

Some Provisions of the Supreme People's Court on Evidence in Civil Procedures[Revised] 最高人民法院关于民事诉讼证据的若干规定 [已被修订]

Issuing authority: Supreme People's Court **Date issued:** 12-21-2001
Effective date: 12-31-2008 **Level of Authority:** Judicial Interpretation
Area of law: Civil Litigation

*注：本篇法规中第八十三条第三款已被《最高人民法院关于调整司法解释等文件中引用〈中华人民共和国民事诉讼法〉条文序号的决定》（发布日期：2008年12月16日 实施日期：2008年12月31日）调整

Public Announcement of the Supreme People's Court

Some Provisions of the Supreme People's Court on Evidence in Civil Procedures have been passed at the 1201st meeting of the Judicial Committee of the Supreme People's Court on December 6, 2001, and are hereby promulgated for implementation as of April 1, 2002.

December 21, 2001

Some Provisions of the Supreme People's Court on Evidence in Civil Procedures
(No. 33 of [2001])

The present Provisions have been formulated on the basis of the [Civil Procedure Law of the People's Republic of China](#) and other relevant laws by combining the civil trial experience with the actual practice for the purpose of ensuring the People's courts' finding of facts, impartial and timely trial of civil cases, and safeguarding and facilitating the parties concerned to exercise their litigation rights according to law.

最高人民法院公告

（相关资料：[部门规章 1 篇](#)[司法解释 21 篇](#)[地方法规 32 篇](#)[案例 47 篇](#)[裁判文书 15485 篇](#)[相关论文 374 篇](#)[实务指南](#)）

《最高人民法院关于民事诉讼证据的若干规定》已于2001年12月6日由最高人民法院审判委员会第1201次会议通过。现予公布，并自2002年4月1日起施行。

2001年12月21日

最高人民法院关于民事诉讼证据的若干规定
(法释〔2001〕33号)

为保证人民法院正确认定案件事实，公正、及时审理民事案件，保障和便利当事人依法行使诉讼权利，根据《[中华人民共和国民事诉讼法](#)》（以下简称《[民事诉讼法](#)》）等有关法律的规定，结合民事审判经验和实际情况，制定本规定。

I. Producing Evidences by the Parties Concerned

一、当事人举证

Article 1 The plaintiff that files a lawsuit or the defendant that files a counterclaim at the People's court shall produce eligible evidential materials.

第一条 原告向人民法院起诉或者被告提出反诉，应当附有符合起诉条件的相应的证据材料。

（相关资料：[裁判文书 38 篇](#)[相关论文 1 篇](#)[实务指南](#)）

Article 2 The parties concerned shall be responsible for producing evidences to prove the facts on which their own allegations are based or the facts on which the allegations of the other party are refuted.

Where any party cannot produce evidence or the evidences produced cannot support the facts on which the allegations are based, the party concerned that bears the burden of proof shall undertake unfavorable consequences.

第二条 当事人对自己提出的诉讼请求所依据的事实或者反驳对方诉讼请求所依据的事实有责任提供证据加以证明。没有证据或者证据不足以证明当事人的事实主张的，由负有举证责任的当事人承担不利后果。

(相关资料:[案例 10 篇裁判文书 8505 篇相关论文 34 篇实务指南](#))

Article 3 The People's court shall inform the parties concerned of the requirements for producing evidences and the of the corresponding legal liabilities so that the parties concerned may produce evidence actively, completely, correctly and honestly within the reasonable time period.

Any party who cannot independently collect evidences due to objective reasons may request the People's court to collect after investigations.

第三条 人民法院应当向当事人说明举证的要求及法律后果，促使当事人在合理期限内积极、全面、正确、诚实地完成举证。

当事人因客观原因不能自行收集的证据，可申请人民法院调查收集。

(相关资料:[案例 1 篇裁判文书 73 篇相关论文 10 篇实务指南](#))

Article 4 The burden of proof in the tort actions shall be assumed according to the following rules:

第四条 下列侵权诉讼，按照以下规定承担举证责任：

1. In a patent infringement action resulting from the innovation-creation of ways of producing new products, the entity or individual that produces the same product shall prove that the ways used are different from those of the patent holder;

(一) 因新产品制造方法发明专利引起的专利侵权诉讼，由制造同样产品的单位或者个人对其产品制造方法不同于专利方法承担举证责任；

2. In an infringement action resulting from personal damage caused by highly dangerous operations, the infringing person shall be responsible for producing evidences to prove that argument that the victim caused the injury;

(二) 高度危险作业致人损害的侵权诉讼，由加害人就受害人故意造成损害的事实承担举证责任；

3. In a compensation lawsuit for damages caused by environmental pollution, the infringing party shall be responsible for producing evidence to prove the existence of exemptions of liabilities as provided in laws or that there is no causal relationship between the his act and the harmful consequences;

(三) 因环境污染引起的损害赔偿诉讼，由加害人就法律规定的免责事由及其行为与损害结果之间不存在因果关系承担举证责任；

4. In an infringement action of damages caused by the collapse, breaking off or falling of a building or other facilities and the thing that is laid or hung on the building, the owner of administrator of the building shall be responsible for producing evidences;

(四) 建筑物或者其他设施以及建筑物上的搁置物、悬挂物发生倒塌、脱落、坠落致人损害的侵权诉讼，由所有人或者管理人对其无过错承担举证责任；

5. In an infringement action of damages caused by an animal, the person who raises or manages the animal shall be responsible for producing evidences to prove that the victim is at fault or any third party is at fault;

(五) 饲养动物致人损害的侵权诉讼，由动物饲养人或者管理人就受害人有过错或者第三人有过错承担举证责任；

6. In an infringement action of damages caused by a defective product, the producer of the product shall be responsible for producing evidences to prove that there exist the exemptions of liabilities as provided in laws;

(六) 因缺陷产品致人损害的侵权诉讼, 由产品的生产者就法律规定的免责事由承担举证责任;

7. In an infringement action of damages caused by common danger, the persons who commit the common danger shall be responsible for producing evidences to prove that there is no causal relationship between the act thereof and the harmful consequences;

(七) 因共同危险行为致人损害的侵权诉讼, 由实施危险行为的人就其行为与损害结果之间不存在因果关系承担举证责任;

8. In an infringement action of damages caused by medical acts, the medical institution shall be responsible for producing evidences to prove that there is no causal relationship between the medical act and the harmful consequences or it is not at fault.

Where there are special provisions in relevant laws concerning the producing of evidences, such provisions shall prevail.

(八) 因医疗行为引起的侵权诉讼, 由医疗机构就医疗行为与损害结果之间不存在因果关系及不存在医疗过错承担举证责任。

有关法律对侵权诉讼的举证责任有特殊规定的, 从其规定。

(相关资料:[司法解释 2 篇](#)[地方法规 1 篇](#)[案例 2 篇](#)[裁判文书 240 篇](#)[相关论文 61 篇](#)[实务指南](#))

Article 5 In a contractual dispute, the party that claims the establishment of contractual relationship and the contract has taken effect shall be responsible for producing evidences to prove that the contract has been concluded and that it has taken effect; the party that claims that the contract has been altered, dissolved, terminated or canceled shall be responsible for producing evidences to prove the changes of the contract.

In a dispute over whether a contract is performed, the party under the obligation of performing the contract shall be responsible for producing evidences;

In a dispute over the power of agency, the party that claims the existence of such power shall be responsible for producing evidences.

第五条 在合同纠纷案件中, 主张合同关系成立并生效的一方当事人对合同订立和生效的事实承担举证责任; 主张合同关系变更、解除、终止、撤销的一方当事人对引起合同关系变动的事实承担举证责任。

对合同是否履行发生争议的, 由负有履行义务的当事人承担举证责任。

对代理权发生争议的, 由主张有代理权一方当事人承担举证责任。

(相关资料:[司法解释 1 篇](#)[裁判文书 752 篇](#)[相关论文 14 篇](#)[实务指南](#))

Article 6 In a dispute of labor, if the dispute is caused by the employing entity's decision of kickout, removal from the name roll, dismissal, dissolution of contract, reducing remuneration, calculation of working years of the laborer, the employing entity shall be responsible for producing evidences.

第六条 在劳动争议纠纷案件中, 因用人单位作出开除、除名、辞退、解除劳动合同、减少劳动报酬、计算劳动者工作年限等决定而发生劳动争议的, 由用人单位负举证责任。

(相关资料:[司法解释 1 篇](#)[裁判文书 358 篇](#)[相关论文 9 篇](#)[实务指南](#))

Article 7 Where there are no explicit statutory provisions and it is not possible to define who shall be responsible for producing evidences according to the present Provisions or other judicial interpretations, the People's court may determine the burden of proof according to the principle of fairness and the principle of honesty and credit and taking such elements as the ability to produce evidences into consideration.

第七条 在法律没有具体规定, 依本规定及其他司法解释无法确定举证责任承担时, 人民法院可以根据公平原则和诚实信用原则, 综合当事人举证能力等因素确定举证责任的承担。

(相关资料:[案例 1 篇裁判文书 207 篇相关论文 22 篇实务指南](#))

Article 8 In the process of litigation, if a party explicitly acknowledges the facts alleged by the other party, the other party needs not to produce evidences with, however, the exception of cases that involves personal identification.

If the other party neither acknowledges nor denies the facts alleged by a party and still fails to explicitly express confirmation or denial after the judge has made adequate accounts and inquiries, it shall be deemed as confirming the said facts.

If any of the parties concerned entrusts agents to participate in the litigation, the affirmation of the agent shall be that of the parties concerned, however, with the exception of the affirmation of facts made by the agent without special authorization that leads to the affirmation of the litigation allegations of the other party. If the party concerned is present but fails to deny the affirmation made by the agent thereof, the affirmation shall be deemed as the affirmation of the party concerned.

If any of the parties concerned withdraws its affirmation and obtains the approval of the other party prior to the end of court debate, or has adequate evidences to prove that its affirmation has been made due to threat or gross misunderstanding or the affirmation is not consistent with the facts, the party concerned shall not be exempted from the burden of proof.

第八条 诉讼过程中, 一方当事人对另一方当事人陈述的案件事实明确表示承认的, 另一方当事人无需举证。但涉及身分关系的案件除外。

对一方当事人陈述的事实, 另一方当事人既未表示承认也未否认, 经审判人员充分说明并询问后, 其仍不明确表示肯定或者否定的, 视为对该项事实的承认。

当事人委托代理人参加诉讼的, 代理人的承认视为当事人的承认。但未经特别授权的代理人对事实的承认直接导致承认对方诉讼请求的除外; 当事人在场但对其代理人的承认不作否认表示的, 视为当事人的承认。

当事人在法庭辩论终结前撤回承认并经对方当事人同意, 或者有充分证据证明其承认行为是在受胁迫或者重大误解情况下作出且与事实不符的, 不能免除对方当事人的举证责任。

(相关资料:[地方法规 2 篇案例 1 篇裁判文书 329 篇相关论文 24 篇实务指南](#))

Article 9 The facts as mentioned below need not be proved by the parties concerned by presenting evidences:

第九条 下列事实, 当事人无需举证证明:

1. The facts that are know by all people;

(一) 众所周知的事实;

2. Natural laws and theorems;

(二) 自然规律及定理;

3. The fact that can be induced according to legal provisions or known facts or the rule of experience of daily life;

(三) 根据法律规定或者已知事实和日常生活经验法则, 能推定出的另一事实;

4. The facts affirmed in the judgment of the People's court that has taken effect;

(四) 已为人民法院发生法律效力裁判所确认的事实;

5. The facts affirmed in the award of the arbitration organ that has taken effect;

(五) 已为仲裁机构的生效裁决所确认的事实;

6. The facts that have been proved in the valid notary documents.

The facts as mentioned in items 1, 3, 4, 5, 6 of the preceding paragraph shall be excluded if they can be overthrown by contrary evidences of the parties concerned.

(六) 已为有效公证文书所证明的事实。

前款（一）、（三）、（四）、（五）、（六）项，当事人有相反证据足以推翻的除外。

（相关资料：[司法解释 1 篇案例 3 篇裁判文书 670 篇相关论文 24 篇实务指南](#)）

Article 10 When producing evidences to the People's court, the parties concerned shall submit the original document or original thing. If the party concerned need to preserve the original document or original thing of the evidence or if it is difficult to submit the original document or original thing, a photocopy or reproduction that has been deemed as the original by the People's court after verification may be submitted.

第十条 当事人向人民法院提供证据，应当提供原件或者原物。如需自己保存证据原件、原物或者提供原件、原物确有困难的，可以提供经人民法院核对无异的复制件或者复制品。

（相关资料：[案例 1 篇裁判文书 90 篇实务指南](#)）

Article 11 If the evidence submitted by the parties concerned is formed beyond the territory of the People's Republic of China, the evidence shall be subject to the certification of the notarization organ of the country concerned and shall be authenticated by the embassy of the People's Republic of China stationed in the said country, or shall be subject to the certification formalities as provided in the relevant treaties concluded between the People's Republic of China and the said country.

If the evidence submitted by the parties concerned is formed in Hong Kong, Macao or Taiwan, relevant formalities shall also be gone through.

第十一条 当事人向人民法院提供的证据系在中华人民共和国领域外形成的，该证据应当经所在国公证机关予以证明，并经中华人民共和国驻该国使领馆予以认证，或者履行中华人民共和国与该所在国订立的有关条约中规定的证明手续。当事人向人民法院提供的证据是在香港、澳门、台湾地区形成的，应当履行相关的证明手续。

（相关资料：[司法解释 3 篇地方法规 2 篇案例 1 篇裁判文书 146 篇相关论文 2 篇实务指南](#)）

Article 12 The foreign-language written documents or foreign-language specification materials submitted by the parties concerned shall be accompanied by the Chinese translation thereof.

第十二条 当事人向人民法院提供外文书证或者外文说明资料，应当附有中文译本。

（相关资料：[司法解释 2 篇地方法规 1 篇裁判文书 23 篇实务指南](#)）

Article 13 The facts to which both parties consent but which concern the interests of the state or the public interests of the society or the lawful rights and interests of other people, the People's court may order the parties concerned to produce relevant evidences.

第十三条 对双方当事人无争议但涉及国家利益、社会公共利益或者他人合法权益的事实，人民法院可以责令当事人提供有关证据。

（相关资料：[裁判文书 4 篇相关论文 2 篇实务指南](#)）

Article 14 The parties concerned shall categorize and number the evidential materials submitted thereby, make a brief specification of the sources of the evidential materials, the object and content of proof, put on their signatures and mark the date of submission and submit as many copies according to the number of opposite parties concerned. The People's court shall, upon receiving the evidential materials submitted by the parties concerned, issue receipts, noting the title copies and pages of the evidences as well as the time when the evidences are received, and shall put signatures or official seals to the receipts.

第十四条 当事人应当对其提交的证据材料逐一分类编号，对证据材料的来源、证明对象和内容作简要说明，签名盖章，注明提交日期，并依照对方当事人人数提出副本。

人民法院收到当事人提交的证据材料，应当出具收据，注明证据的名称、份数和页数以及收到的时间，由经办人员签名或者盖章。

（相关资料：[裁判文书 2 篇实务指南](#)）

II. The Investigation upon and Collection of Evidences by the People's Court

二、人民法院调查收集证据

Article 15 The “evidences deemed as necessary by the People's court for hearing the case” as mentioned in [Article 64](#) of the [Civil Procedure Law of the People's Republic of China](#) shall refer to the following:

第十五条 [《民事诉讼法》第六十四条](#)规定的“人民法院认为审理案件需要的证据”，是指以下情形：

1. The facts that may injure the interest of the state, the public interest of the society or the lawful interest of other people;

(一) 涉及可能有损国家利益、社会公共利益或者他人合法权益的事实；

2. The procedural matters that have nothing to do with the substantial dispute, such as adding parties concerned, suspending the litigation, ending the litigation, withdrawing, etc on the basis of authority of the courts.

(二) 涉及依职权追加当事人、中止诉讼、终结诉讼、回避等与实体争议无关的程序事项。

(相关资料:[司法解释 1 篇地方法规 1 篇裁判文书 97 篇相关论文 13 篇实务指南](#))

Article 16 Unless provided in Article 15 of the present Provisions, the investigation upon and collection of evidences by the People's court shall be based on the application of the parties concerned.

第十六条 除本规定第十五条规定的情形外，人民法院调查收集证据，应当依当事人的申请进行。

(相关资料:[裁判文书 37 篇相关论文 5 篇实务指南](#))

Article 17 In any of the following circumstances, the parties concerned and the agent ad litem thereof may plead the People's court to investigate upon and collect evidences:

第十七条 符合下列条件之一的，当事人及其诉讼代理人可以申请人民法院调查收集证据：

1. The evidences applied for investigation and collection are the archive files kept by relevant organs of the state and must be accessed by the People's court upon authority;

(一) 申请调查收集的证据属于国家有关部门保存并须人民法院依职权调取的档案材料；

2. The materials that concern state secrets, commercial secrets or personal privacy;

(二) 涉及国家秘密、商业秘密、个人隐私的材料；

3. Other materials that cannot be collected by the parties concerned or the agents ad litem thereof due to objective reasons.

(三) 当事人及其诉讼代理人确因客观原因不能自行收集的其他材料。

(相关资料:[司法解释 1 篇地方法规 3 篇裁判文书 115 篇相关论文 5 篇实务指南](#))

Article 18 To plead the People's court for investigating upon and collecting evidences, the parties concerned and the agents ad litem thereof shall submit a written application.

The application shall clearly specify the basic information of the evidences, such as the name of the person investigated or the title of the entity, the dwelling place, the contents of the evidences to be investigated upon and collected, the reasons of why the evidences need to be investigated upon and collected by the People's court and the facts to be proved.

第十八条 当事人及其诉讼代理人申请人民法院调查收集证据，应当提交书面申请。申请书应当载明被调查人的姓名或者单位名称、住所地等基本情况、所要调查收集的证据的内容、需要由人民法院调查收集证据的原因及其要证明的事实。

(相关资料:[司法解释 1 篇裁判文书 9 篇相关论文 1 篇实务指南](#))

Article 19 The application of the parties concerned and the agents ad litem thereof to the People's court for investigating upon and collecting evidences shall be filed at no later than seven days prior to the expiration of the term for producing evidences.

If the People's court refuses to approve the application of the parties concerned or the agents ad litem thereof, it shall service a notice to them. The parties concerned and the agents ad litem thereof may file a written application to the People's court that accepts the application for reconsideration within three days after receiving the notice. The People's court shall give a reply within five days after receiving the application for reconsideration.

第十九条 当事人及其诉讼代理人申请人民法院调查收集证据，不得迟于举证期限届满前七日。

人民法院对当事人及其诉讼代理人的申请不予准许的，应当向当事人或其诉讼代理人送达通知书。当事人及其诉讼代理人可以在收到通知书的次日起三日内向受理申请的人民法院书面申请复议一次。人民法院应当在收到复议申请之日起五日内作出答复。

(相关资料:[司法解释 2 篇地方法规 1 篇裁判文书 98 篇实务指南](#))

Article 20 The written evidences to be investigated upon and collected by the investigators may be the original document or the reproduction or photocopy thereof which has been verified as correct. In the case of a reproduction or a photocopy, the sources and the collection of evidences shall be specified in the investigation notes.

第二十条 调查人员调查收集的书证，可以是原件，也可以是经核对无误的副本或者复制件。是副本或者复制件的，应当在调查笔录中说明来源和取证情况。

(相关资料:[裁判文书 8 篇实务指南](#))

Article 21 The physical evidences investigated upon and collected by the investigators shall be the original things. If it is indeed difficult for the person investigated to provide the original thing, he may provide a reproduction or a photo thereof. In the case of a reproduction or a photo, the investigation notes shall specify how the evidence is obtained.

第二十一条 调查人员调查收集的物证应当是原物。被调查人提供原物确有困难的，可以提供复制品或者照片。提供复制品或者照片的，应当在调查笔录中说明取证情况。

(相关资料:[实务指南](#))

Article 22 The investigators who investigate upon and collect computer data or audio-visual materials such as sound recordings and visual recordings, etc. shall request the person investigated to provide the original carrier of the relevant data. If it is difficult to provide the original carrier, a reproduction may be provided. If the case of a reproduction, the investigators shall specify the source of the evidences and the process of its making in the investigation notes.

第二十二条 调查人员调查收集计算机数据或者录音、录像等视听资料的，应当要求被调查人提供有关资料的原始载体。提供原始载体确有困难的，可以提供复制件。提供复制件的，调查人员应当在调查笔录中说明其来源和制作经过。

(相关资料:[裁判文书 4 篇相关论文 4 篇实务指南](#))

Article 23 The parties concerned who apply for the preservation of evidences as pursuant to [Article 74](#) of the [Civil Procedure Law of the People's Republic of China](#) shall make the application at no later than 7 days prior to the term for producing evidences.

Where any party concerned applies for the preservation of evidences, the People's court may demand the party to provide relevant guarantees.

In case there are different provisions in laws or judicial interpretations concerning the prior-litigation preservation of evidences, such provisions shall prevail.

第二十三条 当事人依据《[民事诉讼法](#)》[第七十四条](#)的规定向人民法院申请保全证据，不得迟于举证期限届满前七日。当事人申请保全证据的，人民法院可以要求其提供相应的担保。

法律、司法解释规定诉前保全证据的，依照其规定办理。

（相关资料：[司法解释 1 篇裁判文书 13 篇相关论文 2 篇实务指南](#)）

Article 24 When preserving evidences, the People's court may, according to the specific circumstances, adopt the ways of preservation like sealing up, detaining, taking photos, make sound recordings or visual recordings, making reproductions, authenticating, taking transcripts, etc.

When preserving evidences, the People's court may demand the parties concerned or the agents ad litem thereof to be present at the scene.

第二十四条 人民法院进行证据保全，可以根据具体情况，采取查封、扣押、拍照、录音、录像、复制、鉴定、勘验、制作笔录等方法。

人民法院进行证据保全，可以要求当事人或者诉讼代理人到场。

（相关资料：[司法解释 1 篇裁判文书 51 篇相关论文 3 篇实务指南](#)）

Article 25 The parties concerned who applies for the preserving evidences shall make the application within the time period for producing evidences and shall be in conformity with Article 27 of the present Provisions unless the parties concerned apply for re-authentication.

If any party concerned who bear the burden of proof for the matters that need to be authenticated fails to file an application for authentication within the time limit prescribed by the People's court or fails pay in advance the expenses for authentication or refuses to provide relevant materials without good reason so that the facts under disputes cannot be affirmed by way of a conclusion of authentication, it shall undertake the harmful consequences of inability to produce evidences.

第二十五条 当事人申请鉴定，应当在举证期限内提出。符合本规定第二十七条规定的情形，当事人申请重新鉴定的除外。

对需要鉴定的事项负有举证责任的当事人，在人民法院指定的期限内无正当理由不提出鉴定申请或者不预交鉴定费用或者拒不提供相关材料，致使对案件争议的事实无法通过鉴定结论予以认定的，应当对该事实承担举证不能的法律后果。

（相关资料：[地方法规 1 篇案例 2 篇裁判文书 343 篇相关论文 1 篇实务指南](#)）

Article 26 After the application of the party concerned for authentication is approved by the People's court, both parties shall determine, through negotiations, the eligible authentication institution and the authenticators. In case on such consent may be reached through negotiations, the People's court shall designate the authentication institution and authenticators.

第二十六条 当事人申请鉴定经人民法院同意后，由双方当事人协商确定有鉴定资格的鉴定机构、鉴定人员，协商不成的，由人民法院指定。

（相关资料：[部门规章 1 篇裁判文书 48 篇相关论文 5 篇实务指南](#)）

Article 27 In case any party concerned refuses to accept the authentication conclusions made by the authentication institution designated by the People's court and applies for re-authentication, the People's court shall approve the application if there are evidences that can prove the existence of any of the following circumstances:

第二十七条 当事人对人民法院委托的鉴定部门作出的鉴定结论有异议申请重新鉴定，提出证据证明存在下列情形之一的，人民法院应予准许：

1. The authentication institution or authenticator does not have relevant qualifications;

（一）鉴定机构或者鉴定人员不具备相关的鉴定资格的；

2. The process of authentication is seriously illegal;

（二）鉴定程序严重违法的；

3. There are obviously inadequate evidences for the authentication conclusions;

(三) 鉴定结论明显依据不足的;

4. Other circumstance that, after cross-examinations, cannot be used as evidences.

If any defective authentication conclusion can be made up by way of supplementary authentications, re-authentications or supplementary cross-examinations, it shall not be re-authenticated.

(四) 经过质证认定不能作为证据使用的其他情形。

对有缺陷的鉴定结论, 可以通过补充鉴定、重新质证或者补充质证等方法解决的, 不予重新鉴定。

(相关资料:[司法解释 2 篇](#)[地方法规 6 篇](#)[案例 2 篇](#)[裁判文书 175 篇](#)[相关论文 6 篇](#)[实务指南](#))

Article 28 If the authentication conclusion is made by relevant departments made upon the independent entrustment of any party concerned and the other party has adequate evidences to rebut and applies for re-authentication, such application shall be approved by the People's court.

第二十八条 一方当事人自行委托有关部门作出的鉴定结论, 另一方当事人有证据足以反驳并申请重新鉴定的, 人民法院应予准许。

(相关资料:[地方法规 2 篇](#)[案例 1 篇](#)[裁判文书 82 篇](#)[相关论文 2 篇](#)[实务指南](#))

Article 29 The judges shall examine the reports of authentication made by the authenticators so as to confirm whether the following contents are included:

第二十九条 审判人员对鉴定人出具的鉴定书, 应当审查是否具有下列内容:

1. The name or title of the client, and the content of the entrusted authentication;

(一) 委托人姓名或者名称、委托鉴定的内容;

2. The materials for the entrusted authentication;

(二) 委托鉴定的材料;

3. The basis of entrustment and the scientific or technological means adopted;

(三) 鉴定的依据及使用的科学技术手段;

4. Specifications of the authentication process;

(四) 对鉴定过程的说明;

5. An definite conclusion of authentication;

(五) 明确的鉴定结论;

6. Specifications of the qualifications of the authenticators;

(六) 对鉴定人鉴定资格的说明;

7. The signatures of the authenticator and the official seal of the authentication institution.

(七) 鉴定人员及鉴定机构签名盖章。

(相关资料:[裁判文书 55 篇](#)[相关论文 3 篇](#)[实务指南](#))

Article 30 The People's court shall take notes for the inquisition of the physical evidences or the spot of scene, recording the time and venue of the inquisition, the inquisitors, the people on the spot of the scene, the process and result of the inquisition, etc and have the notes signed or sealed by the people on the spot of the scene. If any map is drawn, the time

and direction of the drawing, the name and identification of the drawers shall be specified in the map.

第三十条 人民法院勘验物证或者现场，应当制作笔录，记录勘验的时间、地点、勘验人、在场人、勘验的经过、结果，由勘验人、在场人签名或者盖章。对于绘制的现场图应当注明绘制的时间、方位、测绘人姓名、身份等内容。

（相关资料：[裁判文书 4 篇实务指南](#)）

Article 31 In case excerpts are taken from the relevant documents or materials formulated by relevant departments, the excerpts shall specify the sources and be affixed with the cachet of the entity that has formulated or that keeps the documents or materials, and the person who make the excerpt or other investigators shall put their signatures or seals on the excerpts.

The excerpts of the documents or materials shall be relatively complete in content and may not made unscrupulously.

第三十一条 摘录有关单位制作的与案件事实相关的文件、材料，应当注明出处，并加盖制作单位或者保管单位的印章，摘录人和其他调查人员应当在摘录件上签名或者盖章。

摘录文件、材料应当保持内容相应的完整性，不得断章取义。

（相关资料：[裁判文书 1 篇实务指南](#)）

III. The Time Period for Producing Evidences and the Exchange of Evidences

三、举证时限与证据交换

Article 32 The defendant shall submit a written reply before the expiration of the prescribed time period, specifying his opinions concerning the facts and reasons on which the allegations of the plaintiff are based.

第三十二条 被告应当在答辩期届满前提出书面答辩，阐明其对原告诉讼请求及所依据的事实和理由的意见。

（相关资料：[地方法规 1 篇裁判文书 20 篇相关论文 3 篇实务指南](#)）

Article 33 The People's court shall service a notice for accepting the case and a notice for responding to the suit to the parties concerned, and at the same time service a notice for producing evidences to them. The notice for producing evidences shall specify the principle and requirements of distributing the burden of proof, the circumstances under which the parties concerned may plead the People's court to investigate upon and collect evidences, the time period prescribed by the People's court for producing evidences and the harmful consequences for failure to produce evidences during the prescribed time period.

The time period for producing evidences may be agreed upon by the parties concerned and be affirmed by the People's court.

If the time period for producing evidences is designated by the People's court, the designated time period shall be not less 30 days, starting from the next day when the parties concerned receive the notice of accepting the case the notice for responding to the suit.

第三十三条 人民法院应当在送达案件受理通知书和应诉通知书的同时向当事人送达举证通知书。举证通知书应当载明举证责任的分配原则与要求、可以向人民法院申请调查取证的情形、人民法院根据案件情况指定的举证期限以及逾期提供证据的法律后果。

举证期限可以由当事人协商一致，并经人民法院认可。

由人民法院指定举证期限的，指定的期限不得少于三十日，自当事人收到案件受理通知书和应诉通知书的次日起计算。

（相关资料：[司法解释 2 篇地方法规 3 篇案例 1 篇裁判文书 50 篇相关论文 12 篇实务指南](#)）

Article 34 The parties concerned shall submit evidential materials to the People's court within the time period for producing evidences; in case any party fails to submit evidences during this time period shall be deemed as giving up the right to produce evidences.

The evidential materials submitted by the parties concerned beyond the time period shall not be cross-examined during the court hearing of the People's court, unless both parties agree to have the evidences cross-examined. In case any party makes additional or changes allegations or lodges a counterclaim, he shall do so prior to the expiration of the time period for producing evidences.

第三十四条 当事人应当在举证期限内向人民法院提交证据材料，当事人在举证期限内不提交的，视为放弃举证权利。对于当事人逾期提交的证据材料，人民法院审理时不组织质证。但对方当事人同意质证的除外。当事人增加、变更诉讼请求或者提起反诉的，应当在举证期限届满前提出。

（相关资料：[司法解释 1 篇](#)[地方法规 2 篇](#)[案例 4 篇](#)[裁判文书 606 篇](#)[相关文章 13 篇](#)[实务指南](#)）

Article 35 If, in the process of litigation, the nature of the legal relations alleged by the parties concerned or the validity of the civil acts are inconsistent with the findings of fact made by the People's court on the basis of the facts of the case, the provisions of Article 34 of the present Provisions shall not be applicable, and the People's court shall inform the parties concerned that the allegations litigation may be changed.

Where the parties concerned change their allegations of litigation, the People's court shall prescribe the time period for producing evidences anew.

第三十五条 诉讼过程中，当事人主张的法律关系的性质或者民事行为的效力与人民法院根据案件事实作出的认定不一致的，不受本规定第三十四条规定的限制，人民法院应当告知当事人可以变更诉讼请求。当事人变更诉讼请求的，人民法院应当重新指定举证期限。

（相关资料：[司法解释 2 篇](#)[地方法规 6 篇](#)[案例 2 篇](#)[裁判文书 196 篇](#)[相关文章 12 篇](#)[实务指南](#)）

Article 36 If any party concerned has real difficulty in producing evidences during the prescribed time period, it shall apply to the People's court for extending the period during the time period for producing evidences. It may delay the producing of evidences upon the approval of the People's court. If the party concerned still has difficulty in producing evidences during the extended time period, it may apply to the People's court for another extension of the time period for producing evidences. It is up to the People's court to decide whether to approve the application or not.

第三十六条 当事人在举证期限内提交证据材料确有困难的，应当在举证期限内向人民法院申请延期举证，经人民法院准许，可以适当延长举证期限。当事人在延长的举证期限内提交证据材料仍有困难的，可以再次提出延期申请，是否准许由人民法院决定。

（相关资料：[司法解释 1 篇](#)[裁判文书 21 篇](#)[相关文章 1 篇](#)[实务指南](#)）

Article 37 The People's court may, upon the application of the parties concerned, arrange for them to exchange evidences prior to holding a session of court hearing.

As for the cases for which there are plenty of evidences or which are difficult in nature, the People's court shall arrange for the parties concerned to exchange evidences after the expiration of the time period for reply but prior to holding a session of court hearing.

第三十七条 经当事人申请，人民法院可以组织当事人在开庭审理前交换证据。人民法院对于证据较多或者复杂疑难的案件，应当组织当事人在答辩期届满后、开庭审理前交换证据。

（相关资料：[司法解释 1 篇](#)[裁判文书 37 篇](#)[相关文章 4 篇](#)[实务指南](#)）

Article 38 The time for exchanging evidences may be agreed upon by the parties concerned and be subject to the approval of the People's court, or it may be determined by the People's court.

Where the People's court arranges for the parties concerned to exchange evidences, the day when evidences are exchanged is the day when the time period for producing evidences expires. Where the application of the parties concerned for extending the time period for producing evidences is approved by the People's court, the date for exchanging evidences shall also be extended accordingly.

第三十八条 交换证据的时间可以由当事人协商一致并经人民法院认可，也可以由人民法院指定。人民法院组织当事人交换证据的，交换证据之日举证期限届满。当事人申请延期举证经人民法院准许的，证据交换日相应顺延。

（相关资料：[裁判文书 15 篇实务指南](#)）

Article 39 The exchange of evidences shall be conducted under the charge of the judges.

In the process of changing evidences, the judges shall record in the case files the facts and evidences to which the parties concerned have no objection. If they have any objection to any of the evidences, such evidences shall be recorded down according to the classified facts that need to be proved and shall specify the reasons for such objection. Through the exchange of evidences, the major issues about the disputes of both parties concerned are determined.

第三十九条 证据交换应当在审判人员的主持下进行。

在证据交换的过程中，审判人员对当事人无异议的事实、证据应当记录在卷；对有异议的证据，按照需要证明的事实分类记录在卷，并记载异议的理由。通过证据交换，确定双方当事人争议的主要问题。

（相关资料：[裁判文书 1 篇相关论文 1 篇实务指南](#)）

Article 40 Where any party concerned rebuts and submits new evidences after receiving the evidences exchanged by the other party, the People's court shall inform them to exchange the new evidences at a designated time.

As a general rules, there shall not be more than two exchanges of evidences, unless the case is very important, difficult or very complicated in nature and the People's court believes it necessary to have another exchange of evidences.

第四十条 当事人收到对方交换的证据后提出反驳并提出新证据的，人民法院应当通知当事人在指定的时间进行交换。证据交换一般不超过两次。但重大、疑难和案情特别复杂的案件，人民法院认为确有必要再次进行证据交换的除外。

（相关资料：[司法解释 1 篇裁判文书 21 篇实务指南](#)）

Article 41 The "new evidences" as provided in paragraph 1 of [Article 125](#) of the [Civil Procedure Law](#) shall refer to any of the following circumstances:

第四十一条 [《民事诉讼法》第一百二十五条](#)第一款规定的“新的证据”，是指以下情形：

1. The new evidences of the first instance hearing include: the evidences newly found by the parties concerned after the expiration of the time period for producing evidences in the first instance court hearing; the evidences which the parties concerned cannot provide during the time period for producing evidences due to objective reasons and still cannot provide during the extended time period approved by the People's court;

（一）一审程序中的新的证据包括：当事人在一审举证期限届满后新发现的证据；当事人确因客观原因无法在举证期限内提供，经人民法院准许，在延长的期限内仍无法提供的证据；

2. The new evidences of the second instance hearing include: the evidences newly found after the first instances hearing is finished; the evidences which the parties concerned applied, prior to the expiration of the time period for producing evidences in the first instance hearing, to the People's court for investigation and collection but failed to be approved but collected by the second instance court upon the application of the parties concerned which believes it necessary to grant approval to the application thereof.

（二）二审程序中的新的证据包括：一审庭审结束后新发现的证据；当事人在一审举证期限届满前申请人民法院调查取证未获准许，二审法院经审查认为应当准许并依当事人申请调取的证据。

（相关资料：[司法解释 2 篇地方法规 5 篇案例 4 篇裁判文书 872 篇相关论文 6 篇实务指南](#)）

Article 42 Where any party concerned submits new evidences in the first instance hearing, such evidences shall be submitted prior to the start of the first instance hearing or prior to the holding of a session.

Where any party concerned submits new evidences in the process of the second instance hearing, such evidences shall

be submitted prior to the start of the second instance or prior to the holding of a session. Where it is not necessary to hold a session, they shall be submitted during the time period designated by the People's court.

第四十二条 当事人在一审程序中提供新的证据的，应当在一审开庭前或者开庭审理时提出。
当事人在二审程序中提供新的证据的，应当在二审开庭前或者开庭审理时提出；二审不需要开庭审理的，应当在人民法院指定的期限内提出。

（相关资料：[司法解释 1 篇](#)[地方法规 1 篇](#)[裁判文书 55 篇](#)[实务指南](#)）

Article 43 Where the evidences submitted by the parties concerned after the time period for producing evidences expires are not new evidences, they shall not be accepted by the People's court.

Where any evidence fails to be provided by the parties concerned during the extended time period upon the approval of the People's court due to objective reasons and the failure to hear such evidence may result in injustice, such evidence may be deemed as new evidence.

第四十三条 当事人举证期限届满后提供的证据不是新的证据的，人民法院不予采纳。
当事人经人民法院准许延期举证，但因客观原因未能在准许的期限内提供，且不审理该证据可能导致裁判明显不公的，其提供的证据可视为新的证据。

（相关资料：[司法解释 2 篇](#)[地方法规 1 篇](#)[案例 1 篇](#)[裁判文书 249 篇](#)[相关论文 3 篇](#)[实务指南](#)）

Article 44 The term “new evidences” as mentioned in Item 1, Paragraph 1 of [Article 179](#) of the [Civil Procedure Law](#) shall refer to the evidences newly found after the court hearing of the original instance is finished.

Where any party concerned submits new evidences in the process of retrial, it shall submit such evidences when it applies for retrial.

第四十四条 [《民事诉讼法》第一百七十九条](#)第一款第（一）项规定的“新的证据”，是指原审庭审结束后新发现的证据。

当事人在再审程序中提供新的证据的，应当在申请再审时提出。

（相关资料：[司法解释 2 篇](#)[裁判文书 31 篇](#)[相关论文 2 篇](#)[实务指南](#)）

Article 45 Where any party concerned produces new evidences, the People's court shall inform the other party to put forward its opinions or produce evidences during a reasonable period of time.

第四十五条 一方当事人提出新的证据的，人民法院应当通知对方当事人在合理期限内提出意见或者举证。

（相关资料：[司法解释 1 篇](#)[裁判文书 5 篇](#)[实务指南](#)）

Article 46 Where a case is remanded for a new trial or the judgment of which is changed during the second trial or retrial as a result that any party concerned failed to produce evidences during the prescribed time limit, the original judgment shall not be considered to be a wrong judgment. Where a party pleads that the other party that produces new evidences bear the reasonable expenses incurred from the traveling, loss of working time, the witness's appearance at court, litigation, etc. and the direct losses incurred therefrom, such pleadings shall be affirmed by the People's court.

第四十六条 由于当事人的原因未能在指定期限内举证，致使案件在二审或者再审期间因提出新的证据被人民法院发回重审或者改判的，原审裁判不属于错误裁判案件。一方当事人请求提出新的证据的另一方当事人负担由此增加的差旅、误工、证人出庭作证、诉讼等合理费用以及由此扩大的直接损失，人民法院应予支持。（相关资料：[地方法规 1 篇](#)[裁判文书 117 篇](#)[相关论文 1 篇](#)[实务指南](#)）

IV. Cross-Examination

四、质证

Article 47 Evidences shall be presented at court and be cross-examined by the parties concerned. Any evidence that has not been cross-examined shall not be rendered as the basis for affirming the facts of the case.

The evidences that are affirmed and recorded down in the case files in the process of exchanging evidences may, upon the statement of judges at court hearing, be taken as the basis for affirming the facts of the case.

第四十七条 证据应当在法庭上出示，由当事人质证。未经质证的证据，不能作为认定案件事实的依据。

当事人在证据交换过程中认可并记录在卷的证据，经审判人员在庭审中说明后，可以作为认定案件事实的依据。

（相关资料：[案例 1 篇裁判文书 174 篇相关论文 5 篇实务指南](#)）

Article 48 The evidences that involve the state secrets, business secrets, personal privacy or other evidences that shall be kept secret according to relevant provisions of law may not be cross-examined in public at the court hearings.

第四十八条 涉及国家秘密、商业秘密和个人隐私或者法律规定的其他应当保密的证据，不得在开庭时公开质证。

（相关资料：[实务指南](#)）

Article 49 When cross-examining written evidences, physical evidences or audio-visual materials, the parties concerned shall be entitled to demand the other party to present the original document or original thing with the except of any of the following circumstances:

第四十九条 对书证、物证、视听资料进行质证时，当事人有权要求出示证据的原件或者原物。但有下列情况之一的除外：

1. It is indeed difficult to present the original document or original thing and it is approved by the People's court to present the reproduction or photocopy thereof;

（一）出示原件或者原物确有困难并经人民法院准许出示复制件或者复制品的；

2. The original document or original thing is not existing but evidences show that the production or photocopy is identical to the original document or original thing.

（二）原件或者原物已不存在，但有证据证明复制件、复制品与原件或原物一致的。

（相关资料：[裁判文书 37 篇实务指南](#)）

Article 50 When cross-examining evidences, the parties concerned shall concentrate on the genuineness, relativity, lawfulness of the evidences, and make interrogations, accounts and debates concerning the validity and forcefulness of the evidences.

第五十条 质证时，当事人应当围绕证据的真实性、关联性、合法性，针对证据证明力有无以及证明力大小，进行质疑、说明与辩驳。

（相关资料：[裁判文书 5 篇相关论文 2 篇实务指南](#)）

Article 51 The cross-examination shall be conducted in the following sequence:

第五十一条 质证按下列顺序进行：

1. The plaintiff presents evidences, and the defendant or third party cross-examines;

（一）原告出示证据，被告、第三人与原告进行质证；

2. The defendant presents evidences, and the plaintiff or third party cross-examines;

（二）被告出示证据，原告、第三人与被告进行质证；

3. The third party presents evidences, and the defendant and the plaintiff cross-examines.

The evidences collected by the People's court upon the application of the parties concerned shall be deemed as the

evidences provided by the party that has made the application.

The People's court shall present the evidences collected according to its functions, listen to the opinions of the parties concerned and make account of the investigation upon and collection of the evidences.

(三) 第三人出示证据，原告、被告与第三人进行质证。

人民法院依照当事人申请调查收集的证据，作为提出申请的一方当事人提供的证据。

人民法院依照职权调查收集的证据应当在庭审时出示，听取当事人意见，并可就调查收集该证据的情况予以说明。

(相关资料:[裁判文书 9 篇](#)[相关论文 1 篇](#)[实务指南](#))

Article 52 Where there are more than two independent allegations, the parties concerned may present the evidences one by one for cross-examination.

第五十二条 案件有两个以上独立的诉讼请求的，当事人可以逐个出示证据进行质证。

(相关资料:[实务指南](#))

Article 53 Any one who cannot correct express his or her mind may not be a witness.

The persons with no capacity for civil conduct or the persons with limited capacity for civil conduct who are suitable for the facts to be affirmed in terms of age, intelligibility or mental health may be witnesses.

第五十三条 不能正确表达意志的人，不能作为证人。

待证事实与其年龄、智力状况或者精神健康状况相适应的无民事行为能力人和限制民事行为能力人，可以作为证人。

(相关资料:[裁判文书 7 篇](#)[相关论文 5 篇](#)[实务指南](#))

Article 54 The application of the parties concerned for having witnesses to appear at court shall be filed ten days before the time period for producing evidences expires and shall be subject to the approval of the People's court.

In case the People's court approves the application of the party concerned, it shall inform the witnesses involved prior to the opening of the court hearing and inform them that they shall testify on the basis of facts as well as the legal consequences of giving false testimony.

The reasonable expenses incurred from the witness's appearance at court for testimony shall be paid in advance by the party that provides the witnesses and be borne by the party that loses the suit.

第五十四条 当事人申请证人出庭作证，应当在举证期限届满十日前提出，并经人民法院许可。

人民法院对当事人的申请予以准许的，应当在开庭审理前通知证人出庭作证，并告知其应当如实作证及作伪证的法律后果。

证人因出庭作证而支出的合理费用，由提供证人的一方当事人先行支付，由败诉一方当事人承担。

(相关资料:[司法解释 2 篇](#)[裁判文书 83 篇](#)[相关论文 3 篇](#)[实务指南](#))

Article 55 Witnesses shall appear in court to testify and shall accept the cross-examination of the parties concerned.

Where the witness appears at the exchange of evidences organized by the People's court and makes statements as testimony, it may be deemed as having appeared in court as a witness.

第五十五条 证人应当出庭作证，接受当事人的质询。

证人在人民法院组织双方当事人交换证据时出席陈述证言的，可视为出庭作证。

(相关资料:[裁判文书 281 篇](#)[相关论文 2 篇](#)[实务指南](#))

Article 56 The phrase "the witness cannot appear in court due to real difficulties" as mentioned in [Article 70](#) of the [Civil Procedure Law](#) shall refer to any of the following circumstances:

第五十六条 [《民事诉讼法》第七十条](#)规定的“证人确有困难不能出庭”，是指有下列情形：

1. Being unable to appear in court due to old age, debility or unable to travel;

(一) 年迈体弱或者行动不便无法出庭的；

2. Being unable to leave due to the special post thereof;

(二) 特殊岗位确实无法离开的;

3. Being unable to appear in court due to long distance and inconvenient communications;

(三) 路途特别遥远, 交通不便难以出庭的;

4. Being unable to appear in court due to force majeure such as natural disaster, etc;

(四) 因自然灾害等不可抗力的原因无法出庭的;

5. Other special circumstances of being unable to appear in court.

In any of the circumstances as mentioned in the preceding paragraph, the witness may, upon the approval of the People's court, bear witness by way of submitting a written testimony or audio-visual materials or by means of two-way audio-visual transmission technology.

(五) 其他无法出庭的特殊情况。

前款情形, 经人民法院许可, 证人可以提交书面证言或者视听资料或者通过双向视听传输技术手段作证。

(相关资料:[裁判文书 59 篇](#)[相关论文 3 篇](#)[实务指南](#))

Article 57 The witness that appears in court to bear witness shall objectively state the facts that he has felt in person. If the witness is deaf or mute, he may bear witness by other means.

When bearing witness, the witnesses may not use language of conjecture, induction or comments.

第五十七条 出庭作证的证人应当客观陈述其亲身感知的事实。证人为聋哑人的, 可以其他方式作证。

证人作证时, 不得使用猜测、推断或者评论性的语言。

(相关资料:[裁判文书 11 篇](#)[相关论文 3 篇](#)[实务指南](#))

Article 58 The judges and the parties concerned may interrogate the witnesses. No witness may audit the court hearing.

When interrogating a witness, no other witness may be present. When it thinks necessary, the People's court may allow the witnesses to cross-examine each other.

第五十八条 审判人员和当事人可以对证人进行询问。证人不得旁听法庭审理; 询问证人时, 其他证人不得在场。人民法院认为有必要的, 可以让证人进行对质。

(相关资料:[裁判文书 11 篇](#)[相关论文 1 篇](#)[实务指南](#))

Article 59 The authenticators shall appear in court to accept the interrogations of the parties concerned.

Where any authenticator is unable to appear in court due to special reasons, he may, upon the approval of the People's court, answer the interrogations of the parties concerned in writing.

第五十九条 鉴定人应当出庭接受当事人质询。

鉴定人确因特殊原因无法出庭的, 经人民法院准许, 可以书面答复当事人的质询。

(相关资料:[裁判文书 31 篇](#)[相关论文 2 篇](#)[实务指南](#))

Article 60 The parties concerned may, upon the approval of the court, interrogate the witnesses, authenticators and investigators.

When interrogating the witnesses, authenticators or investigators, no menacing, insulting or misleading language or means may be used.

第六十条 经法庭许可, 当事人可以向证人、鉴定人、勘验人发问。

询问证人、鉴定人、勘验人不得使用威胁、侮辱及不正当引导证人的言语和方式。

(相关资料:[裁判文书 7 篇](#)[实务指南](#))

Article 61 The parties concerned may apply to the People's court to have one or two persons with professional knowledge to appear in court to make accounts of the specialized questions relating to the case. If the People's court approves such applications, the relevant expenses shall be borne by the party that makes the application.

The judges and parties concerned may interrogate the persons with professional knowledge that appear in court.

Upon the approval of the People's court, the persons with professional knowledge as applied for by each party concerned may cross-examine the issues concerned in the case.

The persons with professional knowledge may inquire of the authenticators.

第六十一条 当事人可以向人民法院申请由一至二名具有专门知识的人员出庭就案件的专门性问题进行说明。人民法院准许其申请的，有关费用由提出申请的当事人负担。

审判人员和当事人可以对出庭的具有专门知识的人员进行询问。

经人民法院准许，可以由当事人各自申请的具有专门知识的人员就案件中的问题进行对质。

具有专门知识的人员可以对鉴定人进行询问。

（相关资料：[司法解释 1 篇](#)[地方法规 1 篇](#)[裁判文书 7 篇](#)[相关论文 6 篇](#)[实务指南](#)）

Article 62 The court shall write down the interrogations of the parties into the case files which shall be signed or sealed by the parties concerned after verification.

第六十二条 法庭应当将当事人的质证情况记入笔录，并由当事人核对后签名或者盖章。

（相关资料：[裁判文书 2 篇](#)[实务指南](#)）

V. The Verification and Affirmation of Evidences

五、证据的审核认定

Article 63 The People's court shall take the facts that can be proved by evidences as the basis of judgment according to law.

第六十三条 人民法院应当以证据能够证明的案件事实为依据依法作出裁判。

（相关资料：[裁判文书 169 篇](#)[相关论文 16 篇](#)[实务指南](#)）

Article 64 The judges shall verify the evidences according to the legal procedures all-roundly and objectively, shall observe the provisions of law, follow the professional ethics of judges, use logic reasoning and daily life experience to make independent judgments concerning the validity and forcefulness of the evidences, and publicize the reasons and result of judgment.

第六十四条 审判人员应当依照法定程序，全面、客观地审核证据，依据法律的规定，遵循法官职业道德，运用逻辑推理和日常生活经验，对证据有无证明力和证明力大小独立进行判断，并公开判断的理由和结果。

（相关资料：[案例 1 篇](#)[裁判文书 274 篇](#)[相关论文 14 篇](#)[实务指南](#)）

Article 65 The judges may examine and verify a single evidence from the following aspects:

第六十五条 审判人员对单一证据可以从下列方面进行审核认定：

1. Whether the evidence is the original document or thing; whether the photocopy or reproduction is identical to the original document or original thing;

（一）证据是否原件、原物，复印件、复制品与原件、原物是否相符；

2. Whether the evidence is relevant to the facts of the present case;

(二) 证据与本案事实是否相关;

3. Whether the forms and sources of the evidence is consistent to the legal provisions;

(三) 证据的形式、来源是否符合法律规定;

4. Whether the evidence is real;

(四) 证据的内容是否真实;

5. Whether the witness or evidence provider has an interest in any party concerned.

(五) 证人或者提供证据的人, 与当事人有无利害关系。

(相关资料:[案例 1 篇裁判文书 92 篇相关论文 2 篇实务指南](#))

Article 66 The judges shall make a comprehensive examination and judgment of all evidences from the degree of connection of each evidence with the fact of the case and the relations between the evidences.

第六十六条 审判人员对案件的全部证据, 应当从各证据与案件事实的关联程度、各证据之间的联系等方面进行综合审查判断。

(相关资料:[案例 1 篇裁判文书 183 篇实务指南](#))

Article 67 In the process of litigation, the evidences which they have affirmed through compromise for the sake of reaching a mediation or agreement or reconciliation may not be used by the parties concerned in later litigations as an evidence unfavorable to the other party.

第六十七条 在诉讼中, 当事人为达成调解协议或者和解的目的作出妥协所涉及的对案件事实的认可, 不得在其后的诉讼中作为对其不利的证据。

(相关资料:[裁判文书 46 篇相关论文 17 篇实务指南](#))

Article 68 The evidences obtained by infringing upon the lawful rights and interests of other people or by those means prohibited by law may not be taken as the basis for affirming the facts of the case.

第六十八条 以侵害他人合法权益或者违反法律禁止性规定的方法取得的证据, 不能作为认定案件事实的依据。

(相关资料:[裁判文书 50 篇相关论文 14 篇实务指南](#))

Article 69 The following evidences may not be used independently as the basis for affirming the facts of a case:

第六十九条 下列证据不能单独作为认定案件事实的依据:

1. The testimony of a minor that is not suitable to his age or intelligence;

(一) 未成年人所作的与其年龄和智力状况不相等的证言;

2. The testimony of a witness that has an interest in a party or the agent thereof;

(二) 与一方当事人或者其代理人有利害关系的证人出具的证言;

3. Doubtful audio-visual materials;

(三) 存有疑点的视听资料;

4. Photocopies or reproductions that cannot be verified against the original document or original thing;

(四) 无法与原件、原物核对的复印件、复制品;

5. The testimony of a witness that fails to appear in court to bear witness.

(五) 无正当理由未出庭作证的证人证言。

(相关资料:[案例 1 篇裁判文书 521 篇](#)[相关论文 6 篇](#)[实务指南](#))

Article 70 If any of the following evidences submitted by any party concerned is objected by the other party who does not have opposite evidences forceful enough to rebut them, the People's court shall affirm the forcefulness thereof:

第七十条 一方当事人提出的下列证据，对方当事人提出异议但没有足以反驳的相反证据的，人民法院应当确认其证明力：

1. The original document of a written evidence or the photocopy, photo, duplicate, or excerpt that is verified as identical with the original document of the written evidence;

(一) 书证原件或者与书证原件核对无误的复印件、照片、副本、节录本；

2. The original thing of a physical evidence or the reproduction, photo, or visual recordings that are verified as identical with the original thing of the physical evidence;

(二) 物证原物或者与物证原物核对无误的复制件、照片、录像资料等；

3. The audio-visual materials that are obtained by lawful means, without any doubt and are supported by other evidences or the reproductions of the audio-visual materials that have been verified as correct;

(三) 有其他证据佐证并以合法手段取得的、无疑点的视听资料或者与视听资料核对无误的复制件；

4. On-spot inquiry records about the physical evidence or the scene made according to legal procedures by the People's court upon the application of a party concerned.

(四) 一方当事人申请人民法院依照法定程序制作的对物证或者现场的勘验笔录。

(相关资料:[案例 1 篇裁判文书 297 篇](#)[相关论文 4 篇](#)[实务指南](#))

Article 71 The validity of the authentication conclusions made by the authentication institutions upon the entrustment of the People's court shall be affirmed if the parties concerned do not have opposite evidences or reasons forceful enough to rebut them.

第七十一条 人民法院委托鉴定部门作出的鉴定结论，当事人没有足以反驳的相反证据和理由的，可以认定其证明力。

(相关资料:[案例 1 篇裁判文书 111 篇](#)[相关论文 4 篇](#)[实务指南](#))

Article 72 If the evidences produced by one of the parties are affirmed by the other party or cannot be rebutted by the opposite evidences produced by the other party, the forcefulness thereof shall be affirmed by the People's court.

If the evidence produced by one of the parties is objected the other party or is rebutted by the opposite evidences of the other party, and if the opposite evidences of the other party are affirmed, the forcefulness of the opposite evidences shall be affirmed.

第七十二条 一方当事人提出的证据，另一方当事人认可或者提出的相反证据不足以反驳的，人民法院可以确认其证明力。

一方当事人提出的证据，另一方当事人有异议并提出反驳证据，对方当事人对反驳证据认可的，可以确认反驳证据的证明力。

(相关资料:[地方法规 1 篇](#)[案例 1 篇裁判文书 289 篇](#)[相关论文 2 篇](#)[实务指南](#))

Article 73 Where both parties concerned produces contradicting evidences to prove a same fact but neither has enough evidence to rebut the evidences of the other party, the People's court shall determine which evidences are obviously more forceful than the other evidences by taking the case into consideration, and shall affirm the evidences that are more forceful.

If the facts of a case are not identifiable due to the inability to determine the forcefulness of the evidences, the People's court shall make a judgment according to the rules for distributing the burden of proof.

第七十三条 双方当事人对同一事实分别举出相反的证据,但都没有足够的依据否定对方证据的,人民法院应当结合案件情况,判断一方提供证据的证明力是否明显大于另一方提供证据的证明力,并对证明力较大的证据予以确认。因证据的证明力无法判断导致争议事实难以认定的,人民法院应当依据举证责任分配的规则作出裁判。

(相关资料:[案例 3 篇裁判文书 463 篇相关论文 17 篇实务指南](#))

Article 74 In the process of litigation, the facts that are affirmed as unfavorable to a party itself and the evidences that have been affirmed by the parties concerned in the bill of complaint, bill of defense, statements of the parties concerned or the statement of the procurator shall be affirmed by the People's court, unless the party concerned goes back on its own words and has adequate evidences to overthrow the said evidences.

第七十四条 诉讼过程中,当事人在起诉状、答辩状、陈述及其委托代理人的代理词中承认的对己方不利的事实和认可的证据,人民法院应当予以确认,但当事人反悔并有相反证据足以推翻的除外。

(相关资料:[地方法规 1 篇案例 1 篇裁判文书 403 篇相关论文 7 篇实务指南](#))

Article 75 Where there are evidences to prove that a party possesses the evidence but refuses to provide it without good reasons and if the other party claims that the evidence is unfavorable to the possessor of the evidence, it may be deduced that the claim stands.

第七十五条 有证据证明一方当事人持有证据无正当理由拒不提供,如果对方当事人主张该证据的内容不利于证据持有人,可以推定该主张成立。

(相关资料:[司法解释 1 篇案例 4 篇裁判文书 450 篇相关论文 18 篇实务指南](#))

Article 76 Where a party makes statements for its allegations but fails to provide other relevant evidences, the allegations thereof shall not be affirmed, unless the other party so affirms.

第七十六条 当事人对自己的主张,只有本人陈述而不能提出其他相关证据的,其主张不予支持。但对方当事人认可的除外。

(相关资料:[裁判文书 340 篇相关论文 2 篇实务指南](#))

Article 77 The forcefulness of more than one evidence concerning a same fact may be determined by the People's court according to the following principles:

第七十七条 人民法院就数个证据对同一事实的证明力,可以依照下列原则认定:

1. The documents formulated by state organs or social bodies according to their respective functions are, as a general rules, more forceful than other written evidences;

(一) 国家机关、社会团体依职权制作的公文书证的证明力一般大于其他书证;

2. The physical evidences, archive files, authentication conclusions, on-spot inquisition recordings and the written evidences that have been notarized or registered are, as a general rule, more forceful than other written evidences, audio-visual materials and testimonies;

(二) 物证、档案、鉴定结论、勘验笔录或者经过公证、登记的书证,其证明力一般大于其他书证、视听资料和证人证言;

3. The original evidences are, as a general rule, more forceful than the derivative evidences;

(三) 原始证据的证明力一般大于传来证据;

4. The direct evidences are, as a general rule, more forceful than indirect evidences;

(四) 直接证据的证明力一般大于间接证据;

5. The testimony of a witness that is favorable to the party concerned who is a relation thereof or with whom the party concerned is in other close relations are, as a general rule, less forceful than the testimony of other witnesses.

(五) 证人提供的对与其有亲属或者其他密切关系的当事人有利的证言, 其证明力一般小于其他证人证言。

(相关资料:[裁判文书 206 篇](#)[相关论文 6 篇](#)[实务指南](#))

Article 78 When affirming the testimony of a witness, the People's court may decide on the basis of comprehensive analysis of the intelligence, moral character, knowledge, experience, legal consciousness, professional abilities, etc. of the witnesses.

第七十八条 人民法院认定证人证言, 可以通过对证人的智力状况、品德、知识、经验、法律意识和专业技能等的综合分析作出判断。

(相关资料:[裁判文书 19 篇](#)[实务指南](#))

Article 79 The People's court shall specify in the judgments the reasons why an evidence is adopted. The reasons why the evidences to which the parties concerned have no objection are adopted need not be specified in the judgments.

第七十九条 人民法院应当在裁判文书中阐明证据是否采纳的理由。对当事人无争议的证据, 是否采纳的理由可以不在裁判文书中表述。

(相关资料:[地方法规 1 篇](#)[案例 1 篇](#)[裁判文书 15 篇](#)[相关论文 1 篇](#)[实务指南](#))

VI. Other Provisions

六、其他

Article 80 The lawful rights and interests of the witnesses, authenticators and inquisitors shall be protected. In case any party concerned or other participant of litigation counterfeits or destroys evidences or produces false evidences or prevents any witness from bearing witness or instigates or bribes or threatens other people to give false testimonies or takes revenge against any witness, authenticator or inquisitor, it shall be dealt with as pursuant to [Article 102](#) of the [Civil Procedure Law](#).

第八十条 对证人、鉴定人、勘验人的合法权益依法予以保护。当事人或者其他诉讼参与人伪造、毁灭证据, 提供假证据, 阻止证人作证, 指使、贿买、胁迫他人作伪证, 或者对证人、鉴定人、勘验人打击报复的, 依照 [《民事诉讼法》第一百零二条](#) 的规定处理。

(相关资料:[裁判文书 1 篇](#)[实务指南](#))

Article 81 The cases heard by the People's court on the basis of simplified procedures shall not be confined to the provisions of Article 32, Paragraph 3 of Article 33 and Article 79 of the present Provisions.

第八十一条 人民法院适用简易程序审理案件, 不受本解释中第三十二条、第三十三条第三款和第七十九条规定的限制。

(相关资料:[地方法规 1 篇](#)[裁判文书 21 篇](#)[相关论文 3 篇](#)[实务指南](#))

Article 82 Where any of the judicial interpretations made by this court in the past contradicts the present Provisions, the present Provisions shall prevail.

第八十二条 本院过去的司法解释, 与本规定不一致的, 以本规定为准。

(相关资料:[裁判文书 3 篇](#))

Article 83 The present Provisions shall be implemented as of April 1, 2002. The present Provisions shall not be applicable to the cases of first instance, second instance or retrial that have not been ended by April 1, 2002.

As for the civil cases that have been heard prior to the implementation of the present Provisions, if any party requests for retrial on the ground that the hearing of the case was against the present Provisions, such request shall not be supported by the People's court

The civil cases accepted for retrial after the implementation of the present Provisions and the People's court hears the cases on the basis of the provisions of [Article 184](#) of the [Civil Procedure Law](#), the present Provisions shall apply.

第八十三条 本规定自2002年4月1日起施行。2002年4月1日尚未审结的一审、二审和再审民事案件不适用本规定。

本规定施行前已经审理终结的民事案件，当事人以违反本规定为由申请再审的，人民法院不予支持。

本规定施行后受理的再审民事案件，人民法院依据《[民事诉讼法](#)》[第一百八十四条](#)的规定进行审理的，适用本规定。

(相关资料:[司法解释 1 篇裁判文书 19 篇](#))

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