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Rules of Civil Procedure

Rules of the Supreme Court No. 5 promulgated on December 17, 1996

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Part I General Provisions

Chapter I General Rules

Article 1 (Method of Filing Petition, etc.)

- (1) A petition or any other statement may, except as otherwise provided, be filed in writing or orally.
- (2) In order to file a statement orally, the statement shall be made in the presence of a court clerk. In this case, the court clerk shall prepare a record and affix his/her name and seal thereto.

Article 2 (Matters to be Stated in Document to be Submitted to Court by Party)

- (1) A complaint, brief or any other document to be submitted to a court by a party or an agent shall contain statements of the following matters and the party or the agent shall affix his/her name and seal thereto:
 - (i) 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
 - (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 said paragraph containing a statement of his/her address, he/she shall not be required to state said address in any document set forth in said paragraph to be subsequently submitted to the court.

Article 3 (Submission of Document to be Submitted to Court by Using Facsimile)

- (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 pertaining to 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, when submitted, commences, continues, stays or concludes court proceedings (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 powers of a counsel, or any other document for proving important matters in court proceedings

- (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) When a document has been submitted by facsimile, said document shall be deemed to have been submitted to the court at the time when the court received it.
- (3) A court may, if it finds it to be necessary in the case prescribed in the preceding paragraph, have the submitter submit the document used for the transmission.

Article 3-2 (Provision of Information Stated in Document Submitted to Court by Electromagnetic Means)

A court may, in cases of making use for preparing a judgment document or in other cases where it finds it to be necessary, if a party has an electromagnetic 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 shall apply in this Article) recording the contents of information stated in a document that he/she has submitted or intends to submit to the court, request said party to provide the information recorded in said electromagnetic record by an electromagnetic means (meaning a method using an electronic data processing system or a method using other information communications technology) which the court specifies.

Article 4 (Requisition and Notice)

- (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) A court clerk shall, when he/she has made a requisition or has given a notice, clarify to that effect and as to the method of the requisition or the notice in the case record.
- (3) It shall be sufficient to make a requisition by giving public notice of the matters to be required, when the location of the person who is to receive the requisition is unknown or when such person is located in a foreign state. In this case, said public notice shall be given by posting a document stating the matters to be required at the posting area of the court or at another place within the court that is easily visible to the public.
- (4) A requisition under the provision of the preceding paragraph shall become effective when one week has elapsed from the day of the public notice.
- (5) There shall be no requirement to give a notice under the provisions of these Rules (excluding a notice under paragraph (2) of Article 46 [Method of Service by Publication]), when the location of the person who is to receive the notice is

unknown or when such person is located in a foreign state. In this case, a court clerk shall clarify the grounds therefor in the case record.

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

Article 5 (Manner in Which Case Documents Should be Stated)

Case documents shall be stated in an orderly and clear manner using concise sentences.

Chapter II Court

Section 1 Jurisdiction

Article 6 (Designation of Location of General Venue; Article 4 of the Code)

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

Article 7 (Method of Filing Petition for Transfer; Article 16, etc. of the Code)

- (1) A petition for transfer shall be filed in writing, except in cases of filing the petition on an appearance date.
- (2) When filing the petition set forth in the preceding paragraph, the reasons for the petition shall be made clear.

Article 8 (Treatment in Discretionary Transfer; Article 17, etc. of the Code)

- (1) When 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, the court shall issue an order after hearing the opinion of the opponent.
- (2) A court may, when issuing an order of transfer under the provisions of Article 17, Article 18 or Article 20-2 of the Code by its own authority, hear the opinion of the parties.

Article 9 (Forwarding of Record Due to Transfer; Article 22 of the Code)

When a judicial decision of transfer has become final and binding, a court clerk of the court that has made the judicial decision of transfer shall 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

Article 10 (Method of Filing Petition for Disqualification or Challenge, etc.; Article 23, etc. of the Code)

- (1) A petition for disqualification of or to challenge a judge shall be filed with the court to which the judge belongs, while clearly indicating the cause therefor.
- (2) The petition set forth in the preceding paragraph shall be filed in writing, except in cases of filing the petition on an appearance date.
- (3) A prima facie showing shall be made with regard to the cause for the disqualification or challenge within three days from the day of filing the petition. The same shall apply to the facts prescribed in the proviso to paragraph (2) of Article 24 (Challenge to Judge) of the Code.

Article 11 (Statement of Opinions by Judge with Regard to Disqualification or Challenge; Article 25 of the Code)

A judge may state his/her opinions with regard to the petition for his/her disqualification or challenge.

Article 12 (Withdrawal of Judge)

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

Article 13 (Application Mutatis Mutandis to Court Clerk, etc.; Article 27 of the Code)

The provision of this Section shall apply mutatis mutandis to a court clerk. In this case, the permission of a summary court for withdrawal of a court clerk shall be 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 said court clerk belongs.

Chapter III Parties

Section 1 Capacity to Be Party and Capacity to Sue or Be Sued

Article 14 (Submission of Materials for Determining the Capacity to Be Party of Association, etc. That Is Not Juridical Person; Article 29 of the Code)

A court may have a party who has sued or has been sued as an association or foundation which is not a juridical person and for which a representative or administrator is designated to submit the articles of incorporation or any other materials necessary for determining whether or not said party has the capacity to be a party.

Article 15 (Proof of the Authority of Statutory Representation, etc.; Article 34 of the Code)

The authority of statutory representation or the delegation of powers necessary for performing procedural acts shall be proved in writing. The same shall apply to the appointment and change of an appointed party.

Article 16 (Notice of Judicial Decision of Appointment or Replacement of Special Agent; Article 35 of the Code)

A notice of a judicial decision of the appointment or replacement of a special agent shall also be given to the special agent.

Article 17 (Notification of Extinction, etc. of Authority of Statutory Representation; Article 36 of the Code)

A person who has given a notice of extinction of the authority of statutory representation shall notify the court to that effect in writing. The same shall apply to a person who has given a notice of rescission of the appointment of an appointed party or a change of an appointed party.

Article 18 (Application Mutatis Mutandis to Representative of Juridical Person, etc.; Article 37 of the Code)

In these Rules, the provisions concerning statutory representation and a statutory agent shall apply mutatis mutandis to a representative of a juridical person and to a representative or administrator of an association or foundation that is not a juridical person but is capable of suing or being sued in its name.

Section 2 Joint Suit

Article 19 (Revocation of Application for Simultaneous Trial and Decision, etc.; Article 41 of the Code)

- (1) The application set forth in paragraph (1) of Article 41 (Joint Suit upon Application for Simultaneous Trial and Decision) of the Code may be revoked at any time until the time of the conclusion of the oral argument in the second instance.
- (2) The application set forth in the preceding paragraph and the revocation thereof shall be filed or made in writing, except in cases of filing the application or making the revocation on an appearance date.

Section 3 Intervention

Article 20 (Service, etc. of Written Application for Assisting Intervention; Article 43, etc. of the Code)

- (1) A written application for assisting intervention shall be served upon both parties.
- (2) The service prescribed in the preceding paragraph shall be made by serving a duplicate submitted by the person who has filed the application for assisting intervention.
- (3) The provision of the preceding paragraph shall apply mutatis mutandis to service of a written application for intervention under the provisions of paragraph (1) of Article 47 (Intervention as Independent Party) and paragraph (1) of Article 52 (Intervention as Co-Party) of the Code.

Article 21 (Method of Filing Petition for Assumption of Suit; Article 50, etc. of the Code)

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

Article 22 (Service, etc. of Written Notice of Suit to Third Party; Article 53 of the Code)

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

Section 4 Counsel

Article 23 (Proof, etc. of Authority of Representation in Suit; Article 54, etc. of the Code)

- (1) The powers of a counsel shall be proved in writing.
- (2) When the document set forth in the preceding paragraph is a private document, the court may order the counsel 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 powers of a counsel shall notify the court to that effect in writing.

Chapter IV Court Costs

Section 1 Burden of Court Costs

Article 24 (Method of Filing Petition Seeking to Fix Amount of Court Costs, etc.; Article 71, etc. of the Code)

- (1) The petition set forth in paragraph (1) of Article 71 (Procedure to Fix Amount of Court Costs), Article 72 (Procedure to Fix Amount of Costs in Cases of Settlement) or Article 73 (Where Suit Is Concluded Not by Judicial Decision or Settlement) of the Code shall be filed in writing.
- (2) When seeking a disposition to fix the amount of the burden of court costs or the costs for settlement (hereinafter referred to as the "court costs, etc." in this Section) by filing the petition set forth in the preceding paragraph, a party shall submit to a court clerk a statement of costs and the documents necessary for making a prima facie showing of the amount of costs, and carry out the direct sending of the document set forth in the preceding paragraph and the statement of costs as provided under paragraph (1) of Article 47 (Sending of Documents).

Article 25 (Requisition to Opponent, etc.; Article 71, etc. of the Code)

- (1) A court clerk shall, before issuing a disposition to fix the amount of the burden of court costs, etc., make a requisition to the opponent to submit, within a certain period, the statement of costs and documents necessary for making a prima facie showing of the amount of costs as well as a document containing a statement with regard to the contents of the statement of costs of the petitioner; provided, however, that this shall not apply when, in cases where only the opponent is to bear the court costs, etc., the amount of burden with regard to the court costs, etc. of the petitioner is clear from the records.
- (2) If the opponent fails to submit the statement of costs or the documents necessary for making a prima facie showing of the amount of costs within the period set forth in the preceding paragraph, the court clerk may issue a disposition to fix the amount of the burden of court costs, etc. only with regard to the costs of the petitioner; provided, however, that this shall not preclude the opponent from filing a petition seeking a disposition to fix the amount of the burden of court costs, etc.

Article 26 (Method of Issuing Disposition to Fix Amount of Costs; Article 71, etc. of the Code)

A disposition to fix the amount of the burden of court costs, etc. shall be issued by way of preparing a document stating the disposition, after which the court clerk who issued the disposition shall affix his/her name and seal to said document.

Article 27 (Cases Specified by Rules of Supreme Court as Set Forth in Paragraph (2) of Article 71 of the Code)

The cases specified by the Rules of the Supreme Court as set forth in paragraph

(2) of Article 71 (Procedure to Fix Amount of Court Costs) of the Code shall be cases in which the opponent fails to submit the statement of costs or the documents necessary for making a prima facie showing of the amount of costs within the period set forth in paragraph (1) of Article 25 (Requisition to Opponent, etc.).

Article 28 (Method of Filing Petition for Correction of Disposition to Fix Amount of Costs; Article 74 of the Code)

A petition for correction of disposition to fix the amount of the burden of court costs, etc. shall be filed in writing.

Section 2 Security for Court Costs

Article 29 (Method of Providing Security Specified by Rules of Supreme Court as Set Forth in Article 76 of the Code)

- (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 Shinkin banks whose district is the entire nation, a Shinkin bank or a labor bank (hereinafter referred to as the "bank, etc." in this Article):
- (i) The bank, etc. shall, on behalf of the person who has been ordered to provide security, pay the security interest holder money in the amount indicated in the title of the obligation concerning the right to reimbursement of court costs pertaining to the security or 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, within the limit of the amount specified by the court.
 - (ii) The contract shall cease to be effective at the time when an order of rescission of security has become final and binding.
 - (iii) It shall not be possible to change or cancel the contract.
 - (iv) Upon request from the security interest holder, the bank, etc. shall deliver a document to the security interest holder proving that the contract has been concluded.
- (2) The provision of the preceding paragraph shall 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), paragraph (6) of Article 259 (Declaration of Provisional Execution) (including the cases where it is applied mutatis mutandis pursuant to the Code), paragraph (2) of Article 376

(Declaration of Provisional Execution) and paragraph (2) of Article 405 (Provision of Security) (including the cases where it is 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 shall be 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 said item shall be 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

Article 30 (Prime Facie Showing of Grounds for Aid; Article 82 of the Code)

A prima facie showing shall be made with regard to the grounds for judicial aid.

Chapter V Court Proceedings

Section 1 Proceedings of Suit, etc.

Article 31 (Designation of Authorized Judge and Commissioning Procedures of Court)

- (1) In cases of having an authorized judge perform his/her duties, the presiding judge shall designate said judge.
- (2) The commissioning procedures of a court shall be carried out by a court clerk, except as otherwise provided.

Article 32 (Measures for Settlement; Article 89 of the Code)

- (1) A court, an authorized judge or a commissioned judge may order or direct a party himself/herself or his/her statutory agent to appear for the purpose of settlement.
- (2) A court, an authorized judge or a commissioned judge may, when it or he/she finds it to be appropriate, arrange a settlement outside the court.

Article 33 (Form of Authenticated Copy, etc. of Case Record; Article 91, etc. of the Code)

An authenticated copy, a transcript or an extract of a case record shall contain a statement to the effect that it is an authenticated copy, a transcript or an extract, and the court clerk shall affix his/her name and seal thereto.

Article 34 (Method of Filing Petition for Restriction on Inspection, etc.; Article 92 of the Code)

- (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 shall be filed in writing and by specifying a secret part of the case record.
- (2) A secret part of the case record shall be specified in the order set forth in the preceding paragraph.

Section 2 Technical Adviser, etc.

Subsection 1 Technical Adviser

Article 34-2 (Participation of Technical Adviser on Date for Scheduling Conference; Article 92-2 of the Code)

- (1) In the cases where the order set forth in paragraph (1) of Article 92-2 (Participation of Technical Adviser) of the Code has been issued, the presiding judge may have a technical adviser give an explanation orally on the date for scheduling conference.
- (2) The provision of Article 92-3 (Participation of Technical Adviser Through Communication by Audio Transmissions) of the Code shall apply mutatis mutandis to the explanation by a technical adviser on the date for scheduling conference under the provision of the preceding paragraph.

Article 34-3 (Treatment Concerning Explanation by Technical Adviser Outside Appearance Date; Article 92-2 of the Code)

- (1) In the cases where the presiding judge has requested a technical adviser to give an explanation outside an appearance date, if the matter on which the explanation was requested is important for clarifying the matters related to the suit, a court clerk shall notify both parties of said matter.
- (2) If a technical adviser has submitted a document stating an explanation outside an appearance date, a court clerk shall send a copy thereof to both parties.

Article 34-4 (Measures by Presiding Judge on Date for Examination of Evidence, etc.; Article 92-2 of the Code)

- (1) The presiding judge may, in the cases where a technical adviser participates in the proceedings pursuant to the provision of paragraph (2) of Article 92-2 (Participation of Technical Adviser) of the Code, if he/she finds it to be necessary when having the technical adviser give an explanation on the date for examination of a witness, have the witness leave the court or take other appropriate measure to ensure that the explanation by the technical adviser does not affect the testimony

of the witness, after hearing the opinions of the parties as to such measure.

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

Article 34-5 (Grant of Opportunity for Parties to State Their Opinions; Article 92-2 of the Code)

The court shall give the parties an opportunity to state their opinions on the explanation given by a technical adviser.

Article 34-6 (Instruction to Technical Adviser to Make Preparations, etc.; Article 92-2 of the Code)

- (1) The presiding judge may, if he/she finds it to be necessary when having a technical adviser give an explanation pursuant to the provisions of Article 92-2 (Participation of Technical Adviser) of the Code or Article 34-2 (Participation of Technical Adviser on Date for Scheduling Conference), instruct the technical adviser to confirm the current status of the subject matter in dispute and to make any other preparations.
- (2) When the presiding judge has given the instruction prescribed in the preceding paragraph, a court clerk shall notify both parties to that effect and of the contents of the instruction.

Article 34-7 (Participation of Technical Adviser Through Communication by Audio Transmissions; Article 92-3 of the Code)

- (1) When having a technical adviser give an explanation or ask questions by the method prescribed in Article 92-3 (Participation of Technical Adviser Through Communication by Audio Transmissions) of the Code on the date set forth in paragraph (1) or paragraph (2) of Article 92-2 (Participation of Technical Adviser) of the Code, the court shall confirm the called party and his/her location.
- (2) When having had a technical adviser give an explanation or ask questions under the preceding paragraph, a statement shall be made to that effect and the telephone number of the called party shall be stated in the record. In this case, the location of the called party may be stated in addition to the telephone number of said party.
- (3) The provision of paragraph (1) shall apply mutatis mutandis to cases of having a technical adviser give an explanation by the method set forth in paragraph (1) on the date set forth in paragraph (3) of Article 92-2 of the Code or the date for scheduling conference.

Article 34-8 (Method of Filing Petition for Revocation of Order of Participation of Technical Adviser, etc.; Article 92-4 of the Code)

- (1) A petition for the revocation of an order of participation of a technical adviser shall be filed in writing, except in cases of filing the petition on an appearance date.
- (2) When filing the petition set forth in the preceding paragraph, the reasons for the petition shall be made clear; provided, however, that this shall not apply when both parties file such petitions simultaneously.

Article 34-9 (Disqualification of, Challenge to and Withdrawal of Technical Adviser; Article 92-6 of the Code)

The provisions of Article 10 to Article 12 (Method of Filing Petition for Disqualification or Challenge, etc.; Statement of Opinions by Judge with Regard to Disqualification or Challenge; and Withdrawal of Judge) shall apply mutatis mutandis to a technical adviser.

Article 34-10 (Powers of Authorized Judge, etc.; Article 92-7 of the Code)

In cases where an authorized judge or a commissioned judge conducts the procedures set forth in the paragraphs of Article 92-2 (Participation of Technical Adviser) of the Code, said judge shall perform the duties of the court and the presiding judge under the provisions of Article 34-2 (Participation of Technical Adviser on Date for Scheduling Conference), Article 34-4 (Measures by Presiding Judge on Date for Examination of Evidence, etc.), Article 34-5 (Grant of Opportunity for Parties to State Their Opinions), paragraph (1) of Article 34-6 (Instruction to Technical Adviser to Make Preparations, etc.), and paragraph (1) and paragraph (3) of Article 34-7 (Participation of Technical Adviser Through Communication by Audio Transmissions).

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

Article 34-11 (Application Mutatis Mutandis of Provisions on Disqualification, Challenge and Withdrawal; Article 92-2 of the Code)

The provisions of Article 10 to Article 12 (Method of Filing Petition for Disqualification or Challenge; Statement of Opinions by Judge with Regard to Disqualification or Challenge; and Withdrawal of Judge) shall 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 Date and Period

Article 35 (Designation of Date by Authorized Judge, etc.; Article 93 of the Code)

The date for proceedings to be conducted by an authorized judge or a commissioned judge shall be designated by said judge.

Article 36 (Petition for Change of Date; Article 93 of the Code)

A petition for a change of date shall be filed by clarifying the grounds for requiring the change of date.

Article 37 (Restriction on Change of Date; Article 93 of the Code)

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

- (i) In cases where there are two or more counsels for either party, grounds for a change have occurred for one or any of such counsels.
- (ii) After the date has been designated, the same day has been designated as the date for another case.

Article 38 (Extension and Shortening of Period Specified by Presiding Judge, etc.; Article 96 of the Code)

The presiding judge, an authorized judge or a commissioned judge may extend or shorten a period he/she has specified.

Section 4 Service, etc.

Article 39 (Commissioning of Handling of Affairs Related to Service; Article 98 of the Code)

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.

Article 40 (Document to be Served, etc.; Article 101 of the Code)

- (1) The document to be served shall be a transcript or duplicate of the relevant document, except as otherwise provided.
- (2) When having prepared a record in lieu of submission of the document to be served, service shall be made by delivering a transcript or extract of said record.

Article 41 (Method of Notification of Place of Service, etc.; Article 104 of the Code)

- (1) Notification of the place where service is to be received and notification of a designated service recipient shall be made in writing.
- (2) The notification set forth in the preceding paragraph shall, insofar as possible, be made through statements in a complaint, a written answer or a written

objection to a demand made against a demand for payment.

- (3) A document notifying the place where service is to be received shall contain statements of the fact that the notified place is a workplace or any other matter that clarifies the relationship between the party, statutory agent or counsel and the notified place.

Article 42 (Notification of Change in Place of Service, etc.; Article 104 of the Code)

- (1) A party, statutory agent or counsel may make a notification of a change in the place notified as the place where service is to be received or in the person notified as the designated service recipient.
- (2) The provisions of paragraph (1) and paragraph (3) of the preceding Article (Method of Notification of Place of Service, etc.) shall apply mutatis mutandis to the notification of change prescribed in the preceding paragraph.

Article 43 (Notice of Substituted Service at Workplace; Article 106 of the Code)

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

Article 44 (Notice of Service by Registered Mail; Article 107 of the Code)

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

Article 45 (Powers of Authorized Judge, etc. concerning Service in Foreign State; Article 108 of the Code)

When service is to be made in a foreign state in proceedings conducted by an authorized judge or a commissioned judge, said judge may also commission the service as prescribed in Article 108 (Service in Foreign State) of the Code.

Article 46 (Method of Service by Publication; Article 111 of the Code)

- (1) Service by publication of a writ of summons shall be made by posting the writ of summons 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 made in a foreign state, a court clerk may, in lieu of publication in an official gazette or a newspaper, give a notice of the fact that service by publication has been made.

Article 47 (Sending of Documents)

- (1) Direct sending (meaning a party sending documents directly to the opponent; the same shall apply hereinafter) and any other sending of documents shall be carried out by delivering a copy of the document to be sent or by sending said 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 shall be handled by a court clerk.
- (3) In cases where a court needs to send a document, which has been submitted by a party, to the opponent (excluding the case where service needs to be made), if the party has carried out direct sending of said document, the court shall not be required to send said document.
- (4) If, where a party needs to carry out direct sending of a document, there are grounds that make the direct sending difficult or other grounds that are found to be appropriate, said party may request the court to have a court clerk send (or, serve or send in the case of a brief) said document to the opponent.

Section 5 Judicial Decision

Article 48 (Certificate of Judgment Having Become Final and Binding; Article 116 of the Code)

- (1) A court clerk of the court of first instance shall, upon request by a party or a third party who has made a prima facie showing of having an interest, deliver a certificate of a judgment having become final and binding, based on the case record.
- (2) When the suit is still pending in an appellate instance, notwithstanding the provision of the preceding paragraph, a court clerk of the appellate court shall deliver the certificate set forth in said paragraph only for the portion of the judgment that has become final and binding.

Article 49 (Document to be Attached to Complaint for Filing Action Set Forth in Paragraph (1) of Article 117 of the Code)

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

Article 50 (Method of Issuing Order or Direction, etc.; Article 119, etc. of the Code)

- (1) The judge who has issued an order or direction shall affix his/her name and seal to the written order or written direction.
- (2) When a notice of an order or direction has been given, a court clerk shall clarify

to that effect and the method of the notice in the case record.

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

Article 50-2 (Order Stated in Record)

In cases where the Supreme Court issues an order, if it finds it to be appropriate, it may have the contents of the order stated in the record in lieu of preparation of a written order.

Section 6 Discontinuation of Action

Article 51 (Method of Filing Petition for Taking Over of Action; Article 124, etc. of the Code)

- (1) A petition for taking over an action shall be filed in writing.
- (2) The document set forth in the preceding paragraph shall have attached material clarifying that the person who is taking over the action is the person specified in the relevant item of paragraph (1) of Article 124 (Discontinuation and Taking Over of Action) of the Code.

Article 52 (Notification of Grounds for Discontinuation by Counsel; Article 124 of the Code)

When any of the grounds listed in the items of paragraph (1) of Article 124 (Discontinuation and Taking Over of Action) of the Code have occurred, the counsel shall notify the court to that effect in writing.

Chapter VI Disposition of Collection of Evidence prior to Filing of Action, etc.

Article 52-2 (Matters to be Stated in Document of Advance Notice, etc.; Article 132-2 of the Code)

- (1) In the document of an advance notice, the following matters shall be stated in addition to the gist of the claim and the points of the dispute prescribed in paragraph (3) of Article 132-2 (Inquiry prior to Filing of Action) of the Code, and the person giving the advance notice or his/her agent shall affix his/her 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
 - (iii) The fact that it is an advance notice under the provision of paragraph (1) of

Article 132-2 of the Code

- (2) The gist of the claim and the points of the dispute set forth in the preceding paragraph shall be stated specifically.
- (3) In an advance notice, the schedule of the timing of the filing of an action shall be made clear insofar as possible.

Article 52-3 (Matters to be Stated in Document of Response to Advance Notice, etc.; Article 132-3 of the Code)

- (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 Stated in Document of Advance Notice, etc.), the date of the response and the fact that it is a response under the provision of paragraph (1) of Article 132-3 of the Code shall be stated in addition to the gist of answers prescribed in paragraph (1) of Article 132-3 (Inquiry prior to Filing of Action) of the Code, and the person making the response or his/her agent shall affix his/her name and seal thereto.
- (2) The gist of the answers set forth in the preceding paragraph shall be stated specifically.

Article 52-4 (Matters to be Stated in Document of Inquiry prior to Filing of Action and Response Thereto, etc.; Article 132-2, etc. of the Code)

- (1) The inquiry set forth in paragraph (1) of Article 132-2 (Inquiry prior to Filing of Action) of the Code and a response thereto shall 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 shall be sent to said agent.
- (2) In the document of inquiry set forth in the preceding paragraph, the following matters shall be stated, and the person making the inquiry or his/her agent shall affix his/her 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) 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 provision of paragraph (1) of Article 132-2 of the Code
 - (vi) Period in which the response should be made
 - (vii) 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 shall be stated, and the person who received the inquiry or his/her agent shall affix his/her name and seal thereto. In this case, if, among the matters inquired into, there are any matters for which response shall be refused due to the reason that the inquiry is one that is set forth in item (i) of paragraph (1) of Article 132-2 of the Code, which of the items of Article 163 (Inquiry to Opponent) of the Code the inquiry falls under shall also be stated, and if there are any matters for which response shall be refused due to the reason that the inquiry is one that is set forth in item (ii) or item (iii) of paragraph (1) of Article 132-2 of the Code, which of the items the inquiry falls under shall also be stated.

- (4) The matters inquired into shall be stated in an itemized form, and the response to the matters inquired into shall, insofar as possible, be stated in accordance with the itemization of the matters inquired into and specifically.
- (5) The provisions of the preceding paragraphs shall apply mutatis mutandis to the inquiry prescribed in paragraph (1) of Article 132-3 (Inquiry prior to Filing of Action) of the Code and the response thereto.

Article 52-5 (Method of Filing Petition for Disposition of Collection of Evidence;
Article 132-4 of the Code)

- (1) The petition for the disposition set forth in any of the items of paragraph (1) of Article 132-4 (Disposition of Collection of Evidence prior to Filing of Action) of the Code shall be filed in writing.
- (2) In the document set forth in the preceding paragraph, the following matters shall be stated:
 - (i) Name and address of the party to whom the petitioner's advance notice or response on which the petition is based has been given (such party shall hereinafter be simply referred to as the "opposite party" in this Chapter)
 - (ii) Contents of the disposition pertaining to the petition
 - (iii) Gist of the claim and the points of the dispute pertaining to the petitioner's or the opposite 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 Written Petition for Disposition of Collection of Evidence]) on which the petition is based
 - (iv) The facts that are to be proved in cases where the action pertaining to the advance notice is filed and the relationship between such facts and the materials that are to serve as evidence which are obtained through the disposition pertaining to the petition
 - (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 by himself/herself

(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 opposite party has given consent to the filing of the petition after the expiration of this period

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

(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) Statements of the matters set forth in item (ii) of paragraph (2) in a petition for the disposition set forth in item (i) of paragraph (1) of Article 132-4 of the Code shall clarify matters sufficiently for identifying the document (including the object prescribed in Article 231 [Application Mutatis Mutandis to Objects Equivalent to Documents] of the Code) sought to be sent. The same shall apply to the object specified in item (iii) or item (iv) of the preceding paragraph in a petition for the disposition set forth in item (iii) or item (iv) of paragraph (1) of Article 132-4 of the Code.

(5) Statements of the matters set forth in item (ii) of paragraph (2) in a petition for the disposition set forth in item (ii) or item (iv) of paragraph (1) of Article 132-4 of the Code shall clarify the matters for which an examination is sought. The same shall apply 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 said Article.

(6) A prima facie showing shall be made with regard to the grounds set forth in item (v) of paragraph (2).

Article 52-6 (Documents to be Attached to Written Petition for Disposition of Collection of Evidence; Article 132-4 of the Code)

- (1) The document set forth in paragraph (1) of the preceding Article (Method of Filing Petition for Disposition of Collection of Evidence) (hereinafter referred to as the "written petition" in this Article) shall have attached the following documents:
 - (i) Copy of the document of advance notice
 - (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 item (vi) of paragraph (2) of the preceding Article
- (2) When the recipient of the advance notice who has made a response to an advance notice files a petition for the disposition set forth in paragraph (1) of Article 132-4 (Disposition of Collection of Evidence prior to Filing of Action) of the Code, the written petition shall have attached a copy of the document of said response 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 item (iii) of paragraph (1) of Article 132-4 of the Code, if said disposition pertains to the commissioning of a statement of opinions about a specific object and if rights relating to said specific object are registrable, the written petition shall have attached a certificate of the registered matters or a document proving the matters stated in the registry of said specific object. The same shall apply when, in cases of filing a petition for the disposition set forth in item (iv) of said paragraph, rights relating to the object pertaining to the examination are registrable.

Article 52-7 (Procedure for Disposition of Collection of Evidence, etc.; Article 132-6 of the Code)

- (1) The court may, if it finds it to be necessary, hear the opinion of the person to be commissioned or any other person related to the commission.
- (2) In the sending of the document prescribed in item (i) of paragraph (1) of Article 132-4 (Disposition of Collection of Evidence prior to Filing of Action) 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 and any other circumstances of the person to be commissioned.
- (3) The provision of Article 103 (Commissioning Procedures for Examination of Evidence in Foreign State) shall apply mutatis mutandis to the commissioning procedures pertaining to the dispositions set forth in item (i) to item (iii) of paragraph (1) of Article 132-4 of the Code to be made in a foreign state pursuant to the provision of paragraph (1) of Article 184 (Examination of Evidence in Foreign State) of the Code as applied mutatis mutandis pursuant to paragraph

- (5) of Article 132-6 (Procedure for Disposition of Collection of Evidence, etc.) of the Code.
- (4) A court execution officer shall, when conducting the examination set forth in item (iv) of paragraph (1) of Article 132-4 of the Code, specify the date and place for conducting said examination and notify the petitioner and the opposite party of such date and place.
- (5) The provisions of paragraph (1), paragraph (2) and paragraph (5) of Article 4 (Requisition and Notice) shall apply mutatis mutandis to the notice prescribed in the preceding paragraph. In this case, the term "court clerk" in paragraph (2) and paragraph (5) of said Article shall be deemed to be replaced with "court execution officer," and the phrase "in the case record" in said paragraphs shall be deemed to be replaced with "in the report."
- (6) The report on the results of the examination set forth in item (iv) of paragraph (1) of Article 132-4 of the Code shall contain statements of 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 and the date and time of its termination, the place where the examination was conducted, the name(s) of a person(s) who attended the examination, if any, the matters on which the examination was ordered, and the examination results.

Article 52-8 (Notice of Whether or Not Filing of Action Is Scheduled, etc.)

A person who has given the advance notice shall, when four months have passed from the day on which he/she gave the advance notice, or even before such period has passed if there is a request by the recipient of the advance notice, clarify whether or not the filing of an action pertaining to said advance notice is scheduled and the schedule of the timing of such filing to the recipient of the advance notice.

Part II Court Proceedings in First Instance

Chapter I Action

Article 53 (Matters to be Stated in Complaint; Article 133 of the Code)

- (1) A complaint shall contain statements of the object and statement of the claim (meaning the facts necessary for identifying the claim), concrete statements of the cause of action, and statements of material facts related to said cause and evidence for the respective grounds that require proof.
- (2) When stating allegations on facts in a complaint, insofar as possible, allegations on the cause of the action and allegations on the facts related to said cause shall be stated separately.
- (3) A complaint stating allegations and evidence shall also serve as a brief.

- (4) A complaint shall contain statements of the postal code and telephone number (including the facsimile number) of the plaintiff or his/her agent, in addition to the matters prescribed in paragraph (1).

Article 54 (Matters to be Stated in a Complaint in Cases Where Preservation of Evidence Was Conducted Before Filing of Action)

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

Article 55 (Documents to be Attached to Complaint)

- (1) A complaint for the cases listed in the following items shall have attached the documents respectively specified in those items:
- (i) Case relating to real property - Certificate of registered matters
 - (ii) Case relating to a bill, a note or a check - Copy of the bill, the note or the check
- (2) In addition to what is provided for in the preceding paragraph, a complaint shall have attached a copy of any document that is to serve as evidence (hereinafter referred to as a "copy of documentary evidence") which is material, with regard to any grounds that require proof.

Article 56 (Urging Correction of Complaint; Article 137 of the Code)

The presiding judge may, in cases of urging the plaintiff to make the necessary corrections to statements in a complaint, direct a court clerk to urge the plaintiff.

Article 57 (Immediate Appeal against Direction to Dismiss Complaint without Prejudice; Article 137, etc. of the Code)

When filing an immediate appeal against a direction to dismiss a complaint without prejudice, the petition for immediate appeal shall have attached the dismissed complaint.

Article 58 (Service of Complaint, etc.; Article 138, etc. of the Code)

- (1) A complaint shall be served by serving a duplicate submitted by the plaintiff.
- (2) The provision of the preceding paragraph shall apply mutatis mutandis to service of the document set forth in paragraph (2) of Article 143 (Amendment of Claim) of the Code (including the cases where applied mutatis mutandis pursuant to paragraph (3) of Article 144 [Addition of Claim Pertaining to Appointer] and

paragraph (3) of Article 145 [Action for Interlocutory Declaration] of the Code).

Article 59 (Counterclaim; Article 146 of the Code)

The provisions concerning an action shall be applied to a counterclaim.

Chapter II Oral Argument and Preparation Thereof

Section 1 Oral Argument

Article 60 (Designation of First Date for Oral Argument; Article 139 of the Code)

- (1) When an action has been filed, the presiding judge shall promptly designate the date for oral argument; provided, however, that this shall not apply in case of referring the case to preparatory proceedings (limited to a case where neither party has any objection to the referral) or referring the case to preparatory proceedings by means of documents.
- (2) Except when any special circumstances exist, the presiding judge shall designate a date within thirty days from the day on which the action was filed as the date set forth in the preceding paragraph.

Article 61 (Hearing of Matters for Reference before First Date for Oral Argument)

- (1) The presiding judge may hear opinions on the process of the suit and/or 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) The presiding judge may, in cases of conducting the hearing set forth in the preceding paragraph, direct a court clerk to conduct the hearing.

Article 62 (Commencement of Proceedings on Date for Oral Argument)

Proceedings on a date for oral argument shall be commenced by pronouncement of the name of the case.

Article 63 (Method of Asking for Explanation Outside Date for Oral Argument; Article 149 of the Code)

- (1) The presiding judge or an associate judge may, in cases of taking measures to ask for an explanation under the provisions of paragraph (1) or paragraph (2) of Article 149 (Authority to Ask for Explanation, etc.) of the Code outside the date for oral argument, direct a court clerk to take such a measure.
- (2) If the presiding judge or an associate judge has, outside the date for oral argument, 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 shall clarify the contents thereof in the case record.

Article 64 (Restriction on Change of Date for Oral Argument)

A change of the date for oral argument shall 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.

Article 65 (Notice to Prohibit Counsel from Making Statements, etc.; Article 155 of the Code)

When the court has prohibited a counsel from making statements or has ordered the attendance of an attorney at law, a court clerk shall notify the party himself/herself thereof.

Article 66 (Formal Matters to be Stated in Record of Oral Argument; Article 160 of the Code)

- (1) The following matters shall be stated 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) 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 shall affix his/her name and seal to the record set forth in the preceding paragraph and the presiding judge shall affix a seal of approval thereto.
- (3) In the cases set forth in the preceding paragraph, if the presiding judge has difficulty affixing a seal of approval, an associate judge shall 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.

Article 67 (Substantial Matters to be Stated in Record of Oral Argument; Article 160 of the Code)

- (1) A record of oral argument shall contain statements of the summary of the oral argument, while clarifying, in particular, the following matters:
 - (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 paragraph (1) of Article 147-3 (Plan for Trial) of the Code has been formulated pursuant to the provision of said paragraph or has been modified pursuant to the provision of paragraph (4) of said Article, the

- contents so formulated or modified
- (iii) Statements by witnesses, the parties themselves and expert witnesses
 - (iv) Whether or not witnesses, the parties themselves 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 were directed by the presiding judge to be stated and matters that were allowed to be stated on request by a party
 - (vii) Judicial decisions that were made without preparing a document thereof
 - (viii) Rendition of the judicial decision
- (2) Notwithstanding the provision of the preceding paragraph, in cases where the suit has been concluded by a method other than a judicial decision, statements by witnesses, the parties themselves and expert witnesses and the results of the observation may be omitted from the statements in the record of oral argument, with the permission of the presiding judge; provided, however, that this shall not apply if a party has requested that such matters should be stated within one week from the day on which he/she acquired knowledge of the conclusion of the suit.
- (3) In addition to the oral argument summary, a record of oral argument may contain statements of the schedule of advancement of allegations and evidence by parties and other matters concerning the progress of court proceedings.

Article 68 (Recording onto Audio Tape, etc. in Lieu of Statement in Record of Oral Argument)

- (1) Notwithstanding the provision of paragraph (1) of the preceding Article (Substantial Matters to be Stated in Record of Oral Argument), a court clerk may, with the permission of the presiding judge, record statements by a witness, the party himself/herself 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 the statement in the record. In this case, the parties may state their opinions when the presiding judge gives his/her permission.
- (2) In the cases set forth in the preceding paragraph, a document showing the statements of the witness, etc. shall be prepared if a party makes such a request before the suit concludes. The same shall apply when an appellate court finds it to be necessary in cases where a suit is pending in an appellate instance.

Article 69 (Citation and Attachment of Document, etc.)

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

Article 70 (Stenography of Statements)

The court may, if it finds it to be necessary, 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.

Article 71 (Preparation of Stenographic Record)

A court stenographer shall, in cases where he/she has taken stenographic notes pursuant to the provision of the preceding Article (Stenography of Statements), promptly prepare a stenographic record by transcribing the stenographic notes; provided, however, this shall not apply when the stenographic notes are made part of the record of oral argument pursuant to the provision of Article 73 (Citation and Attachment of Stenographic Notes) or in other cases where the court finds it to be unnecessary to prepare a stenographic record.

Article 72 (Citation and Attachment of Stenographic Record)

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

Article 73 (Citation and Attachment of Stenographic Notes)

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

Article 74 (Transcription of Stenographic Notes, etc.)

- (1) In the following cases, the court shall have a court stenographer prepare a stenographic record by transcribing the stenographic notes that were made part of the record of oral argument pursuant to the provision of the preceding Article (Citation and Attachment of Stenographic Notes):
 - (i) When 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) When a judge has been replaced
 - (iii) When an appeal has been filed or a petition for acceptance of final appeal has been filed
 - (iv) In any other cases where it is found to be necessary

- (2) A court clerk shall attach the stenographic record prepared pursuant to the provision 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 provision of the preceding paragraph shall be treated in lieu of the stenographic notes that were made part of the record of oral argument pursuant to the provision of the preceding Article.

Article 75 (Oral Translation of Stenographic Notes)

In cases where a person requesting inspection of a case record has requested an oral translation of stenographic notes that were made part of the record of oral argument, a court stenographer shall, upon the request of a court clerk, orally translate the stenographic notes.

Article 76 (Recording of Statements in Oral Argument)

The court may, if it finds it to be necessary, 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, a record of oral argument shall be prepared by transcribing the audio tapes.

Article 77 (Restriction on Taking of Photographs, etc. in Court)

The taking of photographs, stenography, sound recording, video recording or broadcasting in court shall not be allowed without the permission of the presiding judge.

Article 78 (Application Mutatis Mutandis to Interrogation by Court, etc.)

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

Section 2 Brief, etc.

Article 79 (Brief; Article 161 of the Code)

- (1) A written answer or any other brief shall be submitted to the court while allowing a period necessary for the opponent to make preparations with regard to the matters stated therein.
- (2) In cases of stating allegations on the facts in a brief, insofar as possible, allegations on the cause of action, facts of defense or facts of re-defense and allegations on the facts related thereto shall be stated separately.
- (3) In cases of denying in a brief any facts alleged by the opponent, the reason therefor shall be stated therein.
- (4) In the cases prescribed in paragraph (2), evidence shall be stated for the respective grounds that require proof.

Article 80 (Written Answer)

- (1) A written answer shall contain statements of the answer to the object of claim, concrete statements of admission or denial of the facts stated in the complaint and facts of defense, and statements of material facts related to said facts and evidence for the respective grounds that require proof. In cases where it is not possible to include such statements due to unavoidable circumstances, a brief containing such statements shall be submitted promptly after submitting the written answer.
- (2) A written answer shall have attached a copy of important documentary evidence for grounds that require proof. In cases where it is not possible to attach such copy due to unavoidable circumstances, such copy shall be submitted promptly after submitting the written answer.
- (3) The provision of paragraph (4) of Article 53 (Matters to be Stated in Complaint) shall apply mutatis mutandis to a written answer.

Article 81 (Counterargument to Answer)

In cases where the plaintiff is required to make a counterargument due to the submission of an answer by the defendant, he/she shall promptly submit a brief that contains concrete statements of admission or denial of the facts stated in the written answer and facts of re-defense, and statements of material facts related to said facts and evidence for the respective grounds that require proof. Said brief shall have attached a copy of important documentary evidence for grounds that require proof.

Article 82 (Handling of Document Cited in Brief)

- (1) A party who has cited a document in a brief shall submit a copy thereof upon the request of the court or the opponent.
- (2) The party set forth in the preceding paragraph shall carry out direct sending of the copy set forth in said paragraph.

Article 83 (Direct Sending of Brief)

- (1) A party shall carry out direct sending of a brief while allowing the period set forth in paragraph (1) of Article 79 (Brief).
- (2) The opponent to whom direct sending of a brief was carried out under the provision of the preceding paragraph shall carry out direct sending of a document stating that he/she has received the brief and also submit said document to the court.
- (3) The provision of the preceding paragraph shall not apply in cases where a party has submitted to the court a brief containing statements made by the opponent to the effect that he/she has received the brief.

Article 84 (Inquiry to Opponent; Article 163 of the Code)

- (1) An inquiry under the provision of Article 163 (Inquiry to Opponent) of the Code and a response thereto shall be 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 shall be sent to the agent.
- (2) The written inquiry set forth in the preceding paragraph shall contain statements of the following matters, and the party or his/her agent shall affix his/her name and seal thereto:
 - (i) Names of the party and his/her agent
 - (ii) Indication of the case
 - (iii) Indication of the court before which the suit is pending
 - (iv) 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) Fact that the inquiry is made pursuant to the provision of Article 163 of the Code
 - (vii) Period in which a response should be made
 - (viii) Address, postal code and facsimile number of the person making the inquiry
- (3) The written response set forth in paragraph (1) shall contain statements of the matters listed in items (i) to (iv) of the preceding paragraph and responses to the matters inquired into, and the party or his/her agent shall affix his/her name and seal thereto. In this case, if, among the matters inquired into, there are any matters on which a response shall be refused due to the reason that the inquiry is one that is set forth in any of the items of Article 163 of the Code, the relevant provisions shall also be stated.
- (4) The matters inquired into shall be stated in an itemized form, and the response to the matters inquired into shall be, insofar as possible, stated in accordance with the itemization of the matters inquired into and specifically.

Article 85 (Obligation of Research)

A party shall, in order to make allegations and show proof thoroughly, 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

Article 86 (Statement of Facts to be Proven in Record, etc.; Article 165 of the Code)

- (1) In cases where, upon closing preliminary oral arguments, facts to be proven through the subsequent examination of evidence were confirmed, the court shall, if it finds it to be appropriate, have the court clerk state such facts in the record of preliminary oral arguments.
- (2) In cases where, 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, he/she may specify the period for submitting said document.

Article 87 (Method of Explanation by Party under Provision of Article 167 of the Code)

- (1) The explanation by a party under the provision of Article 167 (Advancement of Allegations and Evidence after Close of Preliminary Oral Arguments) of the Code shall be provided in writing, except in cases of providing the explanation orally on an appearance date.
- (2) In cases where 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 said explanation.

Subsection 2 Preparatory Proceedings

Article 88 (Record of Preparatory Proceedings, etc.; Article 170 of the Code)

- (1) A record of preparatory proceedings shall, based on the statements by the parties, contain statements of the matters set forth in paragraph (2) of Article 161 (Brief) of the Code, while clarifying any request for offer of evidence in particular.
- (2) When conducting proceedings on the 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 shall confirm the called party and his/her location.

- (3) When having conducted the proceedings set forth in the preceding paragraph, a statement shall be made to that effect and the telephone number of the called party shall be stated in the record of preparatory proceedings. In this case, the location of the called party may be stated in addition to the telephone number of said party.
- (4) In addition to what is provided for in paragraph (1) and the preceding paragraph, the provision of Article 160 (Record of Oral Argument) of the Code and the provisions of these Rules concerning a record of oral argument shall apply mutatis mutandis to a record of preparatory proceedings.

Article 89 (Statement of Outcome of Preparatory Proceedings; Article 173 of the Code)

When stating the outcome of preparatory proceedings at oral argument after the conclusion of preparatory proceedings, the facts to be proven through the subsequent examination of evidence shall be clarified.

Article 90 (Application Mutatis Mutandis of Provisions on Preliminary Oral Arguments, etc.; Article 170, etc. of the Code)

The provisions of Article 63 (Method of Giving Explanation Outside Date for Oral Argument), Article 65 (Notice to Prohibit Counsel from Making Statements, etc.) and the preceding Subsection (Preliminary Oral Arguments) shall apply mutatis mutandis to preparatory proceedings.

Subsection 3 Preparatory Proceedings by Means of Documents

Article 91 (Consultation by Method of Communication through Audio Transmissions; Article 176 of the Code)

- (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 preparatory proceedings by means of documents, 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 said consultation.
- (2) When 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 him/her state the outcome of the consultation therein.
- (3) When 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. shall have statements of the fact that the consultation was held by the method set forth in said paragraph and the telephone number of the called party included in the record. In this case, the presiding judge, etc. may have the location

of the called party stated in addition to the telephone number of said party.

- (4) The provision of paragraph (2) of Article 88 (Record of Preparatory Proceedings, etc.) shall apply mutatis mutandis to cases of holding a consultation by the method set forth in paragraph (1).

Article 92 (Application Mutatis Mutandis of Provisions Concerning Oral Argument, etc.; Article 176 of the Code)

The provisions of Article 63 (Method of Giving Explanation Outside Date for Oral Argument) and paragraph (2) of Article 86 (Statement of Facts to be Proven in Record, etc.) shall apply mutatis mutandis to preparatory proceedings by means of documents.

Article 93 (Statement of Facts to be Proven in Record; Article 177 of the Code)

If, for a case for which preparatory proceedings by means of documents have been concluded, facts to be proven through the subsequent examination of evidence were confirmed on the date for oral argument, such facts shall be stated in the record of oral argument.

Article 94 (Method of Explanation by Party under Provision of Article 178 of the Code)

- (1) The explanation by a party under the provision of Article 178 (Advancement of Allegations and Evidence after Conclusion of Preparatory Proceedings by Means of Documents) of the Code shall be provided in writing, except in cases of providing the explanation orally on an appearance date.
- (2) The provision of paragraph (2) of Article 87 (Method of Explanation by Party under Provision of Article 167 of the Code) shall apply mutatis mutandis to cases where the explanation set forth in the preceding paragraph was provided orally on an appearance date.

Section 4 Date for Scheduling Conference

Article 95 (Date for Scheduling Conference)

- (1) The court may designate a date for scheduling conference on which both parties are able to attend, outside the date for oral argument, for the purpose of conducting productive proceedings. On such date, the court and the parties shall 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 the date for scheduling conference.

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

Article 96 (Date for Scheduling Conference by Method of Communication through Audio Transmissions)

- (1) The court may, if a party resides in a remote place or in any other cases where the court finds it to be appropriate, conduct the proceedings on the date for 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 where either of the parties appears on said date.
- (2) A party who has participated in the proceedings set forth in the preceding paragraph without appearing on the date for scheduling conference shall be deemed to have appeared on that date.
- (3) On the date for scheduling conference, the party set forth in the preceding paragraph may not withdraw an action or waive or acknowledge a claim, notwithstanding the provision of paragraph (2) of the preceding Article (Date for Scheduling Conference).
- (4) The provision of paragraph (2) of Article 88 (Record of Preparatory Proceedings, etc.) shall apply mutatis mutandis to cases of conducting the proceedings set forth in paragraph (1).

Article 97 (Date for Scheduling Conference Out of Court)

The court may, when it finds it to be appropriate, conduct the proceedings on the date for scheduling conference out of court.

Article 98 (Date for Scheduling Conference by Authorized Judge)

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

Chapter III Evidence

Section 1 General Provisions

Article 99 (Offer of Evidence; Article 180 of the Code)

- (1) Evidence shall be offered by specifically and clearly indicating the fact to be proven thereby and the relationship between such fact and the evidence.
- (2) The provision of Article 83 (Direct Sending of Brief) shall also apply to a document stating an offer of evidence.

Article 100 (Collective Requests for Examination of Witnesses and Parties Themselves; Article 182 of the Code)

Requests for the examination of witnesses and the parties themselves shall be made collectively, insofar as possible.

Article 101 (Preparation for Examination of Evidence)

With regard to a case in which proceedings to arrange issues and evidence have already been conducted, the court shall 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.

Article 102 (Period for Submission of Documents, etc.)

Documents that are planned to be used in the examination of witnesses or the parties themselves or in the oral statement of opinions by expert witnesses shall be submitted by allowing a reasonable period before the time of the commencement of said 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, when it is not possible to submit such documents, it shall be sufficient to submit a copy thereof.

Article 103 (Commissioning Procedures for Examination of Evidence in Foreign State; Article 184 of the Code)

The commissioning procedures for the examination of evidence to be conducted in a foreign state shall be carried out by the presiding judge.

Article 104 (Notice of Recommissioning of Examination of Evidence; Article 185 of the Code)

When 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 shall notify the court in charge of the case and the parties to that effect.

Article 105 (Sending of Record of Commissioned Examination of Evidence; Article 185 of the Code)

A court clerk of the court to which the commissioned judge belongs shall send a record concerning the examination of evidence to a court clerk of the court in charge of the case.

Section 2 Examination of Witness

Article 106 (Request for Examination of Witness)

A request for the examination of a witness shall be made by designating the witness and clarifying the expected time required for the examination.

Article 107 (Statement of Matters for Examination)

- (1) When requesting the examination of a witness, two copies of a statement of matters for examination (meaning a document stating the matters for examination; the same shall apply hereinafter) shall be submitted at the same time; provided, however, that it shall be sufficient to submit such copies within a period specified by the presiding judge, if there are unavoidable grounds therefor.
- (2) A statement of matters for examination shall be stated individually and specifically insofar as possible.
- (3) A party who is making the request set forth in paragraph (1) shall carry out direct sending of a statement of matters for examination.

Article 108 (Matters to be Stated in Writ of Summons, etc.)

A writ of summons for a witness shall contain statements of the following matters and shall have attached a statement of matters for examination:

- (i) Indication of the parties
- (ii) Date, time and place for appearance
- (iii) Legal sanction against a failure to appear

Article 109 (Ensuring Appearance of Witness)

When an order to examine a witness has been issued, the party who has requested the examination shall endeavor to have the witness appear on the appearance date.

Article 110 (Notification of Non-Appearance)

A witness shall, when circumstances that prevent him/her from appearing on the appearance date have arisen, notify such fact immediately while clarifying the circumstances.

Article 111 (Subpoena; Article 194 of the Code)

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

Article 112 (Oath; Article 201 of the Code)

- (1) The court shall 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) The swearing under oath shall be conducted solemnly while standing.
- (3) The presiding judge shall have the witness read aloud the written oath and have him/her sign and seal it. When the witness is unable to read the written oath aloud, the presiding judge shall have a court clerk read it aloud.
- (4) The written oath set forth in the preceding paragraph shall contain a statement to the effect that the person swears to tell the truth according to the dictates of conscience, without hiding anything or adding anything.
- (5) The presiding judge shall, before the swearing under oath, explain the purpose of swearing under oath and notify the punishment against any perjury.

Article 113 (Order of Examination; Article 202 of the Code)

- (1) A witness shall be 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)
 - (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 by himself/herself or allow examination by a party not only under the provisions of paragraph (1) and paragraph (2) of Article 202 (Order of Examination) of the Code, but whenever he/she finds it to be necessary.
- (4) An associate judge may examine a witness, after notifying the presiding judge.

Article 114 (Limitation of Question)

- (1) The examinations listed in the following items shall be conducted for the matters respectively specified in those items:
 - (i) Direct examination - Matters to be proved and any matters related thereto
 - (ii) Cross examination - Matters mentioned in the direct examination and any matters related thereto, and matters concerning credibility of the testimony
 - (iii) Redirect examination - Matters mentioned in the cross examination and any matters related thereto
- (2) The presiding judge may, upon petition or by his/her own authority, limit a question asked in any of the examinations listed in the items of the preceding paragraph, if he/she finds that said question relates to a matter other than the matters specified in the items of said paragraph and is inappropriate.

Article 115

- (1) Questions shall be asked individually and specifically insofar as possible.
- (2) The parties shall not ask the following questions; provided, however, that this shall not apply to the questions listed in items (ii) to (vi) in cases where justifiable grounds exist:
 - (i) Question that insults or confuses the witness
 - (ii) Leading question
 - (iii) Question that overlaps with any previous question
 - (iv) Question unrelated to the issues
 - (v) Question seeking statement of opinion
 - (vi) Question seeking statements on facts which the witness has not experienced directly
- (3) The presiding judge may, upon petition or by its own authority, limit a question if he/she finds it to be in violation of the provision of the preceding paragraph.

Article 116 (Use of Document, etc. in Questions)

- (1) A party may, with the permission of the presiding judge, ask questions of 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 shall be given an opportunity to inspect it before the asking of said questions; provided, however, that this shall 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 he/she finds it necessary for attaching such copy to the record or for any other purpose.

Article 117 (Objection; Article 202 of the Code)

- (1) A party may make an objection to a judicial decision of the presiding judge that has been made under the provisions of paragraph (2) and paragraph (3) of Article 113 (Order of Examination), paragraph (2) of Article 114 (Limitation of Question), paragraph (3) of Article 115 (Limitation of Question) and paragraph (1) of the preceding Article (Use of Document, etc. in Questions).
- (2) The court shall, by an order, immediately make a judicial decision on the objection set forth in the preceding paragraph.

Article 118 (Simultaneous Examination)

- (1) The presiding judge may, if he/she finds it to be necessary, direct a simultaneous examination of a witness and another witness.
- (2) When having directed a simultaneous examination pursuant to the provision of

the preceding paragraph, the presiding judge shall have a statement to that effect included in the record.

- (3) When carrying out a simultaneous examination, the presiding judge may examine the witnesses first.

Article 119 (Writing of Characters, etc.)

The presiding judge may, if he/she finds it to be necessary, have a witness put something in writing or carry out any other necessary acts.

Article 120 (Handling of Witness to be Examined Later)

The presiding judge may, if he/she finds it to be necessary, allow a witness who is to be examined later to be present in court.

Article 121 (Measure to Have Observer Leave Court)

The presiding judge may, if he/she 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 (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), have such observer leave the court while said witness makes his/her statements, after hearing the opinions of the parties as to such measure.

Article 122 (Reading Aloud of Question or Response Asked or Made by Means of Document; Article 154 of the Code)

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

Article 122-2 (Measure to Have Witness Accompanied; Article 203-2 of the Code)

- (1) The presiding judge shall, when taking the measure prescribed in paragraph (1) of Article 203-2 (Measure to Have Witness Accompanied) of the Code, hear the opinions of the parties and the witness.
- (2) When having taken the measure set forth in the preceding paragraph, a statement to that effect and statements of the name of the person who accompanied the witness and the relationship between such person and the witness shall be included in the record.

Article 122-3 (Shielding Measure; Article 203-3 of the Code)

- (1) The presiding judge shall, when taking the measure prescribed in paragraph (1)

or paragraph (2) of Article 203-3 (Shielding Measure) of the Code, hear the opinions of the parties and the witness.

- (2) When having taken the measure set forth in the preceding paragraph, a statement to that effect shall be included in the record.

Article 123 (Examination through Communication by Audio and Visual Transmissions; Article 204 of the Code)

- (1) 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 said Article shall be conducted, after hearing the opinions of the parties, by having the parties appear at the court in charge of the case and having the witness appear at another court in which equipment necessary for the examination is installed.
- (2) Examination by the method prescribed in Article 204 of the Code in the cases set forth in item (ii) of said Article shall be conducted, after hearing the opinions of the parties and the witness, by having the parties appear at the court in charge of the case and having 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, said witness shall 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 present a document by sending a copy thereof or to take any other measures necessary for implementing the examination.
- (4) When having conducted the examination set forth in paragraph (1) or paragraph (2), a statement to that effect and an indication of the court at which the witness appeared (excluding cases where such court was the court in charge of the case) shall be included in the record.

Article 124 (Submission of Document in Lieu of Examination; Article 205 of the Code)

- (1) In cases of having a witness submit a document in lieu of an examination pursuant to the provision of Article 205 (Submission of Document 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 he/she 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 document in lieu of examination.
- (3) A witness shall sign and seal the document set forth in the preceding paragraph.

Article 125 (Powers of Authorized Judge, etc.; Article 206 of the Code)

Where an authorized judge or a commissioned judge examines a witness, said judge shall perform the duties of the court and the presiding judge.

Section 3 Examination of Parties

Article 126 (Simultaneous Examination)

The presiding judge may, if he/she finds it to be necessary, direct a simultaneous examination of a party himself/herself and another party himself/herself or a witness.

Article 127 (Application Mutatis Mutandis of Provisions Concerning Examination of Witness; Article 210 of the Code)

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

Article 128 (Examination of Statutory Agent; Article 211 of the Code)

The provisions of these Rules concerning the examination of a party himself/herself shall apply mutatis mutandis to a statutory agent who represents the party in a suit.

Section 4 Expert Testimony

Article 129 (Matters for Expert Testimony)

- (1) When requesting expert testimony, a document stating the matters for which expert testimony is sought shall be submitted at the same time; provided, however, that it shall be sufficient to submit such 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 shall carry out direct sending of the document set forth in said paragraph.
- (3) If the opponent wishes to state opinions on the document set forth in paragraph (1), he/she shall submit a document stating his/her opinions to the court.
- (4) The court shall 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 shall be sent to the expert witness.

Article 129-2 (Consultation on Matters Necessary for Expert Testimony)

The court may, on the date for oral argument or preparatory proceedings or on the date for scheduling conference, 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 shall apply to preparatory proceedings by means of documents.

Article 130 (Method of Filing Petition for Challenge; Article 214 of the Code)

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

Article 131 (Method of Swearing under Oath)

- (1) A written oath shall contain a statement to the effect that the person swears to give expert testimony sincerely according to the dictates of conscience.
- (2) It shall also be possible to have an expert witness swear under oath by the method of submitting a written oath to the court. In this case, the presiding judge shall explain the purpose of swearing under oath and notify the punishment against any false expert testimony by the method of sending a document stating such matters to the expert witness.

Article 132 (Method for Making Statements for Expert Witness, etc.; Article 215 of the Code)

- (1) The presiding judge may have expert witnesses state their opinions jointly or individually.
- (2) The presiding judge may, in cases of having an expert witness state his/her opinions by means of a document, specify a period in which said document should be submitted after hearing the opinion of the expert witness as to such period.

Article 132-2 (Matters for Seeking Additional Opinions of Expert Witness; Article 215 of the Code)

- (1) When filing the petition set forth in paragraph (2) of Article 215 (Method for Making Statements for Expert Witness, etc.) of the Code, a document stating the matters for seeking additional opinions of the expert witness shall be submitted at the same time; provided, however, that it shall be sufficient to submit such document within a period specified by the presiding judge, if there are unavoidable grounds therefor.
- (2) The court may, when having an expert witness state additional opinions by its own authority, have the parties submit a document stating the matters for seeking additional opinions of the expert witness in advance.
- (3) A party who is submitting the document set forth in the preceding two

paragraphs shall carry out direct sending of such document.

- (4) If the opponent wishes to state opinions on the document set forth in paragraph (1) or paragraph (2), he/she shall submit a document stating his/her opinions to the court.
- (5) The court shall specify the matters for seeking additional opinions of the expert witness while also 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 said matters shall be sent to the expert witness.

Article 132-3 (Order of Asking Questions; Article 215-2 of the Code)

- (1) The presiding judge may ask questions to an expert witness by himself/herself or allow a party to ask questions not only under the provisions of paragraph (2) and paragraph (3) of Article 215-2 (Questions to Expert Witness) of the Code, but whenever he/she finds it to be necessary.
- (2) An associate judge may ask questions to an expert witness, after notifying the presiding judge.
- (3) An expert witness shall be asked questions by the parties in the following order; provided, however, that the order in which the parties shall ask questions in cases where both parties have requested expert testimony shall be specified by the presiding judge:
 - (i) Questions by the party who has requested the expert testimony
 - (ii) Questions by the opponent
 - (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.

Article 132-4 (Limitation of Question; Article 215-2 of the Code)

- (1) Questions asked to an expert witness shall be on matters necessary for clarifying the contents of the opinions of the expert witness or for confirming the grounds therefor.
- (2) Questions shall be asked specifically insofar as possible.
- (3) The parties shall not ask the following questions; provided, however, that this shall not apply to the questions listed in items (ii) and (iii) in cases where justifiable grounds exist:
 - (i) Question that insults or confuses the expert witness
 - (ii) Leading question
 - (iii) Question that overlaps with any previous question
 - (iv) Question unrelated to the matters prescribed in paragraph (1)
- (4) The presiding judge may, upon petition or by its own authority, limit a question if he/she finds it to be in violation of the provision of the preceding paragraph.

Article 132-5 (Statements Made Through Communication Through Audio and Visual Transmissions; Article 215-3 of the Code)

- (1) When having an expert witness state his/her opinions by the method prescribed in Article 215-3 (Statements Made through Communication Through Audio and Visual Transmissions) of the Code, it shall be done, after hearing the opinions of the parties, by 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 where the court finds appropriate.
- (2) In the case set forth in the preceding paragraph, a facsimile may be used to present a document by sending a copy thereof or to take any other measures necessary for implementing the procedure.
- (3) When having had an expert witness state his/her 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 shall be included in the record.

Article 133 (Questions by Expert Witness, etc.)

An expert witness may, when it is necessary for giving expert testimony, attend the trial, make a request for the examination of a witness or a party himself/herself to the presiding judge, or with the permission of the presiding judge, ask questions to such persons directly.

Article 133-2 (Objection; Article 215-2 of the Code)

- (1) A party may make an objection to a judicial decision of the presiding judge that has been made under the provisions of paragraph (1), the proviso to paragraph (3) and paragraph (4) of Article 132-3 (Order of Asking Questions), paragraph (4) of Article 132-4 (Limitation of Question), the preceding Article (Questions by Expert Witness, etc.) and the provision of paragraph (1) of Article 116 (Use of Document, etc. in Questions) as applied mutatis mutandis pursuant to Article 134 (Application Mutatis Mutandis of Provisions Concerning Examination of Witness).
- (2) The court shall, by an order, immediately make a judicial decision on the objection set forth in the preceding paragraph.

Article 134 (Application Mutatis Mutandis of Provisions Concerning Examination of Witness; Article 216 of the Code)

The provision of Article 108 (Matters to be Stated in Writ of Summons, etc.) shall apply mutatis mutandis to a writ of summons issued to an expert witness, the provision of Article 110 (Notification of Non-Appearance) shall apply mutatis mutandis to cases where circumstances that prevent an expert witness from appearing on the appearance date have arisen, the provisions of paragraph (2),

paragraph (3) and paragraph (5) of Article 112 (Oath) shall apply mutatis mutandis to cases of having an expert witness swear under oath, and the provisions of Article 116 (Use of Document, etc. in Questions), Article 118 (Simultaneous Examination), Article 119 (Writing of Characters, etc.), Article 121 (Measure to Have Observer Leave Court) and Article 122 (Reading Aloud of Question or Response Asked or Made by Means of Document) shall apply mutatis mutandis to cases of having an expert witness state his/her opinions orally, and the provision of Article 125 (Powers of Authorized Judge, etc.) shall apply mutatis mutandis to cases where an authorized judge or a commissioned judge has an expert witness state his/her opinions.

Article 135 (Expert as Witness; Article 217 of the Code)

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

Article 136 (Application Mutatis Mutandis to Commissioning of Expert Testimony; Article 218 of the Code)

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

Section 5 Examination of Documentary Evidence

Article 137 (Request for Examination of Documentary Evidence, etc.; Article 219 of the Code)

- (1) When requesting the examination of documentary evidence by submitting a document, two copies of the document (or, when there are two or more opponent parties to whom said document should be sent, the number of copies shall be the number of such parties plus one) shall be submitted and, unless it is clear from the statements in the document, two copies of the description of evidence clarifying the title of the document, the person who prepared the document and the facts to be proved (or, when there are two or more opponent parties to whom said document should be sent, the number of copies shall be the number of such parties plus one) shall be submitted by the time of making the request; provided, however, that it shall be sufficient to submit such copies 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 may carry out direct sending of the copy of the document and the description of evidence pertaining to said document which are to be sent to the opponent.

Article 138 (Attaching of Translation, etc.)

- (1) When requesting the examination of documentary evidence by submitting a document prepared in a foreign language, a translation of the part of the document for which examination is sought shall be attached thereto. In this case, if the party carries out the direct sending under the provision of paragraph (2) of the preceding Article (Request for Examination of Documentary Evidence, etc.), he/she shall also carry out direct sending of such 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, he/she shall submit a document stating his/her opinions to the court.

Article 139 (Period for Submission of Copy of Documentary Evidence; Article 162 of the Code)

If, pursuant to the provision of Article 162 (Period for Submission of Brief, etc.) of the Code, the presiding judge has specified a period in which a request for examination of documentary evidence (limited to such request that is made by submitting a document) concerning a specific matter should be made, the party shall submit a copy of the documentary evidence before the expiration of such period.

Article 140 (Method of Filing Petition for Order to Submit Document, etc.; Article 221, etc. of the Code)

- (1) A petition for an order to submit a document shall be filed in writing.
- (2) If the opponent wishes to state opinions on the petition set forth in the preceding paragraph, he/she shall submit a document stating his/her opinions to the court.
- (3) The provisions of paragraph (2) of Article 99 (Offer of Evidence) and the preceding two paragraphs shall apply mutatis mutandis to a request under the provision of paragraph (1) of Article 222 (Procedure for Identifying Document) of the Code.

Article 141 (Retention of Presented Document; Article 223 of the Code)

The court may, if it finds it to be necessary, retain temporarily a document that has been presented pursuant to the provision of the first sentence of paragraph (6) of Article 223 (Order to Submit Document, etc.) of the Code.

Article 142 (Record of Examination of Evidence by Authorized Judge, etc.)

- (1) In cases of having an authorized judge or a commissioned judge examine documentary evidence, the court may specify the matters to be stated in the record concerning said 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 said paragraph.

Article 143 (Method of Submission, etc. of Document)

- (1) When submitting or sending a document, the original, an authenticated copy or a certified transcript of the document shall be submitted or sent.
- (2) Notwithstanding the provision of the preceding paragraph, the court may order the submission of the original or sending of the original.

Article 144 (Handling in Cases where Request for Examination of Documentary Evidence was Made for Transcription of Audio Tape, etc.)

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

Article 145 (Clear Indication of Reason in Cases of Denying Authenticity of Creation of Document)

When denying the authenticity of the creation of a document, the reason therefor shall be clarified.

Article 146 (Record, etc. pertaining to Document, etc. to be Used for Comparison of Handwriting, etc.; Article 229 of the Code)

- (1) The original, transcript or extract of a document used for the comparison of handwriting or seal impressions prescribed in paragraph (1) of Article 229 (Proof by Comparison of Handwriting, etc.) of the Code shall be attached to the record.
- (2) The provision of Article 141 (Retention of Presented Document) shall apply *mutatis mutandis* to the submission of a document or any other object under the provision of paragraph (1) of Article 223 (Order to Submit Document, etc.) of the Code as applied *mutatis mutandis* pursuant to paragraph (2) of Article 229 of the Code, and the provision of Article 142 (Record of Examination of Evidence by Authorized Judge, etc.) shall apply *mutatis mutandis* to a record in cases of having an authorized judge or a 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), paragraph (1) of Article 223 or Article 226 (Commission to Send Document) of the Code as applied *mutatis mutandis* pursuant to paragraph (2) of Article 229 of the Code.

Article 147 (Application *Mutatis Mutandis* to Objects Equivalent to Documents; Article 231 of the Code)

The provisions of Article 137 to the preceding Article (Request for Examination of Documentary Evidence, etc.; Attaching of Translation, etc.; Period for Submission of

Copy of Documentary Evidence; Method of Filing Petition for Order to Submit Document, etc.; Retention of Presented Document; Record of Examination of Evidence by Authorized Judge, etc.; Method of Submission, etc. of Document; Handling in Cases where Request for Examination of Documentary Evidence was Made for Transcription of Audio Tape, etc.; Clear Indication of Reason in Cases of Denying Authenticity of Creation of Document; and Record, etc. pertaining to Document, etc. to be Used for Comparison of Handwriting, etc.) shall 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.

Article 148 (Matters to be Stated in Description of Evidence for Photograph, etc.)

When requesting the examination of evidence for a photograph or audio tape, etc., what is photographed or recorded and the date and place of the taking of the photograph or making the recording shall also be clarified in the description of evidence.

Article 149 (Submission of Document Explaining Contents of Audio Tape, etc.)

- (1) A party who has requested the examination of evidence for an audio tape, etc. shall, upon the request of the court or the opponent, 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 shall carry out direct sending of the document set forth in said paragraph.
- (3) If the opponent wishes to state opinions on the document set forth in paragraph (1), he/she shall submit a document stating his/her opinions to the court.

Section 6 Observation

Article 150 (Method for Requesting Observation)

An observation shall be requested by indicating the subject matter of the observation.

Article 151 (Presentation of Subject Matter of Observation, etc.; Article 232 of the Code)

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

Section 7 Preservation of Evidence

Article 152 (Examination of Evidence in Procedure for Preservation of Evidence; Article 234 of the Code)

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

Article 153 (Method of Filing Petition for Preservation of Evidence; Article 235 of the Code)

- (1) A petition for the preservation of evidence shall be filed in writing.
- (2) The document set forth in the preceding paragraph shall contain statements of the following matters:
 - (i) Indication of the opponent
 - (ii) Fact to be proven
 - (iii) Evidence
 - (iv) Grounds for the preservation of evidence
- (3) A prima facie showing shall be made with regard to the grounds for the preservation of evidence.

Article 154 (Forwarding of Record of Preservation of Evidence)

In cases where the examination of evidence has been conducted for the preservation of evidence, a court clerk of the court that has examined the evidence shall forward the record concerning the examination of evidence to a court clerk of the court where the case record of the suit exists.

Chapter IV Judgment

Article 155 (Formality of Rendition; Article 252, etc. of the Code)

- (1) A judgment shall be rendered by a method whereby the presiding judge reads aloud the main text.
- (2) The presiding judge may, when he/she finds it to be appropriate, read aloud the reasons for the judgment or orally notify the summary thereof.
- (3) Notwithstanding the provisions of the preceding two paragraphs, the rendition of a judgment under the provision of paragraph (1) of Article 254 (Special Provisions on Formality of Rendition) of the Code shall be carried out by the method whereby the presiding judge notifies the main text and the gist of the reasons.

Article 156 (Notice of Date for Rendition of Judgment; Article 251 of the Code)

A court clerk shall notify the parties of the date for rendition of the judgment in

advance; provided, however, that this shall not apply in cases where such date has been notified on an appearance date or in cases of dismissing without prejudice an unlawful action of which a defect cannot be corrected, without oral argument.

Article 157 (Judgment Document; Article 253 of the Code)

- (1) The judges who have made the judgment shall 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 shall sign and seal the judgment document while appending a supplementary note about the grounds therefor.

Article 158 (Delivery to Court Clerk, etc.)

A judgment document shall be delivered to a court clerk without delay after the rendering, and the court clerk shall affix a seal thereto while appending a supplementary note about the date of the rendition and the date of the delivery.

Article 159 (Service of Judgment Document, etc.; Article 255 of the Code)

- (1) A judgment document or the record set forth in paragraph (2) of Article 254 (Special Provisions on Formality of Rendition) of the Code (including cases where applied *mutatis mutandis* pursuant to paragraph (2) of Article 374 (Rendition of Judgment) of the Code) (hereinafter referred to as the "record in lieu of the judgment document") shall be served within two weeks from the date on which the court clerk received delivery of the judgment document or from the date of rendition of the judgment.
- (2) A record in lieu of the judgment document may be served by serving an authenticated copy thereof.

Article 160 (Formality of Order of Correction, etc.; Article 257, etc. of the Code)

- (1) An order of correction shall be appended as a supplementary note to the original and authenticated copy of the judgment document; provided, however, that the court may, if it finds it to be appropriate, 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 provision of the preceding paragraph shall apply *mutatis mutandis* to a supplemental order under the provision of paragraph (5) of Article 259 (Declaration of Provisional Execution) of the Code.

Article 161 (Method of Filing Petition set forth in Paragraph (2) of Article 258 of the Code)

In cases of an omission of judicial decision on the burden of court costs, a petition seeking such decision shall be filed in writing.

Chapter V Conclusion of Suit Not by Judicial Decision

Article 162 (In Cases of Withdrawal of Action; Article 261 of the Code)

- (1) A document of withdrawal of an action shall be served by serving the duplicate submitted by the person who has made the withdrawal.
- (2) In cases where an action has been withdrawn, if the consent of the opponent is not required, a court clerk shall notify the opponent to the effect that the action has been withdrawn.

Article 163 (Acceptance by Means of Document of Proposed Terms of Settlement; Article 264 of the Code)

- (1) When the court or an authorized judge or a commissioned judge (hereinafter referred to as the "court, etc." in this Chapter) presents proposed terms of settlement based on the provision of Article 264 (Acceptance by Means of Document of Proposed Terms of Settlement) of the Code, it shall be done by stating the proposed terms of settlement in a document. The effect prescribed in said Article shall be appended as a supplementary note to said 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. shall confirm the true intention of the party who has submitted said document.
- (3) When it has been deemed that the parties have reached a settlement pursuant to the provision of Article 264 of the Code, a court clerk shall state said settlement in the record. In this case, the court clerk shall, 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.

Article 164 (Terms of Settlement Determined by Court, etc.; Article 265 of the Code)

- (1) The court, etc. shall hear the opinions of the parties when intending to determine the terms of settlement pursuant to the provision of paragraph (1) of Article 265 (Terms of Settlement Determined by Court, etc.) of the Code.
- (2) When it has been deemed that the parties have reached a settlement pursuant to the provision of paragraph (5) of Article 265 of the Code, a court clerk shall state said settlement in the record.
- (3) In the case prescribed in the preceding paragraph, if the terms of settlement have been determined by a notice other than a notice on an appearance date, the court, etc. shall have a court clerk prepare a record. In this case, a statement to the effect that the notice has been given and a statement of the method of giving

the notice shall also be included in the record.

Chapter VI Special Provisions Concerning Large-Scale Suit

Article 165

Deleted. (Rules of the Supreme Court No. 19 of 2003)

Article 166 (Notification of Counsel in Charge of Liaison)

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

Article 167

Deleted. (Rules of the Supreme Court No. 19 of 2003)

Chapter VII Special Provisions Concerning Court Proceedings in Summary Court

Article 168 (Forwarding of Record Due to Transfer Based on Filing of Counterclaim; Article 274 of the Code)

The provision of Article 9 (Forwarding of Record Due to Transfer) shall apply mutatis mutandis to cases where a judicial decision of a transfer under the provision of paragraph (1) of Article 274 (Transfer Based on Filing of Counterclaim) of the Code has become final and binding.

Article 169 (Record of Settlement Prior to Filing of Action; Article 275 of the Code)

When a settlement has been reached prior to the filing of an action, a court clerk shall state this in the record.

Article 170 (Omission of Statements by Witness, etc. in Record, etc.)

- (1) Statements by a witness, etc. or the results of an observation may be omitted from the statements 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 when the judge gives his/her permission.
- (2) In cases of omitting statements from a record pursuant to the provision of the preceding paragraph, at the direction of the judge or at the request of a party, a court clerk shall record the statements of a witness, etc. or the results of an observation onto an audio tape, etc. to be provided for judicial use by the parties. In this case, at the request of a party, the court clerk shall allow the reproduction of said audio tape, etc.

Article 171 (Submission of Document in Lieu of Examination; Article 278 of the Code)

The provision of Article 124 (Submission of Document in Lieu of Examination) shall apply mutatis mutandis to cases of having a document submitted in lieu of examining a witness or a party himself/herself or in lieu of having an expert witness state his/her opinions pursuant to the provision of Article 278 (Submission of Document in Lieu of Examination, etc.) of the Code.

Article 172 (Questions by Judicial Commissioner)

The judge may, if he/she finds it to be necessary, allow a judicial commissioner to directly ask questions to a witness, etc. directly.

Part III Appeal

Chapter I Appeal to Court of Second Instance

Article 173 (Waiver of Right to File Appeal to Court of Second Instance; Article 284 of the Code)

- (1) A right to file an appeal to court of second instance shall be waived by making a statement to the court of first instance if it is before the filing of an appeal to court of second instance, and to the court where the case record exists if it is after the filing of an appeal to court of second instance.
- (2) After the filing of an appeal to court of second instance, the statement set forth in the preceding paragraph shall be made along with the withdrawal of the appeal to court of second instance.
- (3) If the statement set forth in paragraph (1) has been made, a court clerk shall notify the opponent to that effect.

Article 174 (Forwarding of Record due to Filing of Appeal to Second Instance)

When an appeal to court of second instance has been filed, except in cases where the court of first instance has issued an order to dismiss said appeal without prejudice, a court clerk of the court of first instance shall forward the case record to a court clerk of the court of second instance without delay.

Article 175 (Petition for Appeal Stating Allegations and Evidence)

A petition for appeal stating allegations and evidence shall also serve as a brief.

Article 176 (Immediate Appeal against Direction to Dismiss Petition for Appeal without Prejudice; Article 288, etc. of the Code)

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

Article 177 (Withdrawal of Appeal to Court of Second Instance; Article 292 of the Code)

- (1) When withdrawing an appeal to court of second instance, it shall be withdrawn from the court where the case record exists.
- (2) When an appeal to court of second instance has been withdrawn, a court clerk shall notify the opponent to that effect.

Article 178 (Incidental Appeal; Article 293 of the Code)

The provisions concerning an appeal to court of second instance shall apply mutatis mutandis to an incidental appeal.

Article 179 (Application Mutatis Mutandis of Provisions Concerning Court Proceedings in First Instance; Article 297 of the Code)

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

Article 180 (Application Mutatis Mutandis of Provisions Concerning Explanation, etc. under Provision of Article 167 of the Code; Article 298 of the Code)

The provision of Article 87 (Method of Explanation by Party under Provision of Article 167 of the Code) shall apply mutatis mutandis to the explanation by a party under the provision of Article 167 (Advancement of Allegations and Evidence after Close of Preliminary Oral Arguments) of the Code as applied mutatis mutandis pursuant to paragraph (2) of Article 298 (Effect of Procedural Act Performed in First Instance, etc.) of the Code, and the provision of Article 94 (Method of Explanation by Party under Provision of Article 178 of the Code) shall apply mutatis mutandis to the explanation by a party under the provision of Article 178 (Advancement of Allegations and Evidence after Close of Preparatory Proceedings by Means of Documents) of the Code as applied mutatis mutandis pursuant to paragraph (2) of Article 298 of the Code.

Article 181 (Period for Advancement of Allegations and Evidence, etc.; Article 301 of the Code)

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

Article 182 (Document Stating Grounds for Revocation of Judgment of First Instance, etc.)

If the grounds for seeking revocation or modification of the judgment of the first instance are not stated specifically in the petition for appeal, the appellant shall submit a document containing such statement to the court of second instance within fifty days from the filing of the appeal to court of second instance.

Article 183 (Written Counterargument)

The presiding judge may, by specifying a reasonable period, direct the appellee to submit a document stating his/her allegations against the grounds for seeking revocation or modification of the judgment of the first instance that are alleged by the appellant.

Article 184 (Citation of Judgment Document of First Instance, etc.)

Statement of facts and reasons in the judgment document or record in lieu of the judgment document of the second instance may be made by citing statements in the judgment document or the record in lieu of the judgment document of the first instance.

Article 185 (Forwarding of Record to Court of First Instance)

When a suit has concluded in the second instance, a court clerk of the court of second instance shall forward the case record to a court clerk of the court of the first instance.

Chapter II Final Appeal

Article 186 (Application Mutatis Mutandis of Provisions Concerning Appeal to Court of Second Instance; Article 313 of the Code)

The provisions of the preceding Chapter (Appeal to Court of Second Instance) shall apply mutatis mutandis to a final appeal and court proceedings in the final

appellate instance, except as otherwise provided.

Article 187 (Prepayment of Expenses in Cases of Filing Final Appeal)

When filing a final appeal, 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 the filing of a final appeal, a statement of reasons for a final appeal and a written judgment and for giving a notice to the effect that the final appellate court has received the forwarded case record shall be prepaid.

Article 188 (In Cases of Filing Final Appeal and Petition for Acceptance of Final Appeal with Single Document)

When filing a final appeal and a petition for the acceptance of a final appeal with a single document, the fact that the document serves both as a petition for an appeal and a petition for the acceptance of a final appeal shall be clarified. In this case, when stating the reasons for a final appeal and the reasons for a petition for the acceptance of a final appeal in said document, they shall be stated separately.

Article 189 (Service of Written Notice of the Filing of Final Appeal, etc.)

- (1) In cases where a final appeal has been filed, except in cases where a direction to dismiss the petition for the final appeal without prejudice or an order to dismiss the final appeal without prejudice under the provision of item (i) of paragraph (1) of Article 316 (Dismissal of Final Appeal without Prejudice by Court of Prior Instance) of the Code has been issued, a written notice of the filing of the final appeal shall be served upon the parties.
- (2) When serving a written notice of the filing of a final appeal to the appellee of the final appeal pursuant to the provision of the preceding paragraph, the petition for the final appeal shall be served at the same time.
- (3) If a final appeal has been filed before the service of the judgment document or the record in lieu of the judgment document of the court of prior instance, the written notice of the filing of the final appeal under the provision of paragraph (1) shall be served together with the judgment document or the record in lieu of the judgment document.

Article 190 (Method of Stating Reasons for Final Appeal Set Forth in Paragraph (1) and Paragraph (2) of Article 312 of the Code; Article 315 of the Code)

- (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 shall 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 court proceedings, the fact in violation of the

Constitution shall 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 paragraph (2) of Article 312 (Reasons for Final Appeal) of the Code, the reasons for the final appeal shall be stated by indicating the applicable provisions and the fact that falls under such provisions.

Article 191 (Method of Stating Reasons for Final Appeal Set Forth in Paragraph (3) of Article 312 of the Code; Article 315 of the Code)

- (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 shall be stated by indicating the relevant law or regulation and the grounds for the violation thereof.
- (2) When indicating a law or regulation pursuant to the provision of the preceding paragraph, the provisions or the contents (or, for a non-statutory law or regulation, the gist thereof) of such law or regulation shall be set down.
- (3) In cases of indicating the grounds for the violation of a law or regulation pursuant to the provision of paragraph (1), if such law or regulation relates to court proceedings, the fact in violation shall be set down.

Article 192 (Indication of Precedents)

In the final appeal prescribed in the preceding two Articles (Method of Stating Reasons for Final Appeal Set Forth in Paragraph (1) and Paragraph (2) of Article 312 of the Code; and Method of Stating Reasons for Final Appeal Set Forth in Paragraph (3) of Article 312 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), such precedents shall be indicated specifically.

Article 193 (Manner in Which Reasons for Final Appeal Should be Stated)

The reasons for a final appeal shall be stated specifically.

Article 194 (Period for Submission of Statement of Reasons for Final Appeal; Article 315 of the Code)

The period for submission of a statement of reasons for a final appeal shall be fifty days from the day on which the appellant of the final appeal received service of a written notice of the filing of the final appeal under the provision of paragraph (1) of Article 189 (Service of Written Notice of the Filing of Final Appeal).

Article 195 (Number of Copies of Document Stating Reasons for Final Appeal)

A document stating the reasons for a final appeal shall have attached duplicates 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 duplicates 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.

Article 196 (Order to Correct; Article 316 of the Code)

- (1) If it is clear that the statements of all of the reasons for an appeal in a petition for a final appeal or a statement of the reasons for a final appeal that has been submitted within the period set forth in Article 194 (Period for Submission of Statement of Reasons for Final Appeal) are in violation of the provisions of Article 190 (Method of Stating Reasons for Final Appeal Set Forth in Paragraph (1) and Paragraph (2) of Article 312 of the Code) or Article 191 (Method of Stating Reasons for Final Appeal Set Forth in Paragraph (3) of Article 312 of the Code), the court of prior instance shall issue an order specifying a reasonable period and stating that the defects be corrected within said period.
- (2) An order to dismiss a final appeal without prejudice under the provision of item (ii) of paragraph (1) of Article 316 (Dismissal of Final Appeal without Prejudice by Court of Prior Instance) of the Code (limited to an order by reason that the statements in the reasons for a final appeal obviously violate the provision of paragraph (2) of Article 315 (Statement of Reasons for Final Appeal) of the Code) shall be issued when the appellant of the final appeal does not correct the defects within the period specified pursuant to the provision of the preceding paragraph.

Article 197 (Sending of Case to Final Appellate Court)

- (1) The court of prior instance shall, except in cases where 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, send the case to the final appellate court. In this case, the court of prior instance may attach its opinion on the existence or nonexistence of the fact related to court proceedings that has been indicated by the appellant of the final appeal in the reasons for the final appeal.
- (2) A case shall be sent under the provision of the preceding paragraph by the method whereby a court clerk of the court of prior instance forwards the case record to a court clerk of the final appellate court.
- (3) A court clerk of the final appellate court shall, when having received the case record forwarded under the provision of the preceding paragraph, promptly notify the parties to that effect.

Article 198 (Service of Statement of Reasons for Final Appeal)

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

Article 199 (Petition for Acceptance of Final Appeal; Article 318 of the Code)

- (1) The reasons for a petition for the acceptance of a final appeal shall be stated by indicating 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 paragraph (2) and paragraph (3) of Article 191 (Method of Stating Reasons for Final Appeal Set Forth in Paragraph (3) of Article 312 of the Code) shall apply mutatis mutandis.
- (2) The provisions of Article 186 (Application Mutatis Mutandis of Provisions Concerning Appeal to Court of Second Instance), Article 187 (Prepayment of Expenses in Cases of Filing Final Appeal), Article 189 (Service of Written Notice of the Filing of Final Appeal) and Article 192 to the preceding Article (Indication of Precedents; Matter in Which Reasons for Final Appeal Should be Stated; Period for Submission of Statement of Reasons for Final Appeal; Number of Copies of Document Stating Reasons for Final Appeal; Order to Correct; Sending of Case to Final Appellate Court; and Service of Statement of Reasons for Final Appeal) shall 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 shall be 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 paragraph (2) of Article 189, Article 195 and the preceding Article shall be deemed to be replaced with "opponent," and the phrase "Article 190 (Method of Stating Reasons for Final Appeal Set Forth in Paragraph (1) and Paragraph (2) of Article 312 of the Code) or Article 191 (Method of Stating Reasons for Final Appeal Set Forth in Paragraph (3) of Article 312 of the Code)" in paragraph (1) of Article 196 shall be deemed to be replaced with "paragraph (1) of Article 199

(Petition for Acceptance of Final Appeal) ."

Article 200 (Order to Accept Final Appeal; Article 318 of the Code)

The Supreme Court shall, when issuing an order to accept a case as the final appellate court, clarify in said order any reasons for a petition for the acceptance of a final appeal that shall be excluded pursuant to the provision of paragraph (3) of Article 318 (Petition for Acceptance of Final Appeal) of the Code.

Article 201 (Direction to Submit Written Answer)

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

Article 202 (Forwarding of Record in Cases Where Judgment to Remand, etc. Has Been Issued; Article 325 of the Code)

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

Article 203 (Transfer to the Supreme Court; Article 324 of the Code)

A high court, as the final appellate court, shall transfer a case to the Supreme Court pursuant to the provision of Article 324 (Transfer to the Supreme Court) of the Code when 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).

Article 204 (Special Appeal to Court of Last Resort; Article 327, etc. of the Code)

With regard to the appeal set forth in paragraph (1) of Article 327 (Special Appeal to Court of Last Resort) of the Code (including the cases where applied *mutatis mutandis* pursuant to paragraph (2) of Article 380 (Appeal against Judgment after Objection) of the Code) and court proceedings in such 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 court proceedings in the final appellate instance shall apply *mutatis mutandis*.

Chapter III Appeal against Ruling

Article 205 (Application Mutatis Mutandis of Provisions Concerning Appeal to Court of Second Instance or Final Appeal; Article 331 of the Code)

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

Article 206 (Sending of Case to Court in Charge of Appeal against Ruling)

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

Article 207 (Document Stating Grounds for Revocation of Judicial Decision of Prior Instance, etc.)

In cases of filing an appeal against a ruling other than that set forth in Article 330 (Re-appeal from Appeal against 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 shall submit a document containing such statement to the court of prior instance within fourteen days from the filing of the appeal against a ruling.

Article 208 (Special Appeal against Ruling to the Supreme Court; Article 336 of the Code)

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

Article 209 (Appeal with Permission; Article 337 of the Code)

The provisions of Article 186 (Application Mutatis Mutandis of Provisions Concerning Appeal to Court of Second Instance), Article 187 (Prepayment of Expenses in Cases of Filing Final Appeal), Article 189 (Service of Written Notice of

the Filing of Final Appeal, etc.), Article 192 (Indication of Precedents), Article 193 (Manner in Which Reasons for Final Appeal Should be Stated), Article 195 (Number of Copies of Document Stating Reasons for Final Appeal), Article 196 (Order to Correct) and paragraph (1) of Article 199 (Petition for Acceptance of Final Appeal) shall apply mutatis mutandis to the petition set forth in paragraph (2) of Article 337 (Appeal with Permission) of the Code, the provision of Article 200 (Order to Accept Final Appeal) shall apply mutatis mutandis to cases of giving permission under the provision of paragraph (2) of Article 337 of the Code, and the provision of the preceding Article (Special Appeal against Ruling to the Supreme Court) shall apply mutatis mutandis to cases where permission was given under the provision of paragraph (2) of Article 337 of the Code. In this case, the term "written notice of the filing of a final appeal" in Article 187 and Article 189 shall be deemed to be replaced with "written notice of a petition for permission for an appeal against ruling."

Article 210 (Period for Submission of Statement of Reasons for Appeal against Ruling When Filing Re-appeal from Appeal against Ruling, etc.)

- (1) The period for the submission of a statement of the reasons for an appeal against a ruling when filing the appeal set forth in Article 330 (Re-appeal from Appeal against Ruling) of the Code or the appeal set forth in paragraph (1) of Article 336 (Special Appeal against Ruling to the Supreme Court) of the Code shall be fourteen days from the day on which the appellant received service of a written notice of the filing of an appeal against a ruling under the provision of paragraph (1) of Article 189 (Service of Written Notice of the Filing of Final Appeal, etc.) as applied mutatis mutandis pursuant to the proviso to Article 205 (Application Mutatis Mutandis of Provisions Concerning Appeal to Court of Second Instance or Final Appeal) and Article 208 (Special Appeal against Ruling to the Supreme Court).
- (2) The provision of the preceding paragraph shall apply mutatis mutandis to the period for the submission of a statement of reasons pertaining to the petition set forth in paragraph (2) of Article 337 (Appeal with Permission) of the Code. In this case, the term "written notice of the filing of an appeal against a ruling" in the preceding paragraph shall be deemed to be replaced with "written notice of a petition for permission for an appeal against the ruling."

Part IV Retrial

Article 211 (Court Proceedings for Retrial; Article 341 of the Code)

- (1) A complaint for retrial shall have attached a copy of the judgment pertaining to the petition for an appeal.
- (2) In addition to what is provided for in the preceding paragraph, with regard to

court proceedings for retrial, unless contrary to the nature thereof, the provisions concerning court proceedings in their respective instances shall apply mutatis mutandis.

Article 212 (Retrial against Order or Direction; Article 349 of the Code)

The provision of the preceding Article (Court Proceedings for Retrial) shall apply mutatis mutandis to the petition for a retrial set forth in paragraph (1) of Article 349 (Retrial against Order or Direction) of the Code.

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

Article 213 (Designation of First Date for Oral Argument, etc.)

- (1) When an action on bills and notes has been filed, the presiding judge shall immediately designate the 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 shall contain a statement to the effect that he/she should make the preparations necessary for allegations, offers of evidence and examination of evidence before said date.
- (3) A writ of summons to be served upon the defendant shall contain, in addition to the matters prescribed in the preceding paragraph, a statement to the effect that he/she should submit a written answer within the period specified by the presiding judge and a statement of the gist of the provision of Article 354 (Conclusion of Oral Argument) of the Code.

Article 214 (Principle of Single Date Trial)

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

Article 215 (Change of Date or Continuance of Oral Argument)

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

Article 216 (Indication of Judgment on Bills and Notes)

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

Article 217 (Method of Making Objection, etc.; Article 357 of the Code)

- (1) An objection shall be made in writing.
- (2) The court shall send the document set forth in the preceding paragraph to the opponent.
- (3) The document set forth in paragraph (1) which contains statements of the matters listed in paragraph (2) of Article 161 (Brief) of the Code shall also serve as a brief.

Article 218 (Waiver of Right to Make Objection and Withdrawal of Objection; Article 358, etc. of the Code)

- (1) A right to make an objection shall be waived by making a statement to the court.
- (2) If the statement set forth in the preceding paragraph has been made, a court clerk shall notify the opponent to that effect.
- (3) The provision of paragraph (1) of Article 162 (In Cases of Withdrawal of Action) shall apply mutatis mutandis to service of a document for the withdrawal of an objection.

Article 219 (Citation of Judgment Document of Action on Bills and Notes)

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

Article 220 (Transfer from Demand Procedure to Action on Bills and Notes; Article 366 of the Code)

- (1) When filing a petition for demand for payment by making a statement to the effect that a trial and judicial decision are sought by way of an action on bills and notes, 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) shall be submitted at the same time.
- (2) The copy of a bill or note that has been submitted pursuant to the provision of the preceding paragraph shall 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 said paragraph has been made shall be appended to the demand for payment.

Article 221 (Action on Checks; Article 367 of the Code)

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

Part VI Special Provisions Concerning Actions on Small Claims

Article 222 (Explanation of Procedures)

- (1) A court clerk shall, when summoning a party for the first date for oral argument in an action on small claim, deliver a document explaining the contents of the procedures for a trial and judicial decision by way of an action on small claim to said party.
- (2) The judge shall, at the beginning of the date set forth in the preceding paragraph, explain the following matters to the parties:
 - (i) The examination of evidence shall be limited to evidence that can be examined immediately.
 - (ii) While the defendant may state that he/she requests the action to be transferred to ordinary proceedings, this shall not apply after the defendant has presented oral arguments on the first date for oral argument or when that date has passed.
 - (iii) With regard to the final judgment on an action on small claim, an objection may be made to the court that has made the judgment, within an unextendable period of two weeks from the day on which service of a judgment document or of a record in lieu of the judgment document is received.

Article 223 (Number of Times Actions on Small Claim May be Sought; Article 368 of the Code)

The number of times specified by the Rules of the Supreme Court as set forth in the proviso to paragraph (1) of Article 368 (Requirements for Action on Small Claim, etc.) of the Code shall be ten times.

Article 224 (Order for Party Himself/Herself to Appear)

The court may, even in cases where a counsel has been appointed, order the party himself/herself or his/her statutory agent to appear.

Article 225 (Request for Examination of Witness)

When requesting the examination of a witness, the submission of a statement of matters for examination shall not be required.

Article 226 (Examination of Witness by Method of Communication through Audio Transmissions; Article 372 of the Code)

- (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 shall be made by clarifying the telephone number and location of the called party.

- (3) The court may, when it finds the location set forth in the preceding paragraph to be inappropriate, 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 present a document by sending a copy thereof or to take any other measures necessary for implementing the examination.
- (5) When having conducted the examination set forth in paragraph (1), a statement to that effect and statements of the telephone number and location of the called party shall be included in the record.
- (6) The provision of paragraph (2) of Article 88 (Record of Preparatory Proceedings, etc.) shall apply mutatis mutandis to cases of conducting the examination set forth in paragraph (1).

Article 227 (Inclusion of Statements by Witness, etc. in Record, etc.)

- (1) There shall be no requirement to include 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 shall record the statement of the witness or the expert witness onto an audio tape, etc. to be provided for judicial use by the parties. In this case, upon the request of a party, the court clerk shall allow the reproduction of said audio tape, etc.

Article 228 (Transfer to Ordinary Proceedings; Article 373 of the Code)

- (1) The defendant shall make a statement to transfer the action to ordinary proceedings in writing, except in cases of making the statement on an appearance date.
- (2) When the statement set forth in the preceding paragraph has been made, a court clerk shall promptly notify the plaintiff to the effect that the action has been transferred to ordinary proceedings based on such statement; provided, however, that this shall not apply when said statement was made on an appearance date on which the plaintiff appeared.
- (3) When the court has issued an order to the effect that a trial and judicial decision of the action should be made through ordinary proceedings, a court clerk shall promptly notify the parties to that effect.

Article 229 (Judgment; Article 374 of the Code)

- (1) A judgment document or the record in lieu of a judgment document of an action on small claim shall indicate that it is a small claims judgment.
- (2) The provision of paragraph (3) of Article 155 (Formality of Rendition) shall

apply mutatis mutandis to cases of rendering a judgment which is not based on the original of a judgment document in an action on small claim.

Article 230 (Method of Making Objection, etc.; Article 378 of the Code)

The provisions of Article 217 (Method of Making Objection, etc.) and Article 218 (Waiver of Right to Make Objection and Withdrawal of Objection) shall apply mutatis mutandis to an objection against a final judgment of an action on small claim.

Article 231 (Judgment Document, etc. of Action after Objection)

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

Part VII Demand Procedure

Article 232 (Application Mutatis Mutandis of Provisions Concerning Action; Article 384 of the Code)

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

Article 233 (Original of Demand for Payment; Article 387 of the Code)

The court clerk who has issued a demand for payment shall sign and seal said demand.

Article 234 (Service of Demand for Payment, etc.; Article 388 of the Code)

- (1) A demand for payment shall be served upon a debtor by serving an authenticated copy thereof.
- (2) A court clerk shall, when having issued a demand for payment, notify the creditor to that effect.

Article 235 (Petition for Declaration of Provisional Execution, etc.; Article 391 of the Code)

- (1) A petition for a declaration of provisional execution shall be filed by clarifying the amount of expenses for the demand procedure.
- (2) The consent of the creditor prescribed in the proviso to paragraph (2) of Article 391 (Declaration of Provisional Execution) of the Code shall be given at the time

of filing the petition for a declaration of provisional execution.

Article 236 (Formality of Declaration of Provisional Execution, etc.; Article 391 of the Code)

- (1) A declaration of provisional execution shall be made by stating the declaration in the original of the demand for payment.
- (2) The provision of paragraph (1) of Article 234 (Service of Demand for Payment, etc.) shall apply mutatis mutandis to service of a demand for payment containing a statement of a declaration of provisional execution upon the parties and to the sending of the same to the creditor in lieu of the service thereof.

Article 237 (Forwarding of Record Due to Transfer to Suit; Article 395 of the Code)

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

Part VIII Stay of Execution

Article 238 (Method of Filing Petition for Stay of Execution; Article 403 of the Code)

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

Part IX Miscellaneous Provisions

Article 239 (Examination and Preservation of Evidence as Commissioned under Provision of Paragraph (6) of Article 150 of the Patent Act)

With regard to the examination or preservation of evidence conducted by a judge of a district court or a summary court as commissioned under the provision of paragraph (6) of Article 150 (Examination and Preservation of Evidence) of the Patent Act (Act No. 121 of 1959) (including cases where applied mutatis mutandis pursuant to said Act or any other Act), the provisions of these Rules concerning the examination and preservation of evidence shall apply mutatis mutandis; provided, however, that this shall 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.