
  - (iii) statements by witnesses, the parties, and expert witnesses;
  - (iv) whether or not witnesses, the parties and expert witnesses swore under oath, and reasons for not having witnesses or expert witnesses swear under oath;
  - (v) results of the observation;
  - (vi) matters that the presiding judge directed to be contained, and matters that were allowed to be contained on request by a party;
  - (vii) judicial decisions that were made without preparing a document thereof; and
  - (viii) rendering the judicial decision.
- (2) Notwithstanding the provisions of the preceding paragraph, if the suit has been concluded by a method other than a judicial decision, statements by

witnesses, the parties and expert witnesses and the results of the observation may be omitted from the record of oral argument, with the permission of the presiding judge; provided, however, that this does not apply if a party has requested that those matters should be contained within one week from the day on which that party acquired knowledge of the conclusion of the suit.

(3) A record of oral argument may contain the plan of advancement of allegations or evidence by parties, and other matters concerning the progress of litigation proceedings, in addition to the oral argument summary.

(Recording onto an Audio Tape, etc. in Lieu of Stating in a Record)

Article 68 (1) Notwithstanding the provisions of paragraph (1) of the preceding Article (Substantial Matters to be Entered in a Record of Oral Argument), with the permission of the presiding judge, a court clerk may record statements by a witness, a party or an expert witness (hereinafter referred to as a "witness, etc.") onto an audio tape or video tape (including an object which may record certain matters by a method equivalent thereto; hereinafter referred to as an "audio tape, etc."), in lieu of stating them in the record. In this case, the parties may state their opinions when the presiding judge gives the permission.

(2) In the cases referred to in the preceding paragraph, a document showing the statements of the witness, etc. must be prepared if a party makes such a request before the suit concludes. The same applies if a suit is pending in an appellate instance and an appellate court finds it to be necessary to do so.

(Citation and Attachment of a Document)

Article 69 A document, photograph, audio tape, video tape or any other object that is found to be appropriate by the court may be cited in a record of oral argument, and be attached to the case record as part of that record of oral argument.

(Stenographic Notes of Statements)

Article 70 If the court finds it to be necessary to do so, the court may have a court stenographer or any other stenographer take stenographic notes of all or part of the statements in oral argument, upon petition or by its own authority.

(Preparation of a Stenographic Record)

Article 71 If a court stenographer has taken stenographic notes pursuant to the provisions of the preceding Article (Stenographic Notes of Statements), the court stenographer must promptly prepare a stenographic record by transcribing the stenographic notes; provided, however, this does not apply if the stenographic notes are made as a part of the record of oral argument pursuant to the provisions of Article 73 (Citation and Attachment of

Stenographic Notes) or in other cases in which the court finds it to be unnecessary to prepare a stenographic record.

(Citation and Attachment of a Stenographic Record)

Article 72 A stenographic record prepared by a court stenographer is to be cited in the record of oral argument and be attached to the case record as part of that record of oral argument; provided, however, that this does not apply if the court finds it inappropriate to cite the stenographic record.

(Citation and Attachment of Stenographic Notes)

Article 73 With regard to the examination of witnesses and the parties and the oral statements of opinion by expert witnesses, the stenographic notes prepared by a court stenographer may be cited in and be made as part of the record of oral argument by attaching them to the case record, if the court finds it to be appropriate to do so and the parties have given their consent thereto.

(Transcription of Stenographic Notes)

Article 74 (1) In the following cases, the court must have a court stenographer prepare a stenographic record by transcribing the stenographic notes that were made as part of the record of oral argument pursuant to the provisions of the preceding Article (Citation and Attachment of Stenographic Notes):

- (i) if a person requesting the inspection or copying of the case record or the issuance of an authenticated copy, transcript, or extract of the case record has requested the transcription;
- (ii) if a judge has been replaced;
- (iii) if an appeal has been filed or a petition for acceptance of final appeal has been filed;
- (iv) in any other cases in which it is found to be necessary.

(2) A court clerk must attach the stenographic record prepared pursuant to the provisions of the preceding paragraph to the case record and notify the parties and any other persons concerned to that effect.

(3) The stenographic record attached to the case record pursuant to the provisions of the preceding paragraph is treated in lieu of the stenographic notes that were made as part of the record of oral argument pursuant to the provisions of the preceding Article.

(Oral Translation of Stenographic Notes)

Article 75 If a person requesting inspection of a case record has requested an oral translation of stenographic notes that were made as part of the record of oral argument, a court stenographer must orally translate the stenographic notes upon the request of a court clerk.

(Recording of Statements in Oral Argument)

Article 76 If the court finds it to be necessary to do so, the court may have all or part of the oral argument statements recorded by using a sound recorder, upon petition or by its own authority. In this case, if the court finds it to be appropriate to do so, a record of oral argument must be prepared by transcribing the audio tapes.

(Restriction on Taking Photographs in a Court)

Article 77 Taking photographs, taking stenographic notes, making sound recording, making video recording, or broadcasting in court is not allowed without the permission of the presiding judge.

(Application, Mutatis Mutandis, to Interrogation by Court)

Article 78 The provisions of Article 160 (Record of Oral Argument) of the Code and the provisions of Article 66 through the preceding Article (Formal Matters to be Entered in a Record of Oral Argument; Substantial Matters to be Entered in a Record of Oral Argument; Recording onto Audio Tape, etc. in Lieu of Stating in a Record; Citation and Attachment of a Document; Stenographic Notes of Statements; Preparation of a Stenographic Record; Citation and Attachment of a Stenographic Record; Citation and Attachment of Stenographic Notes; Transcription of Stenographic Notes; Oral Translation of Stenographic Notes; Recording of Statements in Oral Argument; Restriction on Taking Photographs in a Court) apply mutatis mutandis to an interrogation by the court, an examination of evidence conducted other than on the date for oral argument, and proceedings conducted by an authorized judge or a commissioned judge.

## **Section 2 Briefs**

(A Brief; Article 161 of the Code)

Article 79 (1) A written answer or any other brief must be submitted to the court with a necessary period left for the opponent to make preparations with regard to the matters contained therein.

(2) When allegations are made concerning the facts in a brief, allegations concerning the factual circumstances that are the reason for action, or that are a part of defense or counterdefense, and allegations on the factual circumstances relevant thereto must be stated separately, insofar as possible.

(3) In cases of denying in a brief any facts alleged by the opponent, the reason therefor must be stated therein.

(4) In the cases prescribed in paragraph (2), evidence must be stated for the

respective grounds that require proof.

(A Written Answer)

Article 80 (1) A written answer must contain the answer to the object of claim, contain approval or disapproval of the factual circumstances stated in the complaint, and the factual circumstances that are a part of defense in a concrete manner, and contain material facts relevant to the factual circumstances stated in the complaint and evidence for the respective grounds that require proof. If it is not possible to contain them due to unavoidable circumstances, a brief containing them must be submitted promptly after the written answer is submitted.

(2) A written answer must have a copy of material documentary evidence attached to it for grounds that require proof. If it is not possible to attach that copy due to unavoidable circumstances, that copy must be submitted promptly after the written answer is submitted.

(3) The provisions of Article 53 (Matters to be Contained in Complaint), paragraph (4) apply mutatis mutandis to a written answer.

(Counterargument to an Answer)

Article 81 If the plaintiff is required to make a counterargument due to the submission of an answer by the defendant, the plaintiff must promptly submit a brief that contains approval or disapproval of the factual circumstances contained in the written answer and the factual circumstances that are a part of counterdefense in a concrete manner, and contains material facts relevant to the facts contained in the written answer and evidence for the respective grounds that require proof. The brief must have a copy of significant documentary evidence attached to it for grounds that require proof.

(Handling of a Document Cited in a Brief)

Article 82 (1) A party who has cited a document in a brief must submit a copy thereof upon the request of the court or the opponent.

(2) The party set forth in the preceding paragraph must carry out direct sending of the copy set forth in the same paragraph.

(Direct Sending of a Brief)

Article 83 (1) A party must carry out direct sending of a brief while leaving the period set forth in Article 79 (A Brief), paragraph (1).

(2) The opponent to whom the direct sending of a brief was carried out pursuant to the provisions of the preceding paragraph must carry out direct sending of a document containing the fact that the opponent has received the brief, and also submit such a document to the court.

- (3) The provisions of the preceding paragraph does not apply if a party has submitted to the court a brief containing the opponent's statement to the effect that the opponent has received the brief.

(Inquiry to an Opponent; Article 163 of the Code)

Article 84 (1) An inquiry under Article 163 (Inquiry to an Opponent) of the Code and a response thereto is made by sending a written inquiry and written response, respectively, to the opponent. In this case, if the opponent has an agent, the written inquiry is to be sent to the agent.

- (2) The written inquiry set forth in the preceding paragraph is to contain the following matters, and the party or their agent is to affix their name and seal:
- (i) the name of the party and their agent;
  - (ii) indication of the case;
  - (iii) indication of the court before which the suit is pending;
  - (iv) the date;
  - (v) matters that are inquired into (hereinafter referred to as the "matters inquired into" in this Article) and the necessity for the inquiry;
  - (vi) the fact that the inquiry is made pursuant to the provisions of Article 163 of the Code;
  - (vii) the period in which a response should be made; and
  - (viii) the address, postal code and facsimile number of the person making the inquiry.
- (3) The written response set forth in paragraph (1) is to contain the matters listed in items (i) through (iv) of the preceding paragraph, and responses to the matters inquired into; and the party or their agent is to affix their name and seal thereto. In this case, if, among the matters inquired into, there are any matters on which the party refuses to make a response due to the reason that the inquiry falls under those set forth in any of the items of Article 163 of the Code, the relevant provisions are also to be contained in that written response.
- (4) The matters inquired into are to be stated in an itemized form, and the response to the matters inquired into is to be stated in accordance with the itemization of the matters inquired into and specifically, insofar as possible.

(Obligation of Research)

Article 85 In order to make allegations and show proof thoroughly, a party must research, in advance, facts concerning witnesses and any other evidence in detail.

### **Section 3 Proceedings to Arrange Issues and Evidence**

#### **Subsection 1 Preliminary Oral Arguments**

(Entries of Facts to be Proven in a Record; Article 165 of the Code)

Article 86 (1) If, upon closing preliminary oral arguments, facts to be proven through the subsequent examination of evidence have been confirmed, and the court finds it to be appropriate to do so, the court must have the court clerk enter those facts in the record of preliminary oral arguments.

(2) If, upon closing preliminary oral arguments, the presiding judge is to have the parties submit a document summarizing the issues and evidence as arranged through the preliminary oral arguments, the presiding judge may specify the period for submitting that document.

(A Method of Explanation by a Party under Article 167 of the Code)

Article 87 (1) The explanation by a party under Article 167 (Presenting Allegations and Evidence after Close of Preliminary Oral Arguments) of the Code must be provided in writing, except in cases of providing the explanation orally on an appearance date.

(2) If the explanation set forth in the preceding paragraph was provided orally on an appearance date, the opponent may request the party who has provided the explanation to deliver a document stating the contents of that explanation.

### **Subsection 2 Preparatory Proceedings**

(A Record of Preparatory Proceedings; Article 170 of the Code)

Article 88 (1) Based on the statements by the parties, a record of preparatory proceedings must contain the matters set forth in Article 161 (A Brief), paragraph (2) of the Code, with any request for offer of evidence in particular made clear.

(2) When conducting proceedings on a date for preparatory proceedings by a method that enables the court and both parties to communicate simultaneously with one another by audio transmissions, the court or an authorized judge must confirm the called party and their location.

(3) If the proceedings set forth in the preceding paragraph have been conducted, a statement to that effect and the telephone number of the called party must be entered in the record of preparatory proceedings. In this case, the location of the called party may be entered in addition to the telephone number of that party.

(4) In addition to what is prescribed in paragraph (1) and the preceding paragraph, the provisions of Article 160 (Record of Oral Argument) of the Code and the provisions of these Rules concerning a record of oral argument apply mutatis mutandis to a record of preparatory proceedings.

(Statement of an Outcome of Preparatory Proceedings; Article 173 of the Code)



Article 89 If the outcome of preparatory proceedings is stated at oral argument after the conclusion of preparatory proceedings, the facts to be proven through the subsequent examination of evidence must be made clear.

(Application, Mutatis Mutandis, of Provisions on Preliminary Oral Arguments;  
Article 170 of the Code)

Article 90 The provisions of Article 63 (A Method of Giving Explanation Other Than on the Date for Oral Argument), Article 65 (Notice to Prohibit a Litigation Representative from Making Statements) and the preceding Subsection (Preliminary Oral Arguments) apply mutatis mutandis to preparatory proceedings.

### **Subsection 3 Written Preparatory Proceedings**

(Consultation by a Method of Communication through Audio Transmissions;  
Article 176 of the Code)

- Article 91 (1) In cases of holding a consultation by a method that enables the court and both parties to communicate simultaneously with one another by audio transmissions in written preparatory proceedings, the presiding judge or an authorized judge at a high court (hereinafter referred to as the "presiding judge, etc." in this Article) may designate the date of that consultation.
- (2) If a consultation has been held by the method set forth in the preceding paragraph, the presiding judge, etc. may have a court clerk prepare a record of the proceedings and have the clerk include the outcome of the consultation therein.
- (3) If a consultation has been held by the method set forth in paragraph (1) and the presiding judge, etc. has had a court clerk record its outcome, the presiding judge, etc. must have the fact that the consultation was held by the method set forth in the same paragraph and the telephone number of the called party contained in the record. In this case, the presiding judge, etc. may have the location of the called party contained in addition to the telephone number of that party.
- (4) The provisions of Article 88 (Record of Preparatory Proceedings), paragraph (2) apply mutatis mutandis to cases of holding a consultation by the method set forth in paragraph (1).

(Application, Mutatis Mutandis, of Provisions Concerning an Oral Argument;  
Article 176 of the Code)

Article 92 The provisions of Article 63 (A Method of Giving Explanation Other Than on a Date for Oral Argument) and Article 86 (Entries of Facts to be Proven in a Record), paragraph (2) apply mutatis mutandis to written

preparatory proceedings.

(Statement of Facts to be Proven in a Record; Article 177 of the Code)

Article 93 If, for a case for which written preparatory proceedings were concluded, facts to be proven through the subsequent examination of evidence have been confirmed on a date for oral argument, those facts must be entered in the record of oral argument.

(A Method of Explanation by a Party under Article 178 of the Code)

Article 94 (1) The explanation by a party under Article 178 (Presenting Allegations and Evidence after Conclusion of Written Preparatory Proceedings) of the Code must be provided in writing, except in cases of providing the explanation orally on an appearance date.

(2) The provisions of Article 87 (A Method of Explanation by a Party under Article 167 of the Code), paragraph (2) apply mutatis mutandis to cases in which the explanation set forth in the preceding paragraph was provided orally on an appearance date.

#### **Section 4 A Date for a Scheduling Conference**

(A Date for a Scheduling Conference)

Article 95 (1) The court may designate a date for a scheduling conference on which both parties are able to attend, other than on the date for oral argument, for the purpose of making its proceedings productive. On that date, the court and the parties are to confirm the relationship between the examination of evidence in oral argument and the issues, and hold a consultation on other necessary matters concerning the process of the suit.

(2) Withdrawal of an action or waiver or acknowledgment of a claim may also be made on a date for a scheduling conference.

(3) The provisions of Article 261 (Withdrawal of Action), paragraph (4) and paragraph (5) of the Code apply mutatis mutandis to the withdrawal of an action set forth in the preceding paragraph.

(A Date for a Scheduling Conference by a Method of Communication through Audio Transmissions)

Article 96 (1) If a party resides in a remote place or in any other cases in which the court finds it to be appropriate to do so, the court may conduct the proceedings on a date for a scheduling conference by a method that enables the court and both parties to communicate simultaneously with one another by audio transmissions, after hearing the opinions of the parties; provided, however, that this is limited to cases in which either of the parties appears on

that date.

- (2) A party who has participated in the proceedings set forth in the preceding paragraph without appearing on a date for a scheduling conference is deemed to have appeared on that date.
- (3) On a date for a scheduling conference, the party set forth in the preceding paragraph may not withdraw an action or waive or acknowledge a claim, notwithstanding the provisions of paragraph (2) of the preceding Article (A Date for a Scheduling Conference).
- (4) The provisions of Article 88 (A Record of Preparatory Proceedings), paragraph (2) apply mutatis mutandis to cases of conducting the proceedings set forth in paragraph (1).

(A Date for a Scheduling Conference Out of Court)

Article 97 If the court finds it to be appropriate to do so, the court may conduct the proceedings on a date for a scheduling conference out of court.

(A Date for a Scheduling Conference by an Authorized Judge)

Article 98 The court may have an authorized judge conduct the proceedings on a date for a scheduling conference.

### **Chapter III Evidence**

#### **Section 1 General Provisions**

(An Offer of Evidence; Article 180 of the Code)

Article 99 (1) Evidence must be offered by specifically and clearly indicating the fact to be proven thereby and the relationship between that fact and the evidence.

- (2) The provisions of Article 83 (Direct Sending of a Brief) also apply to a document stating an offer of evidence.

(Collective Requests for Examination of Witnesses and Parties; Article 182 of the Code)

Article 100 Requests for the examination of witnesses and the parties must be made collectively, insofar as possible.

(Preparation for Examination of Evidence)

Article 101 With regard to a case in which proceedings to arrange issues and evidence have already been conducted, the court must make preparations so as to be able to conduct an examination of evidence immediately on the first date for oral argument after the close or conclusion of the proceedings to arrange issues and evidence.

(A Period for Submission of Documents)

Article 102 Documents that are planned to be used in the examination of witnesses or the parties or in the oral statement of opinions by expert witnesses must be submitted a reasonable period before the time of the commencement of the examination or statement of opinions, except for those that are to be used as evidence for denying the credibility of statements by witnesses, etc.; provided, however, that, if it is not possible to submit those documents, it is sufficient to submit a copy thereof.

(Commissioning Procedures for Examination of Evidence in a Foreign Country;  
Article 184 of the Code)

Article 103 The commissioning procedures for the examination of evidence to be conducted in a foreign country are carried out by the presiding judge.

(Notice of Recommissioning of Examination of Evidence; Article 185 of the  
Code)

Article 104 If a commissioned judge has further commissioned the examination of evidence to another district court or summary court, a court clerk of the court to which the commissioned judge belongs must notify the court in charge of the case and the parties to that effect.

(Forwarding a Record of Commissioned Examination of Evidence; Article 185 of  
the Code)

Article 105 A court clerk of the court to which the commissioned judge belongs must forward a record concerning the examination of evidence to a court clerk of the court in charge of the case.

## **Section 2 Examination of Witness**

(A Request for Examination of a Witness)

Article 106 A request for the examination of a witness must be made with the witness designated and the expected time required for the examination made clear.

(Statements of Matters for Examination)

Article 107 (1) If the examination of a witness is requested, two copies of a statement of matters for examination (meaning a document stating the matters for examination; the same applies hereinafter) must be submitted at the same time; provided, however, that it is sufficient to submit those copies within a period specified by the presiding judge, if there are unavoidable grounds

therefor.

- (2) The matters for examination must be stated individually and specifically insofar as possible.
- (3) A party who is making the request set forth in paragraph (1) must carry out direct sending of a statement of matters for examination.

(Matters to be Contained in a Writ of Summons)

Article 108 A writ of summons for a witness must contain statements of the following matters and have a statement of matters for examination attached to it:

- (i) indication of the parties;
- (ii) the date, time and place for appearance; and
- (iii) legal sanction against a failure to appear.

(Ensuring Appearance of a Witness)

Article 109 If an order to examine a witness has been issued, the party who has requested the examination must endeavor to have the witness appear on an appearance date.

(Notification of Nonappearance)

Article 110 If circumstances that prevent a witness from appearing on an appearance date have arisen, the witness must notify the fact immediately while making the circumstances clear.

(Subpoena; Article 194 of the Code)

Article 111 The provisions of the Rules of Criminal Procedure (Rules of the Supreme Court No. 32 of 1948) concerning subpoenas apply mutatis mutandis to a subpoena issued to a witness who fails to appear without reasonable grounds.

(An Oath; Article 201 of the Code)

- Article 112 (1) The court must have a witness swear under oath before examination; provided, however, that the court may have a witness swear under oath after examination if any special circumstances exist.
- (2) A witness must stand and swear under oath solemnly.
  - (3) The presiding judge must have the witness read aloud the written oath and have the witness sign and seal it. If the witness is unable to read the written oath aloud, the presiding judge must have a court clerk read it aloud.
  - (4) The written oath set forth in the preceding paragraph must contain the fact that the person swears to tell the truth according to the dictates of conscience, without hiding anything or adding anything.

(5) Before the swearing under oath, the presiding judge must explain the purpose of swearing under oath to the witness and inform that witness of the punishment for perjury.

(Order of Examination; Article 202 of the Code)

Article 113 (1) A witness is examined by the parties in the following order:

- (i) examination by the party who has requested the examination (direct examination);
  - (ii) examination by the opponent (cross examination); and
  - (iii) further examination by the party who has requested the examination (redirect examination).
- (2) A party may conduct further examination with the permission of the presiding judge.
- (3) The presiding judge may examine a witness personally or allow examination by a party not only under Article 202 (Order of Examination), paragraph (1) and paragraph (2) of the Code, but also whenever the presiding judge finds it to be necessary to do so.
- (4) An associate judge may examine a witness, after notifying the presiding judge of this.

(Restriction of Questioning)

Article 114 (1) The examinations listed in the following items are to be conducted for the matters respectively specified in those items:

- (i) direct examination: matters to be proved and any matters relevant thereto;
  - (ii) cross examination: matters mentioned in the direct examination and any matters relevant thereto, and matters concerning credibility of the testimony; and
  - (iii) redirect examination: matters mentioned in the cross examination and any matters relevant thereto.
- (2) The presiding judge, upon petition or by their own authority, may restrict questioning in any of the examinations listed in the items of the preceding paragraph, if the presiding judge finds that the questioning is on a matter other than those specified in the items of the same paragraph and is inappropriate.

Article 115 (1) Questions must be asked individually and specifically insofar as possible.

- (2) The parties must not ask the following questions; provided, however, that this does not apply to the questions listed in items (ii) through (vi) if reasonable grounds exist:
- (i) a question that insults or confuses the witness;

- (ii) a leading question;
  - (iii) a question that overlaps with any previous question;
  - (iv) a question unrelated to the issues;
  - (v) a question seeking statement of an opinion; and
  - (vi) a question seeking statements on facts which the witness has not experienced directly.
- (3) The presiding judge, upon petition or by their own authority, may restrict questioning if the presiding judge finds it to be in violation of the provisions of the preceding paragraph.

(Using a Document, etc. in Questions)

- Article 116 (1) With the permission of the presiding judge, a party may ask questions to a witness while using a document, drawing, photograph, model, equipment or any other appropriate object (hereinafter referred to as a "document, etc." in this Article).
- (2) In the case set forth in the preceding paragraph, if the document, etc. has not been subject to an examination of evidence, the opponent must be given an opportunity to inspect it before the witness is asked those questions; provided, however, that this does not apply if the opponent has no objection.
- (3) The presiding judge may request a party to submit a copy of a document, etc., if the presiding judge finds it necessary to do so for attaching that copy to the record or for any other purpose.

(An Objection; Article 202 of the Code)

- Article 117 (1) A party may make an objection to a judicial decision that the presiding judge has made under Article 113 (Order of Examination), paragraph (2) and paragraph (3), Article 114 (Restriction of Questioning), paragraph (2), Article 115 (Restriction of Questioning), paragraph (3), and paragraph (1) of the preceding Article (Using a Document, etc. in Questions).
- (2) The court must immediately make a judicial decision on the objection set forth in the preceding paragraph in the form of an order.

(Simultaneous Examination)

- Article 118 (1) If the presiding judge finds it to be necessary to do so, the presiding judge may direct a simultaneous examination of a witness and another witness.
- (2) When having directed a simultaneous examination pursuant to the provisions of the preceding paragraph, the presiding judge must have a statement to that effect entered in the record.
- (3) When carrying out a simultaneous examination, the presiding judge may examine the witnesses first.

(Writing Characters)

Article 119 If the presiding judge finds it to be necessary to do so, the presiding judge may have a witness put something in writing or carry out any other necessary acts.

(Handling of Witnesses to be Examined Later)

Article 120 If the presiding judge finds it to be necessary to do so, the presiding judge may allow a witness who is to be examined later to be present in court.

(A Measure to Have an Observer Leave Court)

Article 121 If the presiding judge finds that a witness will be intimidated and be unable to make sufficient statements in front of a specific observer (including cases where the measure prescribed in paragraph (2) of Article 203-3 (A Shielding Measure) of the Code is taken and cases where the method prescribed in Article 204 (Examination through Communication by Audio and Visual Transmissions) of the Code is used), the presiding judge may have that observer leave the court while the witness makes their statements, after hearing the opinions of the parties as to the relevant measure.

(Reading Aloud a Question or Response Asked or Made by Means of a Document; Article 154 of the Code)

Article 122 When having asked a question in writing of a witness who is unable to hear or having had a witness who is unable to speak make a response in writing, the presiding judge may have a court clerk read aloud the document in which the question or response is stated.

(A Measure to Have a Witness Accompanied; Article 203-2 of the Code)

Article 122-2 (1) When taking the measure prescribed in Article 203-2 (A Measure to Have a Witness Accompanied), paragraph (1) of the Code, the presiding judge must hear the opinions of the parties and the witness.

(2) If the measure set forth in the preceding paragraph has been taken, a statement to that effect, the name of the person who accompanied the witness, and the relationship between that person and the witness must be entered in the record.

(A Shielding Measure; Article 203-3 of the Code)

Article 122-3 (1) When taking the measure prescribed in Article 203-3 (Shielding Measure), paragraph (1) or paragraph (2) of the Code, the presiding judge must hear the opinions of the parties and the witness.

(2) If the measure set forth in the preceding paragraph has been taken, a



statement to that effect must be entered in the record.

(Examination through Communication by Audio and Visual Transmissions;  
Article 204 of the Code)

- Article 123 (1) In order to conduct the examination by the method prescribed in Article 204 (Examination through Communication by Audio and Visual Transmissions) of the Code in the cases set forth in item (i) of the same Article, the court hears the opinions of the parties, has the parties appear at the court in charge of the case, and has the witness appear at another court in which equipment necessary for the examination is installed.
- (2) In order to conduct the examination by the method prescribed in Article 204 of the Code in the cases set forth in item (ii) of the same Article, the court hears the opinions of the parties and the witness, has the parties appear at the court in charge of the case, and has the witness appear at the court in charge of the case or at another court in which equipment necessary for the examination is installed. In this case, if the witness is to appear at the court in charge of the case, the witness is to be seated at a place other than the place where the presiding judge and the parties are seated for examination of the witness.
- (3) In cases of conducting the examination set forth in the preceding two paragraphs, a facsimile may be used to send a copy of a document which is to be presented or to take any other measures necessary for implementing the examination.
- (4) If the examination set forth in paragraph (1) or paragraph (2) has been conducted, a statement to that effect and an indication of the court at which the witness appeared (excluding cases in which the court was that in charge of the case) must be entered in the record.

(Submission of Paper Documents in Lieu of Examination; Article 205 of the  
Code)

- Article 124 (1) In cases of having a witness submit a paper document in lieu of witness examination pursuant to the provisions of Article 205 (Submission of Paper Documents in lieu of Examination) of the Code, the court may have the party in opposition to the party who has requested the examination submit a document stating matters for which that opposite party desires to have responses made in the document to be submitted by the witness.
- (2) The presiding judge may specify a period in which a witness is to submit a paper document in lieu of witness examination.
- (3) A witness must sign and seal the document set forth in the preceding paragraph.

(Powers of an Authorized Judge; Article 206 of the Code)

Article 125 If an authorized judge or commissioned judge examines a witness, that judge performs the duties of the court and the presiding judge.

### **Section 3 Examination of Parties**

(Simultaneous Examination)

Article 126 If the presiding judge finds it to be necessary to do so, the presiding judge may direct a simultaneous examination of a party and either another party or a witness.

(Application, Mutatis Mutandis, of Provisions Concerning Examination of a Witness; Article 210 of the Code)

Article 127 The provisions of the preceding Section (Examination of Witness) apply mutatis mutandis to the examination of a party, except as otherwise provided; provided, however, that this does not apply to the provisions of Article 111 (Subpoena), Article 120 (Handling of Witnesses to be Examined Later) and Article 124 (Submission of Papare Documents in Lieu of Examination).

(Examination of a Statutory Agent; Article 211 of the Code)

Article 128 The provisions of these Rules concerning the examination of a party apply mutatis mutandis to a statutory agent who represents the party in a suit.

### **Section 4 Expert Testimony**

(Matters for Expert Testimony)

Article 129 (1) If expert testimony is requested, a document stating the matters for which expert testimony is sought must be submitted at the same time; provided, however, that it is sufficient to submit that document within a period specified by the presiding judge, if there are unavoidable grounds therefor.

(2) A party who is making the request set forth in the preceding paragraph must carry out direct sending of the document set forth in the same paragraph.

(3) If the opponent wishes to state opinions on the document set forth in paragraph (1), the opponent must submit a document stating the opinions to the court.

(4) The court must specify the matters for expert testimony based on the document set forth in paragraph (1) while also giving consideration to the opinions set forth in the preceding paragraph. In this case, a document stating the matters for expert testimony must be sent to the expert witness.

(Consultation on Matters Necessary for Expert Testimony)

Article 129-2 On a date for oral argument or preparatory proceedings or on a date for a scheduling conference, the court may hold a consultation with the parties and the expert witness concerning the contents of the matters for expert testimony, the materials necessary for expert testimony, and other matters that are necessary for expert testimony. The same applies to written preparatory proceedings.

(Method of Filing a Petition for Challenge; Article 214 of the Code)

Article 130 (1) A petition for challenge to an expert witness must be filed in writing, except in cases of filing the petition on an appearance date.  
(2) A prima facie showing must be made with regard to the grounds for challenge.

(A Method of Swearing under Oath)

Article 131 (1) A written oath must contain a statement to the effect that the person swears to give expert testimony sincerely according to the dictates of conscience.  
(2) It is also possible to have an expert witness submit a written oath to the court in order to swear under oath. In this case, the presiding judge sends that expert witness a document including explanation on the purpose of swearing under oath and information on the punishment for false expert testimony.

(A Method for Making Statements for an Expert Witness; Article 215 of the Code)

Article 132 (1) The presiding judge may have expert witnesses state their opinions jointly or individually.  
(2) In cases of having an expert witness state their opinions in writing, the presiding judge may specify a period in which that document should be submitted after hearing the opinion of the expert witness.

(Matters for Seeking Additional Opinions of an Expert Witness; Article 215 of the Code)

Article 132-2 (1) If the petition set forth in Article 215 (A Method of Making Statements for an Expert Witness), paragraph (2) of the Code is filed, a document stating the matters for seeking additional opinions of the expert witness must be submitted at the same time; provided, however, that it is sufficient to submit that document within a period specified by the presiding judge, if there are unavoidable grounds therefor.  
(2) When having an expert witness state additional opinions by the court's authority, the court may have the parties submit a document stating the matters for which they seek additional opinions of the expert witness, in advance.

- (3) A party who is submitting the document set forth in the preceding two paragraphs must carry out direct sending of that document.
- (4) If the opponent wishes to state opinions on the document set forth in paragraph (1) or paragraph (2), the opponent must submit a document stating their opinions to the court.
- (5) The court specifies the matters for which the court seeks additional opinions of the expert witness after giving consideration to the contents of the document set forth in paragraph (1) or paragraph (2) and the opinions set forth in the preceding paragraph. In this case, a document stating those matters must be sent to the expert witness.

(Order of Asking Questions; Article 215-2 of the Code)

- Article 132-3 (1) The presiding judge may ask questions to an expert witness personally or allow a party to ask questions not only under Article 215-2 (Questions to Expert Witness), paragraph (2) and paragraph (3) of the Code, but also whenever the presiding judge finds it to be necessary to do so.
- (2) An associate judge may ask questions to an expert witness, after notifying the presiding judge of this.
  - (3) An expert witness is asked questions by the parties in the following order; provided, however, that, if both parties have requested expert testimony, the order in which the parties ask questions is specified by the presiding judge:
    - (i) questions by the party who has requested the expert testimony;
    - (ii) questions by the opponent; and
    - (iii) additional questions by the party who has requested the expert testimony.
  - (4) A party may ask additional questions with the permission of the presiding judge.

(Restriction of Questioning; Article 215-2 of the Code)

- Article 132-4 (1) Questions asked to an expert witness are to be on matters necessary for making the contents of the opinions of the expert witness clear or for confirming the grounds therefor.
- (2) Questions must be asked specifically insofar as possible.
  - (3) The parties must not ask the following questions; provided, however, that this does not apply to the questions listed in items (ii) and (iii) in cases in which reasonable grounds exist:
    - (i) a question that insults or confuses the expert witness;
    - (ii) a leading question;
    - (iii) a question that overlaps with any previous question; and
    - (iv) a question unrelated to the matters prescribed in paragraph (1).
  - (4) The presiding judge, upon petition or by its own authority, may restrict questioning if the presiding judge finds it to be in violation of the provisions of

the preceding paragraph.

(Statements Made Through Communication Through Audio and Visual Transmissions; Article 215-3 of the Code)

Article 132-5 (1) When having an expert witness state their opinions by the method prescribed in Article 215-3 (Statements Made through Communication Through Audio and Visual Transmissions) of the Code, the court does so after hearing the opinions of the parties, having the parties appear at the court in charge of the case, and having the expert witness appear at another place where equipment necessary for the procedure is installed and which the court finds appropriate.

(2) In the case set forth in the preceding paragraph, a facsimile may be used to send a copy of a document which is to be presented or to take any other measures necessary for implementing the procedure.

(3) If an expert witness has been made to state their opinions by the method set forth in paragraph (1), a statement to that effect and an indication of the place where the expert witness appeared must be entered in the record.

(Questions by an Expert Witness)

Article 133 If it is necessary to do so for giving expert testimony, an expert witness may attend the trial, make a request for the examination of a witness or a party to the presiding judge, or with the permission of the presiding judge, ask questions to those persons directly.

(An Objection; Article 215-2 of the Code)

Article 133-2 (1) A party may make an objection to a judicial decision of the presiding judge that has been made under paragraph (1), the proviso to paragraph (3), and paragraph (4) of Article 132-3 (An Order of Asking Questions), Article 132-4 (Restriction of Questioning), paragraph (4), the preceding Article (Questions by an Expert Witness), and Article 116 (Using a Document in Questions), paragraph (1) as applied mutatis mutandis pursuant to Article 134 (Application, Mutatis Mutandis, of Provisions Concerning Examination of a Witness).

(2) The court must immediately make a judicial decision on the objection set forth in the preceding paragraph in the form of an order.

(Application, Mutatis Mutandis, of Provisions Concerning Examination of a Witness; Article 216 of the Code)

Article 134 The provisions of Article 108 (Matters to be Contained in a Writ of Summons) apply mutatis mutandis to a writ of summons issued to an expert witness; the provisions of Article 110 (Notification of Nonappearance) apply

mutatis mutandis to cases in which grounds that prevent an expert witness from appearing on an appearance date have risen; the provisions of Article 112 (An Oath), paragraph (2), paragraph (3) and paragraph (5) apply mutatis mutandis to cases of having an expert witness swear under oath; the provisions of Article 116 (Using a Document, etc. in Questions), Article 118 (Simultaneous Examination), Article 119 (Writing of Characters), Article 121 (A Measure to Have an Observer Leave Court) and Article 122 (Reading Aloud of a Question or Response Asked or Made by Means of a Document) apply mutatis mutandis to cases of having an expert witness state their opinions orally; and the provisions of Article 125 (Powers of an Authorized Judge) apply mutatis mutandis to cases in which an authorized judge or commissioned judge has an expert witness state their opinions.

(Expert as a Witness; Article 217 of the Code)

Article 135 The provisions concerning the examination of a witness apply to the examination of an expert as a witness.

(Application, Mutatis Mutandis, to Commissioning Expert Testimony; Article 218 of the Code)

Article 136 The provisions of this Section, except for the provisions concerning swearing under oath, apply mutatis mutandis to the commissioning expert testimony.

### **Section 5 Examination of Documentary Evidence**

(A Request for Examination of Documentary Evidence; Article 219 of the Code)

Article 137 (1) When submitting a document and requesting the examination of documentary evidence, a party, by the time of making the request, must submit two copies of the document (or if there are two or more opponent parties to whom those document should be sent, the number of the copies is that of the relevant parties plus one); and must submit two copies of the description of evidence which states the title of the document, the person who prepared the document, and the facts to be proved clearly (or if there are two or more opponent parties to whom those document should be sent, the number of the copies is that of the relevant parties plus one), unless it is clear from the statements in the document; provided, however, that it is sufficient to submit those copies within a period specified by the presiding judge, if there are unavoidable grounds therefor.

(2) The party who is making the request set forth in the preceding paragraph may carry out direct sending of the copy of the document and the description of evidence related to that document which the party is to send to the opponent.

(Attaching a Translation)

Article 138 (1) When submitting a document prepared in a foreign language and requesting the examination of documentary evidence, a party must attach a translation of the part of the document for which the party seeks examination to that document. In this case, if the party carries out the direct sending under paragraph (2) of the preceding Article (A Request for Examination of Documentary Evidence), the party must also carry out direct sending of that translation at the same time.

(2) If the opponent wishes to state opinions on the accuracy of the translation set forth in the preceding paragraph, the opponent must submit a document stating their opinions to the court.

(A Period for Submission of a Copy of Documentary Evidence; Article 162 of the Code)

Article 139 If, pursuant to the provisions of Article 162 (Period for Submission of a Brief) of the Code, the presiding judge has specified a period in which a request for examination of documentary evidence (limited to the request that is made through submission of a document) concerning a specific matter should be made, the party must submit a copy of the documentary evidence before the expiration of that period.

(A Method of Filing a Petition for an Order to Submit a Document; Article 221 of the Code)

Article 140 (1) A petition for an order to submit a document must be filed in writing.

(2) If the opponent wishes to state opinions on the petition set forth in the preceding paragraph, the opponent must submit a document stating their opinions to the court.

(3) The provisions of Article 99 (An Offer of Evidence), paragraph (2) and the preceding two paragraphs apply mutatis mutandis to a request under Article 222 (Procedures for Identifying a Document), paragraph (1) of the Code.

(Retention of Presented Documents; Article 223 of the Code)

Article 141 If the court finds it to be necessary to do so, the court may retain temporarily a document that has been presented pursuant to the provisions of the first sentence of Article 223 (Order to Submit a Document), paragraph (6) of the Code.

(A Record of Examination of Evidence by an Authorized Judge)

Article 142 (1) In cases of having an authorized judge or commissioned judge

examine documentary evidence, the court may specify the matters to be entered in the record concerning the examination of evidence.

- (2) A court clerk of the court to which the authorized judge or commissioned judge belongs may attach a copy of the document set forth in the preceding paragraph to the record set forth in the same paragraph.

(A Method of Submission of a Document)

Article 143 (1) The original, an authenticated copy or a certified transcript of the document must be used to submit or send it.

- (2) Notwithstanding the provisions of the preceding paragraph, the court may order the original to be submitted or sent.

(Handling in Cases in Which a Request for Examination of Documentary Evidence was Made for a Transcription of an Audio Tape, etc.)

Article 144 A party who has requested the examination of documentary evidence by submitting a document containing the transcription of an audio tape, etc. must deliver a copy of the audio tape, etc. to the opponent, if the opponent has requested delivery of it.

(Clear Indication of Reason in Cases of Denying Authenticity of Creation of a Document)

Article 145 If the authenticity of the creation of a document is denied, the reason therefor must be made clear.

(A Record Related to a Document to be Used for Comparison of Handwriting; Article 229 of the Code)

Article 146 (1) The original, transcript, or extract of a document used for the comparison of handwriting or seal impressions prescribed in Article 229 (Proof by Comparison of Handwriting), paragraph (1) of the Code must be attached to the record.

- (2) The provisions of Article 141 (Retention of Presented Documents) apply *mutatis mutandis* to the submission of a document or any other object under Article 223 (Order to Submit a Document), paragraph (1) of the Code as applied *mutatis mutandis* pursuant to Article 229, paragraph (2) of the Code, and the provisions of Article 142 (A Record of Examination of Evidence by an Authorized Judge) apply *mutatis mutandis* to a record in cases of having an authorized judge or commissioned judge examine a document or any other object that has been submitted or sent pursuant to the provisions of Article 219 (Request for Examination of Documentary Evidence), Article 223, paragraph (1), or Article 226 (Commission to Send Document) of the Code as applied *mutatis mutandis* pursuant to Article 229, paragraph (2) of the Code.



(Application, Mutatis Mutandis, to Objects Equivalent to Documents; Article 231 of the Code)

Article 147 The provisions of Article 137 through the preceding Article (A Request for Examination of Documentary Evidence; Attaching a Translation; A Period for Submission of a Copy of Documentary Evidence; A Method of Filing a Petition for an Order to Submit a Document; Retention of Presented Documents; A Record of Examination of Evidence by an Authorized Judge; A Method of Submission of a Document; Handling in Cases in which a Request for Examination of Documentary Evidence was Made for a Transcription of an Audio Tape, etc.; Clear Indication of Reason in Cases of Denying Authenticity of Creation of a Document; and A Record Related to a Document to be Used for Comparison of Handwriting) apply mutatis mutandis to the objects prescribed in Article 231 (Application, Mutatis Mutandis, to Objects Equivalent to Documents) of the Code, except as otherwise provided.

(Matters to be Stated in a Description of Evidence for a Photograph or Audio Tape, etc.)

Article 148 If the examination of evidence for a photograph or audio tape, etc. is requested, what is photographed or recorded and the date and place of the taking of the photograph or making the recording must also be made clear in the description of evidence.

(Submission of a Document Explaining Contents of an Audio Tape, etc.)

Article 149 (1) A party who has requested the examination of evidence for an audio tape, etc., upon the request of the court or the opponent, must submit a document explaining the contents of the audio tape, etc. (including a document containing the transcription of the audio tape, etc.).

(2) The party set forth in the preceding paragraph must carry out direct sending of the document set forth in the same paragraph.

(3) If the opponent wishes to state opinions on the document set forth in paragraph (1), the opponent must submit a document stating their opinions to the court.

## **Section 6 Observation**

(A Method for Requesting Observation)

Article 150 An observation must be requested with the subject matter of the observation indicated.

(Presentation of the Subject Matter of Observation; Article 232 of the Code)

Article 151 The provisions of Article 141 (Retention of Presented Documents) apply mutatis mutandis to the presentation of the subject matter of an observation, and the provisions of Article 142 (A Record of Examination of Evidence by an Authorized Judge) apply mutatis mutandis to a record in cases of having an authorized judge or commissioned judge conduct an observation of the subject matter that has been presented or sent.

### **Section 7 Preservation of Evidence**

(Examination of Evidence in the Procedure for Preservation of Evidence;  
Article 234 of the Code)

Article 152 The provisions of this Chapter apply to the examination of evidence in the procedure for the preservation of evidence.

(A Method of Filing a Petition for Preservation of Evidence; Article 235 of the Code)

Article 153 (1) A petition for the preservation of evidence must be filed in writing.

(2) The document set forth in the preceding paragraph must state the following matters:

- (i) indication of the opponent;
- (ii) facts to be proven;
- (iii) evidence; and
- (iv) grounds for the preservation of evidence.

(3) A prima facie showing must be made with regard to the grounds for the preservation of evidence.

(Forwarding a Record of Preservation of Evidence)

Article 154 If the examination of evidence has been conducted for the preservation of evidence, a court clerk of the court that has examined the evidence must forward the record concerning the examination of evidence to a court clerk of the court where the case record of the primary suit exists.

### **Chapter IV Judgment**

(Form of Rendering; Article 252 of the Code)

Article 155 (1) A judgment is rendered by a method in which the presiding judge reads aloud the main text.

(2) If the presiding judge finds it to be appropriate to do so, the presiding judge may read aloud the reasons for the judgment or orally inform the relevant person of the summary thereof.

(3) Notwithstanding the provisions of the preceding two paragraphs, the rendering of a judgment under Article 254 (Special Provisions on Formality of Rendering), paragraph (1) of the Code is carried out by the method in which the presiding judge reads aloud the main text of the judgment and the gist of the reasons.

(Notice of a Date for Rendering the Judgment; Article 251 of the Code)

Article 156 A court clerk is to notify the parties of a date for rendering the judgment in advance; provided, however, that this does not apply in cases in which announcement of the date has been made on an appearance date or in cases of dismissing without prejudice an unlawful action of which a defect cannot be corrected, without oral argument.

(A Judgment Document; Article 253 of the Code)

Article 157 (1) The judges who have made the judgment must sign and seal the judgment document.

(2) If any of the judges constituting the panel has difficulty in signing and sealing the judgment document, another judge must sign and seal the judgment document while appending a supplementary note about the grounds therefor.

(Delivery to a Court Clerk)

Article 158 A judgment document must be delivered to a court clerk without delay after it is rendered, and the court clerk must affix a seal thereto while appending a supplementary note about the date of the rendition and the date of the delivery.

(Service of a Judgment Document; Article 255 of the Code)

Article 159 (1) A judgment document or the record set forth in Article 254 (Special Provisions on Formality of Rendering), paragraph (2) of the Code (including as applied mutatis mutandis pursuant to Article 374 (Rendition of Judgment), paragraph (2) of the Code) (hereinafter referred to as the "record in lieu of the judgment document") must be served within two weeks from the date on which the court clerk received the judgment document or from the date of rendering the judgment.

(2) A record in lieu of the judgment document may be served by serving an authenticated copy thereof.

(Form of Ordering Correction; Article 257 of the Code)

Article 160 (1) An order of correction must be appended as a supplementary note to the original and authenticated copy of the judgment document; provided,

however, that, if the court find it to be appropriate to do so, the court may prepare a written order and serve an authenticated copy thereof upon the parties, in lieu of appending the order as a supplementary note to the original and authenticated copy of the judgment document.

- (2) The provisions of the preceding paragraph apply mutatis mutandis to a supplemental order under Article 259 (Declaration of Provisional Execution), paragraph (5) of the Code.

(A Method of Filing a Petition set forth in Article 258, Paragraph (2) of the Code)

Article 161 If a judicial decision on the bearing of court costs is omitted, a petition seeking that decision must be filed in writing.

### **Chapter V Conclusion of a Suit Not by a Judicial Decision**

(Handling in Cases of Withdrawal of an Action; Article 261 of the Code)

Article 162 (1) A document of withdrawal of an action is served by serving the duplicate submitted by the person who has made the withdrawal.

- (2) If an action has been withdrawn and the consent of the opponent is not required, a court clerk must notify the opponent to the effect that the action has been withdrawn.

(Acceptance in Writing of Proposed Terms of Settlement; Article 264 of the Code)

Article 163 (1) If the court, an authorized judge, or a commissioned judge (hereinafter referred to as the "court, etc." in this Chapter) presents proposed terms of settlement based on Article 264 (Acceptance in writing of Proposed Terms of Settlement) of the Code, the court, etc. must do so by stating the proposed terms of settlement in a document. The effect prescribed in the same Article is to be appended as a supplementary note to that document.

- (2) In the case set forth in the preceding paragraph, if a document stating acceptance of the proposed terms of settlement has been submitted, the court, etc. must confirm the true intention of the party who has submitted that document.
- (3) If the parties are deemed to have reached a settlement pursuant to the provisions of Article 264 of the Code, a court clerk must state that settlement in the record. In this case, the court clerk must, without delay, notify the party who has submitted the document stating acceptance of the proposed terms of settlement to the effect that a settlement is deemed to have been reached.

(Terms of Settlement Determined by the Court, etc.; Article 265 of the Code)

Article 164 (1) The court, etc. must hear the opinions of the parties when intending to determine the terms of settlement pursuant to the provisions of Article 265 (Terms of Settlement Determined by the Court, etc.), paragraph (1) of the Code.

(2) If the parties are deemed to have reached a settlement pursuant to the provisions of Article 265, paragraph (5) of the Code, a court clerk must state that settlement in the record.

(3) In the case prescribed in the preceding paragraph, if the terms of settlement have been determined by an announcement other than that on an appearance date, the court, etc. is to have a court clerk prepare a record. In this case, a statement to the effect that the announcement has been given and the method of giving the announcement must also be entered in the record.

### **Chapter VI Special Provisions Concerning Large-Scale Litigation**

Article 165 Deleted.

(Notification of a Litigation Representative in Charge of Liaison)

Article 166 If a party has two or more litigation representatives in a large-scale litigation, the litigation representatives may appoint a person in charge of liaison from among them and notify the court to that effect in writing.

Article 167 Deleted.

### **Chapter VII Special Provisions Concerning Litigation Proceedings in a Summary Court**

(Forwarding a Case Record Due to Transfer Based on the Filing of a Counterclaim; Article 274 of the Code)

Article 168 The provisions of Article 9 (Forwarding a Record Due to Transfer) apply *mutatis mutandis* to cases in which a judicial decision of a transfer under Article 274 (Transfer Based on the Filing of a Counterclaim), paragraph (1) of the Code has become final and binding.

(A Record of Settlement Prior to the Filing of an Action; Article 275 of the Code)

Article 169 If a settlement has been reached prior to the filing an action, a court clerk must enter this in the record.

(Omission of Statements by a Witness, etc. in a Record)

Article 170 (1) Statements by a witness, etc. or the results of an observation may

be omitted from the entries in a record of oral argument at a summary court, with the permission of the judge. In this case, the parties may state their opinions if the judge gives the permission to them.

- (2) In cases of omitting statements from a record pursuant to the provisions of the preceding paragraph, at the direction of the judge or at the request of a party, a court clerk must record the statements of a witness, etc. or the results of an observation onto an audio tape, etc. for the use in court by the parties. In this case, at the request of a party, the court clerk must allow the reproduction of that audio tape, etc.

(Submission of Paper Documents in Lieu of Examination; Article 278 of the Code)

Article 171 The provisions of Article 124 (Submission of Paper Documents in Lieu of Examination) apply mutatis mutandis to cases of having a document submitted in lieu of examining a witness or a party or in lieu of having an expert witness state their opinions, pursuant to the provisions of Article 278 (Submission of Paper Documents in Lieu of Examination) of the Code.

(Questions by a Judicial Commissioner)

Article 172 If the judge finds it necessary to do so, the judge may allow a judicial commissioner to ask questions to a witness, etc. directly.

### **Part III Appeals**

#### **Chapter I An Appeal to the Court of Second Instance**

(Waiver of a Right to File an Appeal to the Court of Second Instance; Article 284 of the Code)

- Article 173 (1) In order to waive a right to file an appeal to the court of second instance, the relevant party must make its statement to the court of first instance if it is before the filing of an appeal to the court of second instance, and to the court where the case record exists if it is after the filing of an appeal to the court of second instance.
- (2) After the filing of an appeal to the court of second instance, the statement set forth in the preceding paragraph must be made along with the withdrawal of the appeal to the court of second instance.
- (3) If the statement set forth in paragraph (1) has been made, a court clerk must notify the opponent to that effect.

(Forwarding a Record due to the Filing of an Appeal to the Court of Second Instance)

Article 174 If an appeal to court of second instance has been filed, except in

cases in which the court of first instance has issued an order to dismiss that appeal without prejudice, a court clerk of the court of first instance must forward the case record to a court clerk of the court of second instance without delay.

(A Petition for an Appeal Stating Allegations and Evidence)

Article 175 A petition for an appeal stating allegations and evidence is also to serve as a brief.

(An Immediate Appeal against Direction to Dismiss a Petition for Appeal without Prejudice; Article 288 of the Code)

Article 176 The provisions of Article 57 (An Immediate Appeal against Direction to Dismiss a Complaint without Prejudice) apply mutatis mutandis to cases of filing an immediate appeal against a direction to dismiss a petition for an appeal without prejudice.

(Withdrawal of an Appeal to the Court of Second Instance; Article 292 of the Code)

Article 177 (1) If an appeal to the court of second instance is withdrawn, it must be withdrawn from the court where the case record exists.

(2) If an appeal to the court of second instance has been withdrawn, a court clerk must notify the opponent to that effect.

(An Incidental Appeal; Article 293 of the Code)

Article 178 The provisions concerning an appeal to the court of second instance apply mutatis mutandis to an incidental appeal.

(Application, Mutatis Mutandis, of Provisions Concerning Litigation Proceedings in First Instance; Article 297 of the Code)

Article 179 The provisions of Chapters I through VI (Actions; Oral Argument and Preparation Thereof; Evidence; Judgment; Conclusion of a Suit Not by Judicial Decision; and Special Provisions Concerning Large-Scale Litigation) of the preceding Part (Litigation Proceedings in First Instance) apply mutatis mutandis to the litigation proceedings in the second instance, except as otherwise provided.

(Application, Mutatis Mutandis, of Provisions Concerning Explanation under Article 167 of the Code; Article 298 of the Code)

Article 180 The provisions of Article 87 (A Method of Explanation by a Party under Article 167 of the Code) apply mutatis mutandis to the explanation by a party under Article 167 (Presenting Allegations and Evidence after Close of

Preliminary Oral Arguments) of the Code as applied mutatis mutandis pursuant to Article 298 (Effect of Procedural Acts Performed in First Instance), paragraph (2) of the Code; and the provisions of Article 94 (A Method of Explanation by a Party under Article 178 of the Code) apply mutatis mutandis to the explanation by a party under Article 178 (Presenting Allegations and Evidence after Close of Written Preparatory Proceedings) of the Code as applied mutatis mutandis pursuant to Article 298, paragraph (2) of the Code.

(A Period for Presenting Allegations and Evidence; Article 301 of the Code)  
Article 181 The provisions of Article 139 (A Period for Submission of a Copy of Documentary Evidence) apply mutatis mutandis to cases in which the presiding judge has specified a period in which a request for the examination of documentary evidence (limited to the request that is made through the submission of a document) should be made pursuant to the provisions of Article 301 (A Period for Presenting Allegations and Evidence), paragraph (1) of the Code; and the provision of Article 87 (A Method of Explanation by a Party under Article 167 of the Code), paragraph (1) apply mutatis mutandis to the explanation by a party under Article 301, paragraph (2) of the Code.

(A Document Stating Grounds for Revocation of the Judgment of First Instance)  
Article 182 If the grounds for seeking revocation or modification of the judgment of the first instance are not stated specifically in the petition for an appeal, the appellant must submit a document containing that statement to the court of second instance within fifty days from the filing of the appeal to the court of second instance.

(A Written Counterargument)  
Article 183 By specifying a reasonable period, the presiding judge may direct the appellee to submit a document stating their allegations against the grounds for seeking revocation or modification of the judgment of the first instance that are alleged by the appellant.

(Citation of a Judgment Document of First Instance)  
Article 184 Statement of facts and reasons in the judgment document of the second instance or in the record in lieu of the judgment document may be made by citing statements in the judgment document of the first instance or the record in lieu of that judgment document of the first instance.

(Forwarding a Record to the Court of First Instance)  
Article 185 If a suit has concluded in the second instance, a court clerk of the



court of second instance must forward the case record to a court clerk of the court of the first instance.

## **Chapter II A Final Appeal**

(Application, Mutatis Mutandis, of Provisions Concerning an Appeal to the Court of Second Instance; Article 313 of the Code)

Article 186 The provisions of the preceding Chapter (Appeals to the Court of Second Instance) apply mutatis mutandis to a final appeal and the litigation proceedings in the final appellate instance, except as otherwise provided.

(Prepayment of Expenses in Cases of Filing a Final Appeal)

Article 187 If a final appeal is filed, in addition to the expenses necessary for serving a petition for a final appeal, an estimated amount of the expenses necessary for serving a written notice of filing a final appeal, a statement of reasons for a final appeal, and a judgment document, and for giving a notice to the effect that the final appellate court has received the forwarded case record must be prepaid.

(Handling In Cases of Filing a Final Appeal and a Petition for Acceptance of a Final Appeal with a Single Document)

Article 188 If a final appeal and a petition for the acceptance of a final appeal are filed in a single document, it must be made clear that the document serves both as a petition for an appeal and a petition for the acceptance of a final appeal. In this case, if the reasons for a final appeal and the reasons for a petition for the acceptance of a final appeal are stated in that document, they must be stated separately.

(Service of a Written Notice of Filing a Final Appeal)

Article 189 (1) If a final appeal has been filed, except in cases in which a direction to dismiss the petition for the final appeal without prejudice or an order to dismiss the final appeal without prejudice under Article 316 (Dismissal of a Final Appeal without Prejudice by the Court of Prior Instance), paragraph (1), item (i) of the Code has been issued, a written notice of filing the final appeal must be served upon the parties.

(2) If a written notice of filing a final appeal is served to the appellee of the final appeal pursuant to the provisions of the preceding paragraph, the petition for the final appeal must be served at the same time.

(3) If a final appeal has been filed before the service of the judgment document of the court of prior instance or the record in lieu of the judgment document, the written notice of filing the final appeal under paragraph (1) must be served

together with the judgment document or the record in lieu of the judgment document.

(A Method of Stating Reasons for a Final Appeal Set Forth in Article 312, Paragraph (1) and Paragraph (2) of the Code; Article 315 of the Code)

Article 190 (1) In cases of filing a final appeal by reason that a judgment contains a misconstruction of the Constitution or any other violation of the Constitution, the reasons for the final appeal must be stated by setting down the relevant provisions of the Constitution and indicating the grounds for the violation of the Constitution. In this case, if the grounds relate to litigation proceedings, the fact in violation of the Constitution must be set down.

(2) In cases of filing a final appeal by reason of the existence of any of the grounds listed in the items of Article 312 (Reasons for Final Appeal), paragraph (2) of the Code, the reasons for the final appeal must be stated by indicating the applicable provisions and the fact that falls under those provisions.

(A Method of Stating Reasons for a Final Appeal Set Forth in Article 312, Paragraph (3) of the Code; Article 315 of the Code)

Article 191 (1) In cases of filing a final appeal by reason that there is a violation of a law or regulation that apparently affects a judgment, the reasons for the final appeal must be stated by indicating the relevant law or regulation and the grounds for the violation thereof.

(2) If a law or regulation is indicated pursuant to the provisions of the preceding paragraph, the provisions or the contents of that law or regulation (or for a non-statutory law or regulation, the gist thereof) must be set down.

(3) In cases of indicating the grounds for the violation of a law or regulation pursuant to the provisions of paragraph (1), if that law or regulation relates to litigation proceedings, the fact in violation must be set down.

(Indication of Precedents)

Article 192 In the final appeal prescribed in the preceding two Articles (A Method of Stating Reasons for a Final Appeal Set Forth in Article 312, Paragraph (1) and Paragraph (2) of the Code; and A Method of Stating Reasons for a Final Appeal Set Forth in Article 312, Paragraph (3) of the Code), when alleging that a judgment contains a determination that is inconsistent with precedents rendered by the Supreme Court (or precedents rendered by the former Supreme Court or those rendered by high courts as the final appellate court or the court of second instance, if there are no precedents rendered by the Supreme Court), the relevant person must indicate those precedents specifically.

(A Manner in Which Reasons for a Final Appeal Should be Stated)

Article 193 The reasons for a final appeal must be stated specifically.

(A Period for Submission of a Statement of Reasons for a Final Appeal; Article 315 of the Code)

Article 194 The period for submission of a statement of reasons for a final appeal is fifty days from the day on which the appellant of the final appeal was served a written notice of filing the final appeal under Article 189 (Service of a Written Notice of Filing a Final Appeal), paragraph (1).

(Number of Copies of a Document Stating Reasons for a Final Appeal)

Article 195 A document containing the reasons for a final appeal must have its duplicates attached to it in the number obtained by adding six to the number of the appellees of the final appeal if the final appellate court is the Supreme Court, and have its duplicates attached to it in the number obtained by adding four to the number of the appellees of the final appeal if the final appellate court is a high court.

(Order to Correct; Article 316 of the Code)

Article 196 (1) If it is clear that the statements of all of the reasons for an appeal in a petition for a final appeal or in a statement of the reasons for a final appeal that has been submitted within the period set forth in Article 194 (A Period for Submission of a Statement of Reasons for a Final Appeal) are in violation of the provisions of Article 190 (A Method of Stating Reasons for a Final Appeal Set Forth in Article 312, Paragraph (1) and Paragraph (2) of the Code) or Article 191 (A Method of Stating Reasons for a Final Appeal Set Forth in Article 312, Paragraph (3) of the Code), the court of prior instance must issue an order specifying a reasonable period and stating that the defects be corrected within that period.

(2) An order to dismiss a final appeal without prejudice under Article 316 (Dismissal of a Final Appeal without Prejudice by the Court of Prior Instance), paragraph (1), item (ii) of the Code (limited to an order by reason that the statements in the reasons for a final appeal obviously violate the provisions of Article 315 (Statement of Reasons for a Final Appeal), paragraph (2) of the Code) is to be issued if the appellant of the final appeal does not correct the defects within the period specified pursuant to the provisions of the preceding paragraph.

(Sending the Case to the Final Appellate Court)

Article 197 (1) Except in cases in which a direction to dismiss the petition for a

final appeal without prejudice or an order to dismiss the final appeal without prejudice has been issued, the court of prior instance must send the case to the final appellate court. In this case, the court of prior instance may attach its opinion on whether or not there is the fact related to the litigation proceedings that the appellant of the final appeal has indicated in the reasons for the final appeal.

- (2) In order to send a case pursuant to the provisions of the preceding paragraph, a court clerk of the court of prior instance must forward the case record to a court clerk of the final appellate court.
- (3) When having received the case record forwarded under the preceding paragraph, a court clerk of the final appellate court must promptly notify the parties to that effect.

(Service of the Statement of Reasons for a Final Appeal)

Article 198 If the final appellate court has received a case that has been sent by the court of prior instance, and the final appellate court does not issue an order to dismiss the final appeal without prejudice under Article 317 (Dismissal of a Final Appeal without Prejudice by the Final Appellate Court), paragraph (1) of the Code or an order to dismiss the final appeal with prejudice under paragraph (2) of the same Article, it must serve a duplicate of the statement of the reasons for the final appeal to the appellee of the final appeal; provided, however, that this does not apply if the final appellate court finds that its service is unnecessary in cases of conducting proceedings and making a judicial decision without oral argument.

(A Petition for Acceptance of a Final Appeal; Article 318 of the Code)

- Article 199 (1) In the statements of the reasons for a petition for the acceptance of a final appeal, it must be indicated that the judgment of prior instance contains a determination that is inconsistent with precedents rendered by the Supreme Court (or precedents rendered by the former Supreme Court or those rendered by high courts as the final appellate court or the court of second instance, if there are no precedents rendered by the Supreme Court) or involves material matters concerning the construction of laws and regulations. In this case, the provisions of Article 191 (A Method of Stating Reasons for a Final Appeal Set Forth in Article 312, Paragraph (3) of the Code), paragraph (2) and paragraph (3) apply *mutatis mutandis*.
- (2) The provisions of Article 186 (Application, *Mutatis Mutandis*, of Provisions Concerning an Appeal to the Court of Second Instance), Article 187 (Prepayment of Expenses in Cases of Filing a Final Appeal), Article 189 (Service of a Written Notice of the Filing of a Final Appeal), and Article 192 through the preceding Article (Indication of Precedents; A Manner in Which

Reasons for a Final Appeal Should be Stated; A Period for Submission of Statement of Reasons for a Final Appeal; Number of Copies of a Document Stating Reasons for a Final Appeal; An Order to Correct; Sending the Case to the Final Appellate Court; and Service of the Statement of Reasons for a Final Appeal) apply mutatis mutandis to a petition for the acceptance of a final appeal. In this case, the term "written notice of the filing of a final appeal" in Article 187, Article 189 and Article 194 is deemed to be replaced with "written notice of a petition for the acceptance of a final appeal"; the term "appellee of the final appeal" in Article 189, paragraph (2), Article 195 and the preceding Article is deemed to be replaced with "opponent"; and the phrase "Article 190 (A Method of Stating Reasons for a Final Appeal Set Forth in Article 312, Paragraph (1) and Paragraph (2) of the Code) or Article 191 (A Method of Stating Reasons for a Final Appeal Set Forth in Article 312, Paragraph (3) of the Code)" in Article 196, paragraph (1) is deemed to be replaced with " Article 199 (A Petition for Acceptance of a Final Appeal, paragraph (1))."

(An Order to Accept a Final Appeal; Article 318 of the Code)

Article 200 When issuing an order to accept a case as the final appellate court, the Supreme Court must make clear in that order any reasons for a petition for the acceptance of a final appeal that are excluded pursuant to the provisions of Article 318 (A Petition for Acceptance of a Final Appeal), paragraph (3) of the Code.

(A Direction to Submit a Written Answer)

Article 201 If a petition for acceptance of a final appeal has been filed, the presiding judge of the final appellate court or of the Supreme Court may specify a reasonable period and direct the appellee of the final appeal or the opponent to submit a written answer.

(Forwarding the Record in Cases in Which a Judgment to Remand Has Been Issued; Article 325 of the Code)

Article 202 If a judgment to remand or transfer has been issued, a court clerk of the final appellate court must forward the case record to a court clerk of the court to which the case was remanded or transferred.

(Transfer to the Supreme Court; Article 324 of the Code)

Article 203 A high court, as the final appellate court, transfers a case to the Supreme Court pursuant to the provisions of Article 324 (Transfer to the Supreme Court) of the Code if the opinion of the high court on interpretation of the Constitution or any other law or regulation is inconsistent with precedents rendered by the Supreme Court (or precedents rendered by the former Supreme

Court or those rendered by high courts as the final appellate court or the court of second instance, if there are no precedents rendered by the Supreme Court).

(A Special Appeal to Court of Last Resort; Article 327 of the Code)

Article 204 With regard to the appeal set forth in Article 327 (A Special Appeal to Court of Last Resort), paragraph (1) of the Code (including as applied *mutatis mutandis* pursuant to Article 380 (An Appeal against a Judgment after Objection), paragraph (2) of the Code) and the litigation proceedings in the final appellate instance, unless contrary to the nature thereof, the provisions concerning a final appeal against a final judgment made by the court of second instance or the court of first instance and concerning the litigation proceedings in the final appellate instance apply *mutatis mutandis*.

### **Chapter III An Appeal against a Ruling**

(Application, *Mutatis Mutandis*, of Provisions Concerning an Appeal to the Court of Second Instance or Final Appeal; Article 331 of the Code)

Article 205 With regard to an appeal against a ruling and the litigation proceedings in the court in charge of an appeal against a ruling, unless contrary to the nature thereof, the provisions of Chapter I (An Appeal to the Court of Second Instance) apply *mutatis mutandis*; provided, however, that with regard to an appeal against a ruling set forth in Article 330 (A Re-appeal from an Appeal against a Ruling) of the Code and the litigation proceedings for that appeal, the provisions of the preceding Chapter (A Final Appeal) concerning a final appeal against a final judgment made by the court of second instance or the court of first instance and concerning the litigation proceedings in the final appellate instance apply *mutatis mutandis*.

(Sending a Case to a Court in Charge of an Appeal against a Ruling)

Article 206 If the court of prior instance finds an appeal against a ruling to be groundless, it must send the case to the court in charge of an appeal against a ruling while attaching its opinion thereto.

(A Document Stating Grounds for Revocation of a Judicial Decision of Prior Instance)

Article 207 In cases of filing an appeal against a ruling other than that set forth in Article 330 (A Re-appeal from an Appeal against a Ruling) of the Code, if grounds for seeking revocation or modification of the judicial decision of prior instance are not stated specifically in the petition for an appeal against a ruling, the appellant must submit a document containing that statement to the court of prior instance within fourteen days from the filing of the appeal

against a ruling.

(A Special Appeal against a Ruling to the Supreme Court; Article 336 of the Code)

Article 208 With regard to an appeal against a ruling set forth in Article 336 (A Special Appeal against a Ruling to the Supreme Court), paragraph (1) of the Code and the litigation proceedings for that appeal, unless contrary to the nature thereof, the provisions concerning an appeal set forth in Article 327 (A Special Appeal to the Court of Last Resort), paragraph (1) of the Code and the litigation proceedings in the appellate instance apply *mutatis mutandis*.

(An Appeal with a Permission; Article 337 of the Code)

Article 209 The provisions of Article 186 (Application, *Mutatis Mutandis*, of Provisions Concerning an Appeal to the Court of Second Instance), Article 187 (Prepayment of Expenses in Cases of Filing a Final Appeal), Article 189 (Service of a Written Notice of Filing a Final Appeal), Article 192 (Indication of Precedents), Article 193 (A Manner in Which Reasons for a Final Appeal Should be Stated), Article 195 (Number of Copies of a Document Stating Reasons for a Final Appeal), Article 196 (An Order to Correct) and Article 199 (A Petition for Acceptance of a Final Appeal), paragraph (1) apply *mutatis mutandis* to the petition set forth in Article 337 (An Appeal with a Permission), paragraph (2) of the Code; the provisions of Article 200 (An Order to Accept a Final Appeal) apply *mutatis mutandis* to cases of giving permission under Article 337, paragraph (2) of the Code; and the provisions of the preceding Article (A Special Appeal against a Ruling to the Supreme Court) apply *mutatis mutandis* to cases in which permission was given pursuant to the provisions of Article 337, paragraph (2) of the Code. In this case, the term "written notice of the filing of a final appeal" in Article 187 and Article 189 is deemed to be replaced with "written notice of a petition for permission for an appeal against ruling."

(A Period for Submitting a Statement of Reasons for an Appeal against a Ruling When Filing a Re-appeal from an Appeal against a Ruling)

Article 210 (1) The period for the submitting a statement of the reasons for an appeal against a ruling when filing the appeal set forth in Article 330 (A Re-appeal from an Appeal against a Ruling) of the Code or the appeal set forth in Article 336 (A Special Appeal against a Ruling to the Supreme Court), paragraph (1) of the Code is fourteen days from the day on which the appellant was served a written notice of the filing of an appeal against a ruling under Article 189 (Service of a Written Notice of Filing a Final Appeal), paragraph (1) as applied *mutatis mutandis* pursuant to the proviso to Article 205

(Application, Mutatis Mutandis, of Provisions Concerning an Appeal to the Court of Second Instance or Final Appeal) and Article 208 (A Special Appeal against a Ruling to the Supreme Court).

- (2) The provisions of the preceding paragraph apply mutatis mutandis to the period for submitting a statement of reasons in relation to the petition set forth in Article 337 (An Appeal with a Permission), paragraph (2) of the Code. In this case, the term "written notice of filing an appeal against a ruling" in the preceding paragraph is deemed to be replaced with "written notice of a petition for permission for an appeal against the ruling."

#### **Part IV A Retrial**

(Litigation Proceedings for a Retrial; Article 341 of the Code)

Article 211 (1) A complaint for a retrial must have a copy of the judgment subject to the petition for an appeal attached to it.

- (2) In addition to what is prescribed in the preceding paragraph, with regard to the litigation proceedings for a retrial, unless contrary to the nature thereof, the provisions concerning the litigation proceedings in their respective instances apply mutatis mutandis.

(A Retrial against an Order or Direction; Article 349 of the Code)

Article 212 The provisions of the preceding Article (Litigation Proceedings for a Retrial) apply mutatis mutandis to the petition for a retrial set forth in Article 349 (A Retrial against an Order or Direction), paragraph (1) of the Code.

#### **Part V Special Provisions Concerning Actions on Bills and Notes and Actions on Checks**

(Designation of the First Date for Oral Argument)

Article 213 (1) If an action on bills and notes has been filed, the presiding judge must immediately designate a date for oral argument and summon the parties.

- (2) A writ of summons for the date set forth in the preceding paragraph to be served upon a party must contain a statement to the effect that the party should make the preparations necessary for allegations, offers of evidence, and examination of evidence before that date.

- (3) A writ of summons to be served upon the defendant must contain, in addition to the matters prescribed in the preceding paragraph, a statement to the effect that the defendant should submit a written answer within the period specified by the presiding judge, and the gist of the provisions of Article 354 (Conclusion of Oral Argument) of the Code.



(The Principle of a Single Date Trial)

Article 214 In an action on bills and notes, except in cases in which there are unavoidable grounds, a trial must be completed on the first date for oral argument.

(Change of the Date or Continuance of Oral Argument)

Article 215 When changing a date for oral argument or continuing oral argument, except in cases in which there are unavoidable grounds, the presiding judge must designate a date within fifteen days from the prior date for oral argument as the next date for oral argument.

(Indication of a Judgment on Bills and Notes)

Article 216 A judgment document of an action on bills and notes or a record in lieu of the judgment document must indicate that it is a judgment on bills and notes.

(A Method of Making an Objection; Article 357 of the Code)

Article 217 (1) An objection must be made in writing.

(2) The court must send the document set forth in the preceding paragraph to the opponent.

(3) The document set forth in paragraph (1) which states the matters listed in Article 161 (A Brief), paragraph (2) of the Code is also to serve as a brief.

(Waiver of a Right to Make an Objection and Withdrawal of an Objection;  
Article 358 of the Code)

Article 218 (1) In order to waive a right to make an objection, the relevant person must make a statement to the court.

(2) If the statement set forth in the preceding paragraph has been made, a court clerk must notify the opponent to that effect.

(3) The provisions of Article 162 (Handling in Cases of Withdrawal of an Action), paragraph (1) apply mutatis mutandis to service of a document for the withdrawal of an objection.

(Citation of a Judgment Document of an Action on Bills and Notes)

Article 219 Statements of facts and reasons in the judgment document of the action after objection or the record in lieu of the judgment document may be made by citing statements in the judgment document of an action on bills and notes or its record in lieu of its judgment document.

(Transfer from Demand Procedure to an Action on Bills and Notes; Article 366  
of the Code)

Article 220 (1) When making a statement to the effect that the petitioner seeks a trial and judicial decision through an action on bills and notes and filing a petition for demand for payment, that petitioner must submit two copies of the bill or note (or, when there are two or more debtors, the number of copies shall be the number of debtors plus one) at the same time.

(2) The copy of a bill or note that has been submitted pursuant to the provisions of the preceding paragraph must be attached to the demand for payment to be served upon the debtor.

(3) In the case prescribed in paragraph (1), a supplementary note to the effect that the statement set forth in that paragraph has been made must be appended to the demand for payment.

(An Action on Checks; Article 367 of the Code)

Article 221 The provisions of this Part apply mutatis mutandis to an action on checks.

## **Part VI Special Provisions Concerning Small Claims Actions**

(Explanation of Procedures)

Article 222 (1) When summoning a party for the first date for oral argument in a small claims action, a court clerk must deliver a document explaining the contents of the procedures for a trial and judicial decision in a small claims action to that party.

(2) At the beginning of the date set forth in the preceding paragraph, the judge must explain the following matters to the parties:

(i) the examination of evidence is limited to evidence that can be examined immediately;

(ii) the defendant may state that they request the action to be transferred to ordinary proceedings, while this does not apply after the defendant has presented oral arguments on the first date for oral argument or when that date has passed; and

(iii) an objection against the final judgment on an action on small claim may be made to the court that has made the judgment, within an unextendable period of two weeks from the day on which a judgment document or a record in lieu of the judgment document is served.

(Number of Times Small Claims Actions May be Sought; Article 368 of the Code)

Article 223 The number of times specified by the Rules of the Supreme Court as set forth in the proviso to Article 368 (Requirements for Small Claims Actions), paragraph (1) of the Code is ten times.

(Order for a Party to Appear)

Article 224 Even if a litigation representative has been appointed, the court may order the party or their statutory agent to appear.

(A Request for Examination of a Witness)

Article 225 If the examination of a witness is requested, the submission of a statement of matters for examination is not required.

(Examination of a Witness by a Method of Communication through Audio Transmissions; Article 372 of the Code)

- Article 226 (1) A witness may be examined by a method that enables the court, both parties, and the witness to communicate simultaneously with one another by audio transmission, at the request of a party.
- (2) The request set forth in the preceding paragraph must be made with the telephone number and location of the called party made clear.
- (3) If the court finds the location set forth in the preceding paragraph to be inappropriate, the court may order the party who has made the request set forth in paragraph (1) to change the location.
- (4) In cases of conducting the examination set forth in paragraph (1), a facsimile may be used to send a copy of a document which is to be presented or to take any other measures necessary for implementing the examination.
- (5) If the examination set forth in paragraph (1) has been conducted, a statement to that effect and the called party's telephone number and location must be entered in the record.
- (6) The provisions of Article 88 (A Record of Preparatory Proceedings), paragraph (2) apply mutatis mutandis to cases of conducting the examination set forth in paragraph (1).

(Inclusion of Statements by a Witness, etc. in the Record)

- Article 227 (1) There is no requirement to enter the statements of a witness, etc. in the record.
- (2) At the direction of the judge or at the request of a party prior to the examination of a witness or prior to the oral statement of opinion by an expert witness, a court clerk must record the statement of the witness or the expert witness onto an audio tape, etc. for the use in court by the parties. In this case, upon the request of a party, the court clerk must allow the reproduction of that audio tape, etc.

(Transfer to Ordinary Proceedings; Article 373 of the Code)

Article 228 (1) The defendant must make a statement to transfer the action to

ordinary proceedings in writing, except in cases of making the statement on an appearance date.

- (2) If the statement set forth in the preceding paragraph has been made, a court clerk must promptly notify the plaintiff to the effect that the action has been transferred to ordinary proceedings based on that statement; provided, however, that this does not apply if the statement was made on an appearance date on which the plaintiff appeared.
- (3) If the court has issued an order to the effect that a trial and judicial decision of the action is made through ordinary proceedings, a court clerk must promptly notify the parties to that effect.

(Judgment; Article 374 of the Code)

- Article 229 (1) A judgment document of a small claims action or a record in lieu of the judgment document must indicate that it is a small claims judgment.
- (2) The provisions of Article 155 (Formality of Rendering), paragraph (3) apply mutatis mutandis to cases of rendering a judgment which is not based on the original of a judgment document in a small claims action.

(A Method of Making an Objection; Article 378 of the Code)

Article 230 The provisions of Article 217 (A Method of Making an Objection) and Article 218 (Waiver of a Right to Make an Objection and Withdrawal of an Objection) apply mutatis mutandis to an objection against a final judgment of a small claims action.

(A Judgment Document of an Action after an Objection)

- Article 231 (1) A judgment document of an action after objection or a record in lieu of the judgment document must indicate that it is a small claims judgment after an objection.
- (2) The provisions of Article 219 (Citation of a Judgment Document of an Action on Bills and Notes) apply mutatis mutandis to the statements of facts and reasons in the judgment document of an action after an objection or the record in lieu of the judgment document.

## **Part VII Demand Procedures**

(Application, Mutatis Mutandis, of Provisions Concerning an Action; Article 384 of the Code)

Article 232 With regard to a petition for demand for payment, unless contrary to the nature thereof, the provisions concerning an action apply mutatis mutandis.

(An Original of Demand for Payment; Article 387 of the Code)

Article 233 The court clerk who has issued a demand for payment must affix their name and seal to the original of that demand.

(Service of a Demand for Payment; Article 388 of the Code)

Article 234 (1) A demand for payment is served upon a debtor by serving an authenticated copy thereof.

(2) When having issued a demand for payment, a court clerk must notify the creditor to that effect.

(A Petition for Declaration of Provisional Execution; Article 391 of the Code)

Article 235 (1) A petition for a declaration of provisional execution must be filed with the amount of expenses for the demand procedure made clear.

(2) The consent of the creditor prescribed in the proviso to Article 391

(Declaration of Provisional Execution), paragraph (2) of the Code is to be given at the time of filing the petition for a declaration of provisional execution.

(Form of Declaring Provisional Execution; Article 391 of the Code)

Article 236 (1) A declaration of provisional execution must be contained in the original of the demand for payment.

(2) The provisions of Article 234 (Service of a Demand for Payment), paragraph (1) apply mutatis mutandis to service of a demand for payment containing a statement of a declaration of provisional execution upon the parties and to its sending to the creditor in lieu of the service thereof.

(Forwarding a Record Due to Transfer to a Suit; Article 395 of the Code)

Article 237 When an action is deemed to have been filed with a district court pursuant to the provisions of Article 395 (Transfer to a Suit upon an Objection to a Demand) of the Code, a court clerk must forward the case record to a court clerk of the district court without delay.

## **Part VIII Stay of Execution**

(A Method of Filing a Petition for Stay of Execution; Article 403 of the Code)

Article 238 The petition prescribed in Article 403 (A Judicial Decision of Stay of Execution), paragraph (1) of the Code must be filed in writing.

## **Part IX Miscellaneous Provisions**

(Examination and Preservation of Evidence as Commissioned under Article 150, Paragraph (6) of the Patent Act)

Article 239 With regard to the examination or preservation of evidence

conducted by a judge of a district court or a summary court as commissioned under Article 150 (Examination and Preservation of Evidence), paragraph (6) of the Patent Act (Act No. 121 of 1959) (including as applied mutatis mutandis pursuant to the same Act or any other Act), the provisions of these Rules concerning the examination and preservation of evidence apply mutatis mutandis; provided, however, that this does not apply to the provisions concerning the offer of evidence or a petition for the preservation of evidence and the provisions concerning subpoena of a witness.