



Palestinian National Authority
Supreme Judicial Council
The Technical Office

Judge's Manual for Civil and Commercial Procedures

First Edition

This manual was developed under the auspices of the Manual Subcommittee to the Training Committee which consist of the following honourable judges:

Judge As'ad Mubarak
Judge Abdallah Ghuzlan
Judge Iman Nasser Iddin
Judge Issaq Muhanna
Judge Mazen Sisalem
Judge Khaled Abu Jabr

DPK staff
Attorney Muhannad Assaf
Attorney Qais Jabareen

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List of Authors

Chapter	Title	Author
One	Judicial Settlement	Issaq Muhanna and Mazen Sisalem
Two		As'ad Mubarak, Abdallah Ghuzlan, and Iman Nasser Iddin
Three	Pre Trial Requests	Adnan Abu Wardah
Four	Pre trial procedures	
1	Jurisdiction	Salwa Sayegh
2	Parties	Imad Saleem
3	Pleas	Fahmi Najjar
Five	Trial	
1	Submitting of evidence	Zuhair Khalil
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3	Conditions of Dispute	Fathi Abu Sarour
4	Court Contempt	Issaq Muhanna and Mazen Sisalem
5	Closing Arguments	As'ad Mubarak, Abdallah Ghuzlan, and Iman Nasser Iddin
6	Verdicts and Expenses	Ismael Jaru

Dear Honorable Judge,

This Manual embraces most of the legal Articles, which the judge normally refers to in any civil or commercial case that might be brought before him.

A special effort was invested to present the Articles in a simplified way, and under clear and understandable subtitles so the judge can refer to it within a reasonable time.

The Manual is divided into five chapters. Chapter four includes 4 branches while Chapter 5 includes 6 branches.

Each subtitle has a unique number that refers to the chapter number and the subtitle. For example subtitle (2/1/2) regarding the recusal of judges can be read as the following:

2	1	2
Chapter II	Subtitle number 1 under Chapter II	Point number 2 under subtitle 1

Knowing the numbering system helps very much in referring to the needed point faster.

Another example, subtitle number 5/2/3/2 regarding the court's authorities over the combination request, could be analyzed as follows:

5: Refers to Chapter V

2: Refers to branch 2 under Chapter V

3: Refers to subtitle number 3 under branch two under chapter 5

2: Refers to paragraph 2 under subtitle number 3 under branch two under chapter 5

The legal Articles in this Manual are mainly derived from the Civil and Commercial Procedures Law Number 2 of 2001. In addition, other legal Articles from other laws were used, such as the Evidence Law, the Law Organizing the Legal Profession, and the Ottoman Civil Code (*Al Majallah*)

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1/1/1: Appointment of Settlement Judge

The judge with the power to conclude reconciliation is the judge seconded by the SJC in the first instance and conciliation courts (Article 68)

1/1/2: Competence

The settlement judge shall not adjudicate a case that failed to reach to conciliation (Article 75/2).

1/1/3: Reference to settlement Judge

Pursuant to a request by one of the parties, the file of the case shall be referred from the clerk of the court to the judge within three days of submitting the responses list (Article 69)

1/1/4: Place of conciliation sessions

The settlement judge shall hold his/her sessions in the competent court (Article 98/2)

1/1/5: Consent of the Parties

- a. Judicial settlement shall be initiated upon a request by one of the parties (Article 69)
- b. In case no one of the parties appears on the hearing date or in case of the disagreement of one of them to settle the dispute, the judge shall refer the file of the case to the trial court to proceed with the case according to the regular litigation procedures (Article 72)

1/2/0: Exempted Disputes

1/2/1: Cases where settlement is not permissible (Article 68).

1/2/2: urgent pleadings (Article 78)

1/2/3: execution disputes (Article (78)

1/3/0: Deadlines

1/3/1: Upon a request by one of the parties, the clerk shall refer the case to the settlement judge within three days starting from submitting the response (Article 69)

1/3/2: The settlement judge shall set within two weeks from referring the case to him/her a date for the hearing (Article 70).

1/3/3: The judge shall adjudicate the case within 60 days from the date of referring the case to him/her unless the parties agree to extend this period (Article 73).

1/4/0: Settlement Procedures

1/4/1: The referral of the case file to the conciliation judge within three days of submitting the list of responses. (Article 69)

1/4/2: The settlement judge shall set a date for a hearing within two weeks of referring the file to him/her.

1/4/3: The settlement judge shall refer the case to the trial court if the parties failed to appear on the hearing date or if one of them did not agree to settle the dispute (Article 72)

1/4/4: The judge shall proceed with the conciliation if the parties appear before him/her (Article 71)

1/4/5: The judge shall conclude a settlement between the parties within 60 days from the date the case file was referred to him/her unless the parties agree otherwise (Article 73)

1/4/6/0: if the parties agree on a settlement

1/4/6/1: The judge shall write on the record any comprehensive or partial settlement reached by the parties, and shall get their signature on it (Article 73)

1/4/6/2: The settlement judge shall refer to the trial court what was not settled in the dispute (Article 74/1)

1/4/7: The settlement judge shall not try the case (Article 75/2)

1/4/8: No hearing is to be set before the trial court during as long as the dispute is still adjudicated by settlement judge (Article 77)

1/5/0: referral from the settlement judge to the competent court

1/5/1: In case one of the parties did not appear on the hearing date or one of them did not agree on the settlement, the case shall be referred to the trial court (Article 72)

1/5/2: If a partial settlement is reached the judge shall refer to the trial court the issues that were not settled (Article 74)

1/5/3: If the judges were not able to conclude a settlement within 60 days and the parties did not agree on extension the case shall be referred.
(Article 73)

1/6/0: Documentation:

1/6/1: A file shall be open to document the settlement procedures.
(Article 74)

1/6/2: A special file shall be opened in case a partial settlement is reached
(Article 74)

1/6/3: In case a partial or comprehensive settlement was reached, a report has to be developed and the judge shall certify it after the parties' signature (Article 73/1)

1/6/4: The partial settlement shall be documented and shall not be adjudicated by the trial court.

1/7/0 Enforcement of the Settlement

1/7/1: The written protocol of the partial or comprehensive settlement agreement shall have the enforcement power (Article 73).

1/8/0: Fees

1/8/1: If a comprehensive settlement is reached $\frac{3}{4}$ of the fees shall be reimbursed. (Article 76)

1/8/2: The Law does not provide for any reimbursement in case of any partial settlement.

**Referring a Case to the Settlement Judge
Form**

Court's name:

Case number:

Plaintiff:

Respondent:

Type of the Case:

Date of submitting the responses list:

Date of referral to the conciliation judge:

Date of first session:

Date of conclusion of conciliation procedures:

Summary of settlement procedures:

- No settlement was reached / / the case has been referred to the trial court on.
- A comprehensive settlement was reached / / a partial conciliation was reached and the file has been referred to the trial court on ...

Conditions of settlement:

Agreement of the parties:

Name

Signature

1-

2-

Approval of the Judge

Date .../.../ 200

Chapter II

2/1/0 Judge's competence to adjudicate the case

2/1/1: A judge who is seconded as a settlement judge shall not sit as a trial judge for the same case (Article 75/1).

2/1/2: Recusal of judges

The Judge must recuse him/her self from trying the case even without a request from any of the parties in case one of the following happens:

- a- If he/she is relative to one of the parties or his/her spouse to the fourth degree.
- b- If he/she or his/her spouse was in dispute with one of the parties or his/her spouse.
- c- If he/she was a legal representative or a partner to one of the parties, or was a relative, or relative by marriage, to one of the parties' guardians or a member in the board of directors of a company that is a party to a case.
- d- If the case includes an interest for the judge or his/her spouse or one of the judge's relatives up to the fourth degree.
- e- If he/she, before assuming his/her office, represented one of the parties in the case or was a material witness in it.
- f- If he/she had served as a judge, expert, or a mediator in the case.
- g- If he/she is a relative, up to the fourth degree, to one of the judges on the same panel, or if he/she is a relative to one of the parties' representatives. (Article 141/1)
- h- If the judge feels uncomfortable to adjudicate a case for any reason, he/she can recuse him/her self from trying the case and shall in this case notify the chief judge of the court in which he/she works. (Article 144)

2/1/3: Penalties against non-recusal:

Any decision or verdict that is issued by a judge who should have recused him/her self shall be null and void (Article 141/2).

2/1/4: Recusal procedures

- a. The judge shall inform in writing the chief judge the reasons for his/her recusal. (Article 145)
- b. The chief judge shall refer the case to another judge or panel. (Article 145).

2/1/5: Recusal of judges

Either party may request the recusation of the judge based on any the following reasons:

- a. If the judge does not recuse him/her self despite the fact that one of the situations mentioned in Article (141) persists. (Article 142)
- b. If one of the recusal conditions set forth in Article 143 persists.

2/1/6: Basis for recusal of judges

- a. If the judge or his/her spouse is a party to a similar case to the one he/she is presiding over or if he/she is a party to a case involving one of the first case's parties, unless the case was brought up to disqualify him/her from trying the case before him/her.
- b. If the judge's divorcee, or one of his/her relatives or in-laws to the fourth degree, is in dispute with one of the parties, and the dispute is being tried before the court unless such a case was brought before the court with the intention of disqualifying the presiding judge.
- c. If one of the parties is working for the judge, or the judge has emotions toward one of the parties, whether it is love or hate, which might lead to him/her to not being impartial in judging the case.

2/1/7: Recusal procedures

- a. The recusal request shall be in the form application that includes the reasons banning the judge from trying the case at any stage of the trial. (Article 146)
- b. The application shall be filed to the first instance court chief judge if the judge to be recused is conciliation or a first instance court judge.
- c. The application shall be filed to the chief judge of the court of appeals, if the judge to be recused is a first instance court chief judge or a judge at the court of appeals.
- d. The application shall be filed to the chief of the cassation court, if the judge to be recused is the chief judge of the court of appeals or a cassation court judge.

2/1/8: Deadlines of recusal application

- a. The recusal application shall be submitted before entering into the case's subject matter, if there was basis for recusal (Article 147)

- b. The recusal application shall be submitted at the first hearing after the reason for recusal arises (Article 147)
- c. The recusal application shall not be accepted after the closing arguments (Article 147)
- d. The application shall not be accepted if an application had been submitted to recuse him in the same case.
- e. The judge, for whom an application for recusal is being submitted, has to respond in writing to the application within three days from him/her receiving the request.

2/1/9: Implications of recusal

- a. When a recusal application is filed, all proceedings shall be suspended until a final decision is delivered regarding the application. In cases of urgency and upon the request of one of the parties, the competent court can second another judge to try the case. (Article 150)
- b. In case recusal request been denied, or not accepted, the court has the right to order the applicant to pay a fine not less than 100 JDs and not exceeding 500 JDs (Article 152).
- c. If the judge shall not try the case if he/she sues the applicant, or submits a complaint against him/her. (Article 152)

2/2//0 Case value Jurisdiction and case type jurisdiction

2/2/1: Jurisdiction of conciliation court

a. Value Jurisdiction:

The conciliation court has the jurisdiction over all the cases whose value does not exceed 20,000 JDs or its equivalent in the locally used currency. The court's judgment shall be final if the case value does not exceed of 1,000 JDs.

b. Case type jurisdiction

The conciliation court has jurisdiction over the following type of cases no matter what the value:

1. The division of jointly owned real and movable property.
2. Eviction of leased property.
3. Servitude rights.
4. Disputes related to the taking possession of others property.
5. Disputes related to the usufruct right of an estate.

6. Setting and correction of boundaries.
7. Retrieval of loans.
8. The rights to benefit from the shared utilities and maintenance in multi story buildings.
9. Cases and requests that other legislations give jurisdiction to the conciliation court.

c. Jurisdiction of conciliation court over circumstantial requests and secondary requests that are related to the original request:

- The court does not have jurisdiction over circumstantial requests, or requests that are related to the original request if it is according to the value and kind doesn't fall under its jurisdiction (Article 41)
- If a circumstantial request, or a request that is related to the original request, has been submitted before the court, it can examine the original request and rule on it if such act does not harm justice, otherwise the court has to refer the original lawsuit and the circumstantial request to the competent first instance court. The referral decision shall be final and may not be contested. (Article 40/2).

2/2/2: Jurisdiction of the First Instance Court

- a. The first instance court, as the court of general jurisdiction, has the jurisdiction over all cases and requests that do not fall within the jurisdiction of the conciliation court (Article 41/1)
- b. In its capacity as appellate court, the first instance court has jurisdiction to adjudicate all appeals that are filed against decisions of conciliation courts. (Article 201/1)
- c. The first instance court shall carry out its appellate duties according to the conditions stated in this law (Article 41/2).

2/3/0: How to estimate the value of the case and the case fees

2/3/1: Estimation of the value of the case

- a. The case value shall be estimated as of its value on the day of its submission and the estimation must be based on the last requests of the parties. (Article 31)
- b. In case value estimation shall take into consideration any revenues or expenses that are due on the day of filing the case.
- c. Consideration shall be given to the value of the building or plants if a request for their removal is submitted. (Article 31/2).

d. Non estimation of the case value or suspicion in the value

- If the case value was not estimated in currency and it was possible to do that, or the court became suspicious about the value of the case, then the value should be estimated by the chief judge and he/she may obtain the assistance of an expert in this regard. (Article 33/1)
- If the claimed value was determined in other than the local currency, then the value shall be converted to the local currency (Article 33/2)

e. Cases of real estates and movables

The value of real estate cases shall be estimated based on the value of the real estate, and the value of movable property cases shall be estimated based the value of the property according to the documents or the estimation of the experts (Article 34)

f. Contracts Cases

- Cases that are related to the proof of validity, the nullification, the revocation, or the enforcement of a contract, shall be estimated according to the value of the contracts' subject matter. If the contract is a reciprocal contract, the case value shall be estimated according to the highest value (Article 35).

g. Cases of Ongoing Contracts

The proof of validity, the nullification, the revocation, or the enforcement of an ongoing contract, the case value is determined by the money that is due to the remaining period of the contract (Article 35/2)

h. Cases that are related to part of the right

If the case is related to part of the right, its value shall be estimated based on the value of that part unless the whole right is contested. (Article 35/3)

i. Debt cases regarding property right or a secondary right

This type of case shall be estimated based on the amount of the debt, or the property value, which ever is lesser. (Article 36)

j. Different requests related to the same course of action

If the case includes more than one request, with the same course of action, the estimation shall be done for all of it together as if it were a single request. However, if there were more than one course of action the value of the request shall be estimated separately. (Article 37/2)

k. Multiple plaintiffs and respondents

In this case the estimation shall be done based on the claimed amount and not to the share of each one of them. (Article 37)

l. The case cannot be estimated

If the case value cannot be estimated according to the foregoing rules, its value shall be considered more than twenty thousands JDs.

2/3/2: Fees

The Law on Regular Courts' Fees number (1) of 2003 shall be followed in regards to the determination of the courts' fees.

2/3/3: Table of Fees

See the attached table

Fees Table

Number	Cases and procedures	The applicable fees
First:	Cases of rights, lands, leases, division of property, seizure of property, compensation, and requests that are related to these cases	
	1. Original or cross claims whose value is known	1 % of the case values provided with a minimum of 10 JDs and a maximum of 100 JDs in the conciliation cases. And with a minimum of 30 JDs and maximum of 500 JDs in the first instance cases.
	2. Original or cross claims whose value is not known	30 JDs in conciliation cases. 50 JDs in first instance cases.
	3. Cases of the leased evacuation or handing over	1% of the annual rental fees with a minimum of 10 JDs and a maximum of 250 JDs.
	4. Cases of property division or seizure of property	50 JDs.
	5. Cases of name correction	10 JDs
	6. Cases of statements	10 JDs
	7. A. Cases of personal injuries	1% of the amount decided by the court or agreed on by the parties with a minimum of 10 JDs and a maximum of 100 JDs in the conciliation cases. And with a minimum of 30 JDs and

		maximum of 500 JDs in the first instance cases.
	8.a. Challenges to the absentia decisions. b. Attachment on property requests c. Retrial request d. Requests to halt building e. Requests to prevent someone from leaving the country f. Requests to appoint a guardian or agent g. Any other requests that are not listed above.	2 JDs
Second	Arbitration	
	1. Requests to approve or challenge of arbitral award whose value is known	1% of the award's value with a minimum of 3 JDs and a maximum of 100 JDs.
	2. 1. Requests to approve or challenge of arbitral award whose value is unknown	30 JDs
Third	Foreign awards	
	1. Substantial cases based on foreign award	1 % of the amount of the award with a maximum of 30 JDs.
	2. Request to recognize a foreign award to become enforceable	2 JDs
	3. Authenticate a copy of the decision to enforce a foreign award	2 JDs
Forth	Bankruptcy Cases	
	1. Request to declare bankruptcy of someone	10 JDs
	2. Request to include a debt in the bankruptcy case	As if it was a debt case
	3. A request to declare bankruptcy of a bankrupt	Fee exempted
	4. A request to cancel bankruptcy decision	10 JDs
	5. Approval of agreement between debtors and the bankrupt on how to divide his assets	1 % of the amount that the bankrupt pledges to pay to his debtors

Fifth	Decision	
	1. Authenticate the first copy of any court's ruling	Exempted
	2. Authenticate the second copy of any court's ruling	2 JDs
	3. Authenticate a copy of any court's ruling to a third party	5 JDs
Sixth	Appeals related to civil cases	
	1.a. appeals and cross appeals b. If it is possible to estimate the value of the appeal	Half of the fees applicable in the first degree court's
	2. Renewal of dismissed appeals	Half of the fees applicable to the appeal of to the cross appeal
Seventh	The Supreme Court in its capacity as a High court of justice:	
	a. Procedures before the supreme court	The same as Sixth
	b. Any request or pleading that is submitted before the high court of justice	20 JDs
	2. The supreme court in its capacity as court of cassation	The same as Sixth
Eighth	Procedures of enforcement	
	1. Notifying somebody of a regular or religious courts' decision	2 JDs
	2. Enforce any decision of a regular or religious court that does not appear on this list	1 % of the value of decision with a maximum of 50 JDs in conciliation cases and 500 JDs in the first instance cases.
	3. If the court's decision does not concern money	Fees equivalent to those applicable to the original case with a maximum of 50 JDs in conciliation cases and 500 JDs in the first instance cases.
	4. Any challenge against the decisions of the Head of the	5 JDs in conciliation cases and 10 JDs in

	Enforcement department	first instance cases. The fees shall be returned to the applicant if it appeared that he was right
Ninth	Criminal Cases	
	All criminal cases before any court of any degree	Exempted
Tenth	Attorney power of law	
	The document that proves the attorney representation of a client	1 JD as a stamp
Eleventh	Miscellaneous	
	1. Any paper of the case file, except the first copy	100 pennies with a maximum of 2 JDs for all pages

2/4/0: Local Jurisdiction of Bankruptcy Cases

2/4/1: Competent Court

It is the court where the main branch or office of the merchant or the company is located. (Article 46)

2/4/2: The court that announced the bankruptcy has jurisdiction over all matters and disputes related to such bankruptcy (Article 47)

2/5/0: Notification of Judiciary Documents

2/5/1: Methods of Notification

Notification shall be done through the notifiers, registered mail and the reception of the mail must be documented by the courts clerks' office, or through any other way the court decides upon providing it does not violate the law. (Article 7/1)

2/5/2: Delegation of Notification

In case the address of the person to be notified is located under the jurisdiction of another court, then the documents have to be sent to the clerks' office of that court in order to communicate the papers and return them to the court that issued them accompanied with a description of the procedures taken. (Article 7/2)

2/5/3: Mechanism of Notification

The clerks' office of the court shall develop the notification mechanism. (Article 7/3)

2/5/4: Issuance of the Notification Paper

- The notification paper shall be issued in two identical copies and shall be served through giving the concerned person the second copy. (Article 8/1)
- If there are more than one person to be notified, the number of the copies must be equal to the number of those persons (Article 8/1)

2/5/5: Timing of Notification and Enforcement

Notification shall be made only after 7 AM and before 7 PM. No notification shall be made on official holidays unless in a case of extreme necessity with the written approval of the urgent matters judge or the enforcement judge depending on the case. (Article 8/2)

2/5/6: Components of the Notification Paper

The notification paper shall include the followings:

1. Name of the court and the case or the request number.
2. Name of the person requiring the notification and his address and name of his/her representative if any.
3. Name of the person to be notified and his/her address and status in the case.
4. The notification subject matter.
5. The day and date of the notification and the time it occurred.
6. The name of the person serving the notes and his signature.
7. The name and status of the person to whom the note was given and his signature on the court's copy.

2/5/7: Change of the Address

If one of the parties changes his notification address after the beginning of the trial without informing the court, notifications made to the old address shall be considered valid. (Article 10)

2/5/8: Expediting the Notification Process

- a. The clerks' office shall submit the documents to the notifier or to the post office within two days from receipt of the documents.

- b. The notifier shall serve the documents within a week of the date he/she received them, unless the court decides otherwise. The notifier must return the documents to the clerks' office with a description of the time and the method of notification.

2/5/9: Appointing a person to carry out notification

Any person can designate another person residing within the court's jurisdiction to be notified of the judicial papers on his/her behalf. Such and appointment shall be in writing and should be signed in the presence of the chief clerk who should certify the document and keep a copy in the case file.

2/5/10: Notifying the natural person

Notification shall be served to the person him/her self, or at his domicile of origin, or his/her selected domicile, or at his work place, or to his/her representative. If none of these options works, notification may be made to any of his family members whom are residing with him/her provided they look at least 18 years old.

2/5/11: Rejection of Notification

If the person to be notified or his/her representative or one of the persons residing with him/her refused to receive the notes or refused to sign the court's copy, the notifier or the postman shall write that down on the note and the court may consider that the notification was carried out properly.

2/5/12: Notifying partners in a commercial business

Notification may be done to any person who is in charge of administrating the business at the time of the notification.

2/5/13: Notifying the manager or the representative in charge of the business

If the case is related to a commercial business and it was filed against a person who does not reside within the geographical jurisdiction of the court that issued the judicial documents, the notification of the manager or the representative who is in charge of the business under the court's jurisdiction shall be considered a valid notification.

2/5/14: Some types of notification

a. Notifying the Government

The notification shall be served to the Attorney General or his representative. (Article 16/1)

b. Local Bodies

The notification shall be served to its chairman, manager, or legal representative. (Article 16/2)

c. Public servants and local bodies' employees

The notification shall be served to the head of the department where the concerned person works. (Article 16/3)

d. Companies, Associations, and Legal Persons

The notification shall be served at the headquarters or to the legal representative or to any one in charge of its administration it or to any partner. If the paper is related to the activities of a branch, it may be served to the branch itself. (Article 16/4)

e. Foreign companies that have a branch or a representative in Palestine

The notification shall be served to the branch or the agent. (Article 16/5)

f. Notification of prisoners

Notification shall be served to the manager of the prison or his representative (Article 16/6)

g. Notification of minors and incapacitated person

Notification shall be served to his/her legal guardian. (Article 16/7)

2/5/15: Notification of the owner of the ship

Notifying the owner or the renter of a ship or any of its crew shall be served through the captain or his agent. (Article 17)

2/15/16: Notifying someone with a known domicile outside the country

- a. Notification may be done through the registered mail or by any other means. (Article 18/1)
- b. If the court decides that the notification be carried according to paragraph one, it should state the period during which the notified person should submit his/her defence, and when he/she should appear before the court. The court should give due consideration to the distance and means of transportation available. (Article 18/2)
- c. If it happened that the person to be notified was present in Palestine and it is possible to notify him/her, its permissible to notify him. (Article 18/3)

2/5/17: Non-availability of notification

If it appears for any reason that the notification cannot be carried out through the above-mentioned means, the judicial documents shall be returned to the court that issued it with a full description with the procedures that has been taken to carry out the notification. Such description shall be deemed as evidence that the notification did not take place. (Article 19)

2/5/18: Carrying out notification according to regular procedures when notification becomes impossible

If notification cannot be carried out in accordance to the above-mentioned, it is permissible to request the court issue an order to post a copy of the judicial documents at the court's announcements board, along with another copy to be posted in a notable place at the last known residence or work place of the person to be notified. The court may also permit the publishing of a summery announcement in one of the daily local newspapers. (Article 20/1)

2/6/0: Deadlines

2/6/1: Counting of deadlines

If the period is estimated by days, weeks, months, or by years the day of the notification or the day the action that starts the period shall not be counted. (Article 21)

2/6/2: Deadline to submit the list of response

a. The defendant shall submit his list of response to the court clerks' office within 15 days of his/her notification of the list of claim. The list of response shall include an original copy in addition to a number of copies equal to the number of plaintiffs. (Article 62)

2/6/3: Deadline to submit the claim if the urgent request was submitted first

If the urgent matters judge issues his decision in the request that has been submitted before the original case, his/her decision shall bind the petitioner to submit his list of claims within 8 eight days otherwise the decision regarding the request would be considered as though it does not exist. (Article 107)

2/6/4: cases of summery procedures

The plaintiff shall notify the defendant that he/she has to pay the amount claimed before 15 days of bringing the case before the court. The note shall be attached to the list of claims. (Article 260)

2/6/5: Time of the hearing in the summery procedures cases

A hearing shall be called for within 15 days of the date the list of claims was submitted. (Article 261/1)

2/6/6: deadline to submit a case if a request to seize property was filed first

If a decision to seize property occurred before submitting the case to the court, the requester must bring the case before the court within 8 days of the seizing order, otherwise the seizing will be considered as if it never existed. (Article 267)

2/7/0: Delegation

2/7/1: Definition of delegation

The naming of one party to act for another (Article 1449 of the *Majallah*)

2/7/2: The Right of someone to delegate others

The constituent (principal) has the right to delegate someone else if the delegee (attorney at law) agrees. (Article 1466 of the *Majallah*)

2/7/3: Death of the constituent

The agent shall be disqualified in case of the death of the principal unless the agency is related to rights of third parties (1527 of the *Majallah*)

2/7/4: Cessation of the case

The case shall be ceased in case of the death of one of the parties or being disqualified, unless the judgment phase has been reached (Article 128)

2/7/5: Disclosure of the name of the agent

Any person has the right to delegate any person to do any thing that the principal can do, but he shall make the name of the agent public.

2/7/6: Hiring an attorney

a. No Case before the first instance court, the court of appeals, and the cassation court, may be tried without the representation of a practicing attorney. (Article 61)

b. No case may be tried before the High Court of Justice, nor a pleading be accepted in the court of appeals or a claim list or a response claim be accepted if not signed by an attorney. (Article 20/5/c of the Law number 5 of 1999)

2/7/7: Attorney's power to ratify of the attorney's

The attorney is entitled to ratify his clients' signatures (Article 20/4/b of the Law number 5 of 1999)

2/7/8: Ratification of the general agency

General agencies shall be organized before the notary public (Article 20/4/c of the Law number 5 of 1999)

2/7/9: The approval of the notary public

The notary public has the power to organize and approve all agencies, documents, warranties, conciliations agreements, arbitration agreements, and crop-sharing agreements. (Article 25/3 of the Notary Public Law number 110 of 1952 applicable in the West Bank)

2/7/10: Representation before courts

Representation before courts shall be done through an attorney except in the case where the court allows a person to represent his parents or ancestors (Article 31 of the Law number 5 of 1999)

2/7/11: representatives before conciliation courts who are not lawyers

Each party is entitled to designate a representative of him. The conciliation judge may also allow the parties to designate their spouses or

their ancestors or parents as representatives. (Article 13/1 of the Law on Conciliation Courts number 15 of 1952).

2/8/0: List of Claims

2/8/1: List of claims and its components

The case shall be submitted in the form of list of claims that shall include the followings:

1. Name of the court.
2. Name of the plaintiff and his title, his/her work place, domicile, and the name of the person who is representing him, if any, and his/her address.
3. Name of the defendant and his title and his/her work place and domicile.
4. The list must specify whether the plaintiff or the defendant is incapacitated or he/she has incomplete capacity.
5. The claim's subject.
6. The amount of the case. If the amount cannot be specified then to the possible extent.
7. The facts and reasoning of the case, the date the claim took place, and the plaintiff requests that show that the court has jurisdiction over the case.
8. If the subject matter of the case involves real estate or movable property that can be exactly determined, the list of claims shall include a satisfactory description of the subject matter of the case.
9. The signature of the plaintiff or his/her representative.

(Article 52)

2/8/2: Attachments

The plaintiff shall provide the court clerk's office with a number of copies of the list of claims equal to the number of the defendants, along with copies of the documents that he/she invokes to prove his/her claims. The copies shall be signed by the plaintiff. If the documents were not available to the plaintiff he can submit a list that specifies these documents without affecting his right to present any new documents that may become available to him during the trial. (Article 53)

2/8/3: Registering the case

The clerks' office shall register the case in the designated record on the same day of its submission. The case shall then be given a serial number and stamped with the court's stamp and a date. (Article 54)

2/8/4: Starting day of the case

The case is officially considered a case before the court starting from the date of its registration after paying the fees, or the date a request to postpone paying the fees is submitted.

2/8/5: Starting day of the dispute

The dispute starts officially from the date of notifying the defendant of the list of claims. (Article 55)

2/8/6: Limits of the claim lists

The list of claims may include all things the plaintiff is entitled to claim. (Article 56)

2/8/7: More than one reason for the same case

The plaintiff may include more than one reason in his list unless the law provides otherwise.

2/8/8: Combining Requests Related to the Legal Representative

It is not permissible for the legal representative to combine requests that are related to him personally and those that he requests in his capacity as legal representative unless he/she claims that the request stems from matters that are related to the inheritance which is the source of controversy.

2/8/9: Considering the reasons of the claim

- a. If the list of claims include more than one reason, and the court finds that it cannot consider all these reasons at the same time, the court may consider each reason separately and issue the decision it deems appropriate. (Article 58)
- b. If the defendant asks the court to confine the trial to one reason or more on the basis that the plaintiff included in his list of claims many reasons, that cannot be tried by the court together, the court may call for the necessary amendments, should it find the request is appropriate and reasonable.

2/8/10: Referring the case to the competent court

If the court rules that it has no jurisdiction over the case, it shall refer it to the competent court that has the appropriate jurisdiction (Article 60)

2/8/11: Pre requirement to try a case

Cases before the first instance court, the court of appeals, and the cassation court, have to be tried by a practicing attorney.

2/9/0: Ambiguity in the case

2/9/1: The subject of the claim should be known

The subject of the claim has to be known and specific in order to accept a claim.

2/9/2: Specifying the claim subject matter

Specifying the claim subject matter would be through indication or description and definition as follows:

- a. If it were movable property that was present at the courtroom it would be sufficient to point at it. If it was not present at the court room it could be defined through listing its specifications and its value (Article 1620 of the *Majallah*)
- b. If it was a debt it should be defined through a statement of its type, value, specifications. Example on the type is (gold, silver,). (Articles 1620+1626 of the *Majallah*)
- c. If the claim included different items of different numbers, types, and values, it would be sufficient to state its total value and there is no need to specify each item. (Article 1620 of the *Majallah*)
- d. If the claim involves real estate, it should be defined through defining its boundaries (Articles 1620 + 1623 of the *Majallah*)
- e. The case should remain correct if the plaintiff defined the boundaries of the estate but committed a mistake in determining the quantity of the area. (Article 1624 *Majallah*)
- f. In the cases that are related to the price of the estate it is not required to define its boundaries.

2/10/0: List of responses

2/10/1: Deadline to submit the list of responses

- a. The defendant has 15 days of his/her notification of the list of claims to submit to the court clerks' office a list of response. (Article 62)

- b. The court may permit the defendant to submit his/her list of responses if he/she attended the first session in the trial. (Article 64)

2/10/2: List or responses attachments

The list shall include an original and a number of copies equal to the number of plaintiffs. Documents that support the defendant's defence should be attached to the list of responses. If such documents were not in the defendant's hands, he/she has to submit a list of such documents that he can have without affecting his/her right to submit any new documents that become available during the trial. (Article 62)

2/10/3: Failing to submit a list of responses

- a. If the defendant was personally notified of the list of claims and failed to submit a list of responses he shall be tried in presence. (Article 63/1)
- b. If the defendant was not personally notified of the list of claims he must be re-notified unless the case is of an urgent nature. (Article 63/1)
- c. If there were more than one defendant and some were notified personally and the others were not, and all of them were absent on the hearing date, or the defendants who were not notified personally did not attend the hearing, in such an event and unless the case is of an urgent nature the court has to re-notify whomever was not notified personally, and the trial should start. The judgment is considered as if it was announced in the presence of all defendants.

2/10/4: The personal notification of the legal person

For the purposes of Article 63 of the Civil and Commercial Procedures Law, the notification of a public or private legal person shall be considered personal notification if it was done at his headquarters. (Article 63)

2/10/5: Setting a date for a hearing

After registering the case, the case file shall be submitted to the chief judge or the responsible judge to set a hearing date, which shall be communicated to the parties with due consideration to Article (62) of this law. (Article 65)

2/10/6: Total denial

The defendant in the original case, or the cross claim shall respond in his list of responses in a clear and specified way regarding each claim that he/she does not agree on. The defendant cannot deny all the claims against him/her in one denial. (Article 66)

2/10/7: The emergence of new facts after the case is filed

If new facts related to the case emerged after the case was filed to the court, or after the list of responses that include cross claim was submitted, the plaintiff and the defendant may submit such new facts during the course of the trial. (Article 67)

2/10/8: The right to initiate the case

The plaintiff has the right to start the case unless the defendant acknowledges all the claims stated in the list of claims, and he/she claims that there are legal reasons or additional facts that refute the plaintiff's case. It is in that case the defendant's right to start the case.

Chapter III
Pre Case Requests
Urgent Requests

3/1/0: Jurisdiction

3/1/1: Designation of the urgent matters judge

The urgent matters judge is the judge designated by the Supreme Judiciary Council to the conciliation and first instance courts. (Article 11, 17 of Law of Regular Courts)

3/1/2: Limits of jurisdiction

The urgent matters judge shall not examine the case subject matter. (Article 105)

3/1/3: Requirements of the request

- a. The existence of a right that the person submitting the request fears that he/she would suffer from damages on the basis of time. (Article 102)
- b. The request should be submitted separately to the urgent matters judge. (Article 103)

3/2/0: Securities

The urgent matters judge may order the petitioner to submit a security bond (Articles 111, 114).

3/3/0: Procedures

3/3/1: Whomever fears that he/she would suffer from damages on the basis of time may submit a request to the urgent matters judge (Article 102)

3/3/2: The request should be submitted separately to the urgent matters judge. (Article 103/1)

3/3/3: The request may be reviewed ex parte or in the presence of the two parties provided a hearing date would be appointed within 7 days. (Article 104)

3/4/0: Appointments

3/4/1: If the judge decides to consider the request with the two parties present, a date shall be set for a hearing within 7 days. (Article 104)

3/4/2: If the urgent matters judge issues his decision in the request before the original case is submitted, then his/her decision has to obligate the petitioner to submit his list of claims within eight days. (Article 107)

3/4/3: Deadline to submit an appeal against an urgent matter request is 15 days (Article 204)

3/5/0: Challenging the urgent matter decision

3/5/1: The defendant may request the same judge who issued the decision to nullify the decision or to amend it. (Article 109)

3/5/2: The urgent matter decision may be appealed (Articles 202, 110)

3/6/0: Requirements of the urgent matter decision (Article 202)

3/6/1: The litigation procedures shall apply to the urgent decisions with due consideration to any exceptions the law states in this regard. (Article 108)

3/6/2: If the urgent matters judge issues his decision on the request before the original case is submitted, then his/her decision has to obligate the petitioner to submit his list of claims within eight days or the decision regarding the request would be considered as it does not exist.

3/7/0: some types of urgent matter requests

3/7/1: Request of to ban someone from leaving the country

In order to submit such a request, there should be real evidence that the defendant is about to leave the country (Article 111)

3/7/2: Requests that are related to public services

Any person, who was deprived from the water or electricity service, or any other kind of public utilities, may request the urgent matters judge to reconnect the service. (Article 112)

3/7/3: Request to prove the *status quo*

- a. This request might be submitted in one of the following cases:
 - There is reasonable fear to lose evidence or facts
 - There is reasonable fear that some changes might occurProvided that such changes would effect the plaintiff's legal rights (Article 113)
- b. The request might submitted before filing the case or during the trial (Article 113)

3/7/4: Precautionary seizing

The creditor may submit a request supported by documents to levy a precautionary seizure on the debtor's property whether it is in his/her possession or in the possession of others. (Article 266/1)

Chapter IV Pre Trial Procedures Jurisdiction

4/1/1/0: International Jurisdiction of the Courts

If a case has a foreign element, the national judge shall consider whether he has jurisdiction to try it or not. In doing so, he should refer to the provisions of Articles (27-30) of the Civil and Commercial Procedures Law Number 2 of 2001.

4/1/1/1: Civil or Commercial cases that are brought against Palestinian nationals:

Palestinian courts shall have the jurisdiction over civil and commercial cases that are brought against Palestinians even if they do not have a domicile or a place of residence in Palestine. (Article 27)
The Law invoked the nationality criterion.

4/1/1/2: Civil or Commercial cases that are brought against foreigners who have domicile or residence in Palestine:

Palestinian courts shall have the jurisdiction over civil and commercial cases that are brought against foreigners who have domicile or residence in Palestine. (Article 27)
The Law invoked the domicile or residence criterion.

4/1/1/3: Civil or Commercial cases that are brought against foreigners who do not have domicile or residence in Palestine:

Palestinian courts shall have the jurisdiction over civil and commercial cases that are brought against foreigners who do not have domicile or residence in Palestine in one of the following cases:

1. If he/she has a chosen residence or domicile in Palestine.
2. If the case is related to a property that is located in Palestine, or to an obligation that was agreed upon or executed in Palestine, or if it is related to a bankruptcy that was announced in it.
3. If there is more than one defendant and one of them has a domicile or a place of residence in Palestine.

- The Law invoked the domicile or residence criterion.

4/1/1/4: Civil or commercial cases that involve a real estate that is located outside Palestine:

Palestinian courts do not have the jurisdiction over civil and commercial cases that involve a real estate that is located outside Palestine, whether these cases are brought against Palestinian or foreigner.

The Law invoked the location of the property criterion.

4/1/1/5: Irregular jurisdiction of the Palestinian courts over civil and commercial cases that fall outside their jurisdiction

Palestinian courts shall have jurisdiction over civil and commercial cases that fall outside their jurisdiction in one of the following cases:

1. The courts have the power to adjudicate civil and commercial cases even if they do not fall under their jurisdiction, provided the parties accept this explicitly or implicitly according to the jurisdiction rules stated in this law.
 - The Law invoked the mutual agreement criterion.
2. The courts have jurisdiction over the precautionary and temporary procedures and actions that are to be executed in Palestine despite the fact the court has no jurisdiction over the original case.
3. If a court has jurisdiction over a certain case then it has jurisdiction over all the interlocutory and original requests that might stem from the case.

4/1/1/6: Absence of the foreigner

If the foreign defendant does not attend the hearing and the court has no jurisdiction over the case according to Articles (27-29). Then the court must by itself rule that it has no jurisdiction. (Article 30)

4/1/2/0: Value jurisdiction case type jurisdiction

To determine whether the conciliation or the first instance court has jurisdiction over the case, the Law used two criteria
The **first** criterion is value of the case and the **second** is the type of the case.

4/1/2/1: Value jurisdiction case type jurisdiction of the conciliation courts

See 2/2/2 of Chapter II

4/1/2/2: How to estimate the value of the case and the case fees

See 2/3/1, 2/3/2 of Chapter II

4/1/3/0: Geographical jurisdiction of the courts

Geographical jurisdiction means dividing work among courts based on districts of geographical areas. Each court shall have jurisdiction over cases in a specific geographical area.

4/1/3/1: Determining the geographical jurisdiction

The jurisdiction over the case is given to the court, where the defendant domicile is within its geographical area, or the place of his/her work, or the place where the legal obligation was established. (Article 42)

4/1/3/2: The competent court in the case of multiple defendants

If there is more than one defendant, jurisdiction is given to the court where the domicile or the work place of one of them is.

4/1/3/3: Determining the domicile and the work place

- a. The domicile is the place where the person usually resides. (Article 4)
- b. The domicile of the minor, the incapacitated, the absent, and the interdicted person is the domicile of his legal representative. (Article 5)
- c. The domicile of the legal person, such as companies and NGOs is place where its headquarters is located.
- d. Legal persons, whose headquarters are outside the country and have branches in Palestine; these branches are considered as domicile.
- e. It is permissible to choose a voluntary domicile to execute certain legal acts. In such an event this domicile is considered the domicile for any action related to the act unless it is clearly stated that it is the domicile for certain actions.
- f. The existence of the voluntary domicile can only be proven by written evidence.
- g. The work place is the place where the person conducts his/her commercial activities or where he/she administers his/her assets.
- h. Work place of the state employee is the place where he/she usually conducts his/her work.

4/1/3/4: Competent court in case of multiplicity of domicile or work place

If the person has more than one domicile or more than one work place, the case may be brought in any of them. (Article 4/2)

4/1/3/5: Place where obligation started

1. If an obligation took place pursuant to a contract, the case may be brought in the place where the contract was concluded.
2. If an obligation took place pursuant to tort the case would be brought in the place where the tort was conducted.

4/1/3/6: Exceptions on the domicile and the work place, and the place where obligation started as basis to determine the geographical jurisdiction

The abovementioned criteria are optional. The plaintiff may bring the case before the competent court in any of them. However, there are some exceptions.

a. Cases that involve real estate

- If the case is related to a real right on an estate, or one of its parts, the court that has the jurisdiction over the case shall be the court where the estate is located.
- If more than one estate is related to the case, then the court where any of the estates is located may have jurisdiction over the case.

b. Cases that involve legal persons

If the case involves legal person the jurisdiction shall be to the court where the headquarters of the legal person is located.

c. Cases that are related to bankruptcy

- If the case is a bankruptcy case concerning a merchant or a company, and he/she or the company has branches in places, the court that has jurisdiction over the case is the court where the main branch or office is located.
- The court that announced the bankruptcy has jurisdiction over all matters and disputes related to such bankruptcy.

d. Compensation cases resulting from torts

In compensation cases resulting from torts, it is permissible to bring the case before the court where the plaintiff lives, or the court under its geographical jurisdiction where the damaging act took place.

e. Expedites and urgent procedures

The court of the defendant's domicile, or the court that has jurisdiction over the case has the power to take all measures regarding the case. This includes the announcement of expedites or temporary decisions.

4/1/3/7: Optional geographical jurisdiction

- a. Parties may agree to give the jurisdiction to a certain court without following the conditions stated in Article 42 of the Civil and Commercial Procedures Law. In such case the court that the parties agreed upon shall be the court of jurisdiction. (Article 43/1)
- b. If the law provides for the jurisdiction of a court other than the one stated in Article 42 the parties couldn't agree in advance to negate such a jurisdiction. (Article 43/2)

4/1/3/8: Court of jurisdiction when it is impossible to determine according to the previous provisions

If the defendant does not have domicile or residence in Palestine, and it was not possible to determine the court of jurisdiction over the case through the above mentioned provisions, the court that has jurisdiction over the case is the court where the plaintiff lives, or his residence is located, and if the plaintiff has no domicile or residence in Palestine then the court that has jurisdiction is the Jerusalem court. (Article 50)

4/1/4/0: Conflict of jurisdictions

4/1/4/1: The court of jurisdiction over conflict of jurisdictions

If there is a conflict of jurisdictions between two regular courts regarding the same case, and both courts decided that it has jurisdiction or does not have jurisdiction to try the case, then any of the parties has the right to request the court of cassation to end the dispute and appoint the competent court. (Article 51)

4/1/4/2: Procedures of the request to determine the competent court

The request shall be submitted to the cassation court according to the stated procedures and at any step of the case trial. (Article 51/2)

4/1/4/3: Reviewing the request

The request shall be reviewed without the presence of the parties. (Article 51/3)

4/1/4/4: Implications of the request

The submission of the request shall hold proceedings in both cases until the cassation court settles the dispute over jurisdiction. (Article 51/4)

Chapter IV
Pre Trial Procedures
2- The Parties

4/2/1/0: The Parties

4/2/1/1: Capacity of the parties

- a. All parties to the case shall have the legal capacity
- b. The legal capacity is that capacity that is related to the case.
- c. If one of the parties does not have the legal capacity his/her legal representative should represent him/her.
- d. If they do not have such a guardian, the court shall appoint a representative to represent them before the court.

(Article 79)

4/2/1/2: Unification of plaintiffs or defendants in the case

If there is more than one party, whether they are plaintiffs or defendants, they may submit one list of claims, provided these claims are related to each other and are united by their subject or reason. (Article 80/1)

4/2/1/3: Unification of the cases

a. Requirements of unification

- There is more than one case submitted before one court
- The cases are united in the reason and subject
- One of the parties requests to unify these cases in one case, or to refer these cases to the court, which the first case is submitted.

(With due respect to the rules of jurisdiction)

(Article 80/2)

b. Implications of the request

Pursuant to a request by one of the parties, the court may decide to unify the cases in one, or to order the referral of the case to the court before which the first case is submitted (with due respect to the rules of jurisdiction)

4/2/1/4: Separation of the case

If there is more than one plaintiff in one list of claims, the court may decide to separate the case by conducting different and separate trials if this serves justice. (Article 81)

4/2/1/5: Exclusion of a defendant from the case

The court may, by itself or upon a request by one of the parties, decide to exclude any of the defendants from the case if there is no reason for him/her to be a defendant. (Article 82/1)

4/2/1/6: Inclusion in the case

- a. The court may, by itself, or upon a request by one of the parties, decide to include in the case any one it sees that exclusion could sever the truth and the justice. (Article 82/1)
- b. If a defendant is included in the case then only the procedures that were taken after his/her notification of the list of claims shall be applicable. (Article 82/1)

4/2/1/7: Deadline to submit an inclusion or exclusion request

Any request to include or exclude a plaintiff or a defendant shall be submitted at any stage of the trial before the closing of arguments. (Article 83)

4/2/1/8: Death of one of the parties

- a. If one of the parties dies, or it was decided to announce his/her bankruptcy, or he/she lost capacity regarding the dispute, the court may, upon a request from the other party, or by itself, take any action it deems necessary in order to notify his/her heirs whoever represents him/her legally, to appear before the court on a stated date, so the court can proceed in trying the case from the point it was stopped.
- b. If one of the parties died after closing the argument phase, the court may issue its judgment in the case unless it is not prepared to do so.

4/2/2/0: The parties' attendance and absence

4/2/2/1: At the date set for hearing

At the date set for hearing the case, and with due consideration to the rules concerning the notification of judicial papers:

- a. If neither the plaintiff nor the defendant attended the hearing the court shall dismiss the case. (Article 85/1)
- b. If the plaintiff attended and the defendant did not despite he/she was notified in person, the court should proceed with the case. (Article 85/2)
- c. If the defendant was not notified in person the court shall, in cases other than urgent cases, postpone the hearing to another date where the defendant has to be notified and attend in order to submit his

defence to the court. The judgment in such an event is considered to be in the presence of the parties. (Article 85/2)

- d. In urgent cases, whether the defendant was notified or not, the court shall proceed with the case. (Article 85/2)
- e. If the defendant attended the hearing, and the plaintiff did not, the court has the right, upon the request by the defendant, or by itself, either to postpone the hearing or to dismiss the case. (Article 85/3)
- f. If the defendant has a cross claim, he/she may petition the court to try the plaintiff (the defendant in the cross claim) and to proceed in the cross claim if the plaintiff was notified of the cross claim. (Article 85/3)
- g. The plaintiff cannot submit new requests in the hearing where the defendant does not attend, nor can he/she amend, add, or reduce his initial requests, unless the defendant was notified of such requests. (Article 85/4)

4/2/2/2: Absence of the defendant after attending one of the hearings

If the defendant attended the hearings during the trial, and he/she was absent afterwards, then the judgment issued by the court should be considered as it was issued in his presence and it could be appealed. (Article 86)

4/2/2/3: Attendance rules in case of multiplicity of defendants or plaintiffs

The rules stated in Articles 85 and 86 of the Civil and Commercial Procedures Law shall apply in case where there are more than one defendant or more than one plaintiff (Article 87)

4/2/2/4: Renewal of dismissed cases

- a. If a case was dismissed and there is no request to renew it within 60 days of the dismissal date, the case is then considered as if it never existed. (Article 88/1)
- b. If the case was renewed and the plaintiff did not attend at the first hearing the court may then decide to postpone the case or to consider it as if it never existed. (Article 88/2)

Chapter IV
Pre Trial Procedures
3- Requests and Pleas

4/3/1/0: Types of requests and pleas

4/3/1/1: Formal requests and pleas: requests and pleas that are related to the procedures such as the jurisdiction and all other pleas related to procedures, without touching on the case subject matter. (Article 91)

4/3/1/2: Substantial requests and pleas: aim at denying the case subject matter. The Law does not provide any definition to the substantial requests and pleas

4/3/1/3: Requests and pleas of non-acceptance

The defendant has the right to ask the court not to accept the case provided there is a valid reason and that it is before the court starts trying the case's subject matter.

4/3/1/4: Cross requests and pleas

One of the party's response to the other party's pleas.

4/3/2/0: Formal Pleas

4/3/2/1: Examples of Formal Pleas

Raising a plea regarding the geographical jurisdiction, or regarding referring the case to another court because it had tried the same case, or raising the invalidity of the claim and all other pleas related to procedures.

These pleas were not enumerated in the Civil and Commercial Procedures Law.

4/3/2/2: Rules of Formal Pleas

- a. Should be submitted at one time before the start of the trial. (Article 89)
- b. Should be presented together before presenting any request or defence in the case, or the right to raise such pleas would be dropped. (Article 91)
- c. Should be submitted before the start of the trial. (Article 89)

4/3/2/3: Exceptions on Formal Pleas

All rules mentioned in 4/3/2/2 shall apply to formal pleas except for two types:

- a. Pleas related to public order such as raising the plea against the court's lack of power, or because of the type of case, or its value or because the case was settled by another court. (Article 92)
- b. Pleas after raising the formal pleas.

4/3/2/4: Adjudicating the pleas

The court can rule on each of the pleas separately or order to join them to the subject matter of the case. The court should illustrate what it had ruled regarding each plea separately. (Article 91/2)

4/3/3/0: Substantial Pleas

4/3/3/1: Examples on substantial pleas

- a. Denial of the incident establishing the claim such as denying a contract.
- b. Raising a plea against the validity of a contract
- c. Raising a plea that shows that the obligation was fulfilled

4/3/3/2: Rules of substantial pleas

- a. Could be raised at any stage of the trial
- b. Do not need to be raised at one time

4/3/4/0: Plea of non-acceptance

4/3/4/1: Its Aim

By raising this kind of pleas the defendant aims at opposing the substance of the case. (Article 90)

4/3/4/2: Rules of pleas of non-acceptance

Rules of formal pleas apply to non-acceptance pleas

4/3/4/2: Conditions

- There are no aggressions against the substantial right
- The plaintiff or the defendant has no standing.
- There is no legal basis to provide protection to the substantial right.

4/3/4/3: Challenging the decision in regards to the non- acceptance request

The decisions of non- acceptance or acceptance may be appealed (Article 90)

4/3/4/4: Provisions of non-acceptance procedures

- a. The provisions of formal requests shall apply to the requests of formal non-acceptance (Articles 89 + 90).
- b. The requests of substantial formal non-acceptance are subject to the same provisions of substantial requests. It could be raised at any stage of the trial.

4/3/4/5: The difference between the substantial request and the substantial non-acceptance:

- a. The request for non-acceptance gives the judge the authority not to adjudicate the case and therefore gives him more time.
- b. A decision of non-acceptance is not conclusive. For example, if a case was not accepted because it was filed before the debt became due, the creditor can raise the same case again after the debt becomes due.

4/3/5/0: Implications of accepting a plea

4/3/5/1: Implications of the substantial plea

The proof and acceptance of a substantial plea shall lead to:

- a. Dismissal of the case
- b. Losing the right in the case

4/3/5/2: Implications of the formal plea

The proof and acceptance of a substantial plea could lead to:

- a. Dismissal of the case
- b. Does not necessarily mean losing the right in the case
- c. Plea of lack of jurisdiction forces the court to refer the case to the court that has the jurisdiction (Articles 60 and 93)
- d. If the court decides to refer the case it must set a hearing date, which the parties have to attend before the new court.

Chapter V
The Trial
1- Submitting of Evidence

5/1/1/0: Conclusion of evidence and deadlines to submit them

5/1/1/1: Enumeration of evidence:

- a. At the first hearing, and after the repetition of the lists, the court shall ask the parties to identify the points of agreement and disagreement between them regarding the case. (Article 120)
- b. Points of agreement and disagreement shall be documented in the hearing's minutes.
- c. The parties may ask the court at any stage of the trial put on record what they agreed upon, and they should sign it. If the parties noted what they have agreed upon, then it should be attached to the hearing minutes and copies of such an agreement should be handled according to the rules governing the judgments handling rules. (Article 118/2)
- d. Each party has to enumerate his/her evidence that he/she wants to submit regarding the matters the parties do not agree upon. (Article 120/2)

5/1/1/2: Time for submitting the evidence:

After the enumeration of the evidence by the parties, the court shall set the hearing date to hear the evidence.

5/1/2/0: Submitting Evidence

5/1/2/1: The plaintiff's right to start submitting evidence

The plaintiff has the right to start the case and therefore to submit evidence (Article 119)

5/1/2/2: The defendants' right to start the submitting evidence

If the defendant acknowledges all claims stated in the list of claims, and he/she claims that there are legal reasons or additional facts that refute the plaintiff's case, then it is up to the defendant to start the case (Article 119)

5/1/2/3: The refuting evidence

- a. The party who starts the case has the right to present refuting evidence. (Article 119/2)
- b. The party who presents refuting evidence shall submit his pleas last.

5/1/3/0: Methods of proof and the applicable law

5/1/3/1: Methods of proof are:

- a. Written documents
- b. Witnesses
- c. Supporting evidence
- d. Acknowledgment (confession)
- e. Oath
- f. Examination
- g. Expertise

(Article 7 of the Evidence Law)

5/1/3/2: Law applicable to procedures of proof

The law of evidence in commercial and civil matters is applicable on the case's proof procedures.

5/1/4/0: Methods of submitting the evidence

5/1/4/1: How to submit the evidence

- a. When the plaintiff concludes his evidence the defendant shall start submitting his/her evidence.
- b. If the defendant started submitting evidence, the plaintiff shall start with his/her evidence after that.
- c. The party who starts the case has the right to present a confute evidence. (Article 119)

5/1/4/2: Witnesses

a. The Oath taking

- The witness shall be put on oath, according to his religion by saying that he will say the truth and nothing but the truth, otherwise he shall not testify (Article 93 of the Evidence Law)
- If the witness abstained from taking an oath without any acceptable excuse, he/she shall be fined of no more than 100 JDs. (Article 94 of the Evidence Law)

b. Addressing questions to the witness

- The party who requested the witness shall address his/her questions first.
- The other party may address his questions after the first party finishes with his/her questions.
- The court may request clarifications from the witness (Article 95/1 of the Evidence Law)

c. Interrupting the witness during his testimony

The witness shall not be interrupted during his testimony unless the court agrees otherwise. (Article 95/2 of the Evidence Law)

d. Contesting the questions that are addressed to the witness

Any of the parties may contest a question been addressed to the witness by the other part and the court may accept or reject the contest. The contest and the court's decision on it shall be put on the record. (Article 95/3 of the Evidence Law)

e. Re examining the witness

If one of the parties concluded his questions to the witness, he/she cannot question the witness again unless the court permits that to him. (Article 96 of the Evidence Law)

f. Addressing questions to the witness by the court

If the court consists of more than one judge (panel), any of the judges may address questions to the witness (Article 97 of the Evidence Law)

g. Testimony of Persons who are unable to speak

The witness who is unable to speak can give his testimony either in writing or by signs. (Article 90 Evidence Law)

h. Method of testimony

Testimony shall be oral. The witness shall not use during his testimony any written materials unless the court permits that. (Article 98 Evidence Law)

i. Fear from loosing the witness

It is permissible for the party who fears to miss the opportunity to listen to a witness, to request the court to listen to this witness. (Article 104 Evidence Law)

j. Signature of the witness on his testimony

The testimony shall be put on record and the witness shall sign the protocol that included his testimony, and if he refuses to sign that should be put on record. (Article 99 Evidence Law)

5/1/4/3: Documents/ written evidence:

a. Official documents

Official documents shall be deemed evidence unless it is proven that they are forged. (Article 11 Evidence Law)

b. Unofficial documents

- Unofficial documents shall be deemed evidence against the person who signed it unless he/she denies the signature. His silence upon seeing the document shall be considered as accepting the document
- The legal successor is not required to deny the signature, all he can do is to state the he is not aware that the signature belongs to his predecessor (Article 16/2 Evidence Law)

c. Unsigned documents

- Merchant books are evidence against merchants. It is not evidence against non-merchants. However, the judge may use it as supporting evidence.
- House books and papers are not evidence against the author, unless he/she states explicitly that he received money from someone
(Article 25 Evidence Law)

d. Forcing a party to submit evidence at his hand

A party may request the court to force the other party to submit evidence at his hands.

e. Implications of denial

- Denial of signature applies only to unofficial documents while official documents can only be challenged on the basis of forging.
- In case of denial of signature or handwriting, the court shall order an investigation through an expert.
- Investigation shall take place in accordance to provision of Chapter 5 of the Evidence Law.

5/1/4/4: Examining the parties

- a. The court may decide to address questions to any of the parties who are present at the courtroom. Any party may also request the court to questions the other party.

- b. The court, by itself or upon a request by one of the parties, may request the other party to attend the court and be questioned.

5/1/4/5: Implications of the evidence of the trial

- a. If the plaintiff submitted evidence and the defendant submitted evidence and the plaintiff never submitted refuting evidence he/she shall submit his arguments first.
- b. If the plaintiff submitted refuting evidence, the defendant shall submit his arguments first.
- c. The party who submits refuting evidence shall submit his arguments first.

(Article 119)

Chapter V
The Trial
2- During Trial Requests

5/2/1/0: Request to notify through advertising

5/2/1/1: Requirements

To prove to the court that notification cannot be done according to the regular procedure. (Article 20)

5/2/1/2: Procedures

Requesting the court to issue an order to hang a copy of the judicial paper on the court's announcement board with another copy to be hung in a notable place at the last known residence or work place of the person to be notified and publishing of a summery announcement in one of the daily newspapers. (Article 20/1)

5/2/1/3: Implications

Its provisions shall apply to notifications in the cases and judicial warning if the warned person does not have a defined address. (Article 20/1)

5/2/2/0: Request to amend the list of claims

5/2/2/1: The Plaintiff's right to amend the list

The plaintiff has the right to submit a request that includes a correction of the list of claims or amending its subject matter to incorporate new circumstances that become known after registering the case. (Article 97)

5/2/2/2: The defendant's right to amend the list

If the defendant claims that the plaintiff presented, in his list of claims many reasons that cannot be tried by the court, and he/she asks the court to limit the trial to one reason or more, then the court may, providing it finds the request appropriate and reasonable.

5/2/3/0: Request to combine or unify cases

5/2/3/1: Requirements

- a. More than one case submitted before one court
- b. The cases are united in the reason and subject,
- c. One of the parties requests it

(Article 80/2)

5/2/3/2: Court's authorities over the combination request

- a. The court can unify the cases in one case,
- b. Or to order the referral of these cases

5/2/4/0: Requests to exclude from or include in the case

5/2/4/1: Request to exclude someone from the case

The court may by itself or upon a request by one of the parties exclude any of the defendants from the case if there is no reason for him/her to be a defendant. (Article 81)

5/2/4/2: Request to include someone in the case

The court may by itself or upon a request by one of the parties decide to include in the case any one it sees could sever the truth and the achievement of justice (Article 81)

5/2/4/3: Implications of inclusion

If a defendant is included in the case then only the procedures that were taken after his/her notification of the list of claims are applicable to such a defendant. (Article 81)

5/2/4/4: Timing to submit inclusion or exclusion request

Any request related to the inclusion or exclusion of a plaintiff or a defendant can be submitted at any stage of the trial before the closing of arguments. (Article 83)

5/2/5/0: Request to dismiss the case

5/2/5/1: Requirements

1. The defendant attends the hearing while the plaintiff does not.
2. The Plaintiff was duly notified of the hearing date

(Article 85/3)

5/2/5/2: Implications

- a. It is permissible to renew the case within 60 days of the dismissal date. (Article 88/1)
- b. If there was no request to renew the case within 60 days of the dismissal the case then is considered as if it never existed. (Article 88/1)
- c. If the case was renewed and the plaintiff did not attend the first hearing the court may postpone the case or consider it as if it never existed (Article 88/2)

5/2/6/0: Case renewal request

5/2/6/1: Requirements

- a. The court has decided to dismiss the case
- b. A request to renew the case is submitted within the deadline (Article 88/1)

5/2/6/2: Deadline to submit the request

It should be submitted within 60 days of the dismissal date (Article 88/1)

5/2/7/0: Pleas against the acceptance of the case

- The defendant may ask the court not to accept the case provided there is valid reason and that it is prior to the court trying the case's subject matter. (Article 90)
- See 4/3/4/0 of Chapter 4

5/2/8/0: Request to include new party in the case

- Any party may request to add whomever he wishes to the case as a party as long as he could have claimed against him/her when registering the case. (Articles 82/1 and 96/1)
- The courts may do so on their own volition (Article 82/1)

5/2/8/1: Requirements

- a. There should be a case
- b. The request shall follow the legal procedures
- c. The request shall be submitted before closing the trial procedures

5/2/8/2: Challenging the court's decision in regards to the request

The decision of the court regarding the acceptance or rejection of joining the case can be appealed.

5/2/9/0: Request to join a case

5/2/9/1: Requirements

1. There should be a case
2. The request is submitted by some one who has standing
3. The applicant should decide whether he wants to be a plaintiff or a defendant
4. The request shall follow the legal procedures
5. The request shall be submitted before closing the trial procedures (Article 100)

5/2/9/2: Challenging the court's decision in regard to the request

The decision of the court regarding the acceptance or rejection of joining the case may be appealed.

5/2/9/3: Implications

The court, in cases of joining or adding plaintiffs or defendants to the case, may order the plaintiff to amend his/her list of claims to the extent comparable with the achievement of justice. The party who had been notified of the amended list of claims has the right to respond within 15 days of his/her notification, or he/she would be considered as satisfied with the original list of responses. (Article 99)

5/2/10/0: Interlocutory requests:

5/2/10/1: Plaintiff's interlocutory requests:

The plaintiff has the right to submit the following interlocutory requests:

- a. Requests, that include the correction of the list of claims or amending its subject matter to incorporate new circumstances that become known after registering the case
- b. Any request that is considered a part of the list of claims or attached to it in away that it could not be separated.
- c. The request for the imposition of a precautionary or temporary attachment.
- d. Whatever the court allows to be submitted, providing it is related to the requests mentioned in the list of claims.

5/2/10/2: Defendant's interlocutory requests:

The defendant has the right to submit the following interlocutory requests:

- a. The request for setting of debts and the request to compensate him/her for the damages he/she suffered because of the litigation procedures.
- b. Any request that is related directly and strongly to the list of claims.
- c. What ever the court allows to submit, provided that the request is related to the requests mentioned in the list of claims.

5/2/10/3: Requirements

- a. All requests shall be submitted according to procedures decided in the case.

- b. Requests shall be submitted before the closing of arguments.
(Article 118/2)

5/2/11/0: Request to hold secret trial

5/2/11/1: The court, by itself or upon a request of one of the parties, may hold secret hearings.

5/2/11/2: Circumstances to hold secret

- 1. To protect the public order
- 2. To protect the public ethics
- 3. To protect the family

(Article 115)

5/2/12/0: Request to document a conciliation agreement

5/2/12/1: Requirements

- a. There shall be a case
- b. The parties have reached a conciliation agreement

(Article 118/2)

5/2/12/2: Circumstances

- a. The existence of an oral agreement. In this case the parties have the right to ask the court at any stage of the trial to document what they agreed upon in a written document, which has to be signed by them, or by their representatives.
- b. If the parties noted what they have agreed upon, then it should be attached to the hearing minutes and copies of such an agreement should be handled according to the rules governing the judgments handling rules.

5/2/13/0: Requests related to the conditions of dispute

5/2/13/1: Requests related halting of the case

- a. The court may decide by itself, or according to a request submitted by the parties to halt the proceedings in a case if the court deems that settling the dispute depends on settling some other matter.
- b. Any of the parties has the right to request the court to speed up the trial as long the reason for halting the proceedings ends.

5/2/13/2: Requests related to the general postponement of the case

- a. The court may postpone the hearings in the case according to an agreement between the parties for a period not to exceed six months, starting from the issuance date of such a decision by the court.
- b. The parties cannot speed up the trial during the halting period unless there is a mutual agreement to do so.
- c. If no party submits a request to the court asking it to resume the proceedings in the case during two weeks from the date the six-month period ends, the plaintiff may be considered as he/she neglectful of his/her case.

5/2/13/3: Requests related to the disruption of the dispute

If one of the parties asks the court to give him/her time to notify the representative of the person because of whom the trial was discontinued, the court has (before deciding on the discontinuation of the trial proceeding) to give him/her the right to notify within a time period the court sets. If the party does not notify during the stated time period then the court may announce the discontinuation of the trial proceedings.

5/2/13/4: Requests related to the abandonment of the case

The plaintiff has the right at any stage of the trial to request the court to allow him/her to abandon the case. If the plaintiff was present he has no right to do so without the consent of the defendant unless the defendant has submitted a request or a plea aiming at banning the court from trying the case.

5/2/14/0: Requests to recuse judges

5/2/14/1: Requests to recuse a judge

If one of the situations mentioned in Article (141) of the Law persists and the judge does not recuse him/herself then any party has the right to request a disqualification.

5/2/14/2: recusal of judges based on one of the recusal reasons

Any of the parties can request the disqualification of the judge if any of the reasons mentioned in Article 143 persists.

5/2/14/3: Provisions of recusal

See 2/5/1-2/1/9 of this Manual

5/2/15/0: Request of retrial

5/2/15/1: the Right to such request

The court, upon a request submitted by one of the parties, or by itself, may decide to allow the arguments after closing the arguments phase.

5/2/15/2: Requirements

There are serious and important reasons in concluding the case.

5/2/16/0: Request to correct material mistakes in the case

5/2/16/1: the Right to such request

The court has the right upon a request submitted by one of the parties, or by itself, to decide to correct any material mistakes in its judgment.

5/2/16/2: Requirements

- a. A material mistake, whether in the wording of the judgment or in calculations, is present.
- b. The Judge and the court's clerk shall sign on the corrections.

5/2/16/3: Challenging the court's decision in regards to the request

The decision of the court to reject the request for correcting the judgment cannot be challenged independently.

5/2/17/0: Request to interpret a courts decision

5/2/17/1: Requirements

- a. Ambiguity in the decision
- b. Submit a request to the court that issued the decision

5/2/17/2: Implications of the interpreting decision

The interpreting decision completes the judgment.

5/2/17/3: Challenging the court's interpreting decision

The challenge is governed by the same post judgment motions and rules that govern the judgment. (Article 148)

5/2/18/0: Request to adjudicate abandoned substantial requests

5/2/18/1: Requirements

1. The court forgot, in its consideration of the judgment or in its wording, to issue its decision of the substantive requests
2. The party who has interest shall petition the court to review the request and issue its decision in this regard (Article 185)

5/2/18/2: Implications of the decision issued regarding the request

The decision issued regarding the request completes the court's judgment. (Article 185)

5/2/19/0: Request to lift the seizure of property

5/2/19/1: Requirements

1. There should be a decision by the urgent matters court, or the competent court, to seize the property of the debtor.
2. The request should be submitted by the debtor.

(Article 271)

5/2/19/2: Implications:

The court has the right to lift the seizure with or without a bond. (Article 271)

5/2/20/0: Request to appoint a custodian

5/2/20/1: Requirements

There should be a case for which a request to appoint a custodian has been submitted. (Article 274/1)

5/2/20/2: Implications

If the court was convinced of the request, it may decide:

- a- To appoint a custodian whether the request was submitted before or after the order to seize the property was issued.
- b- Ban any person from committing any act regarding the attached property or taking it out of his guardianship.
- c- Hand the property to the custodian or put it under his/her administration.
- d- Empower the custodian to conduct all or some of the powers that the owner has over the property.

(Article 274/1)

5/2/20/3: Requirements of the decision that is issued in regard to the request

The court, before assigning a custodian, must take into consideration the followings:

1. Value of the property
2. The amount of the debt

3. The costs for appointing such a custodian
4. The court determines the compensation of the custodian if he/she does not volunteer to do the job.

5/2/20/4: Obligations of the custodian

- a- Submit an account statement that covers all the revenue he/she receives according to the dates and way the court orders him/her to do it.
- b- Pay the amounts collected according to the court's orders.

Chapter V
The Trial
3- Conditions of the Dispute

5/3/1/0: Case suspension

5/3/1/1: Circumstances in which a case may be suspended

a. Suspension by virtue of the law

- If there is a conflict of jurisdiction between two regular courts regarding the same case, and both courts ruled that they have jurisdiction, or do not have jurisdiction to try the case, then any of the parties has the right to request the court of cassation to appoint the trial court. The submission of the request must hold proceedings in both cases until the cassation court settles the jurisdictional dispute.
- When a request to disqualify a judge from hearing the case is submitted, the concerned court's chief judge has to order the holding of all the proceedings in the case until he/she delivers his/her decision regarding the request.

b. Suspension pursuant to a courts' decision

The court may suspend the proceedings if the adjudication of the case is pending on another case.

c. Mutual suspension

The parties may agree to postpone the hearings in the case for a period not to exceed six months, starting from the issuance date of such a decision by the court.

5/3/1/2: Case resumption

The case shall be resumed when the reason for suspension disappears

- a. When the cassation court settles the jurisdictional dispute.
- b. If any of the parties requests the court to speed up the trial as long the reason for halting the proceedings is over.

5/3/1/3: Implications of the general postponement of the case

- a. The dates stated by the law shall not be affected by the postponement.

- b. The parties cannot speed up the trial during the suspension period unless there is a mutual agreement to do so.
- c. If no party submits a request to the court asking to resume the proceedings in the case during two weeks from the date the six-month period ends, the plaintiff may be considered as he/she neglectful of his/her case.
- d. The request for general postponement cannot be granted more than once time during the course of the trial.

5/3/1/4: Challenging the court's decision in regards to the case suspension

The court's decision in regards to the case suspension can be appealed

5/3/2/0: The discontinuance of the trial proceedings

5/3/2/1: Discontinuance of the trial

The trial proceedings are discontinued by virtue of the law when one of the parties dies or he/she loses capacity.

5/3/2/2: Requirements of Case Discontinuance

- a. When one of the situations of case discontinuance persists.
- b. The case shall not be reserved for judgment.
- c. None of the parties has asked the court to give him/her extension to notify the representative of the person because of whom the trial was discontinued.
- d. If the party was not notified during the stated time period.
- e. The death of one of the party's attorneys is not a reason for discontinuing the trial.

5/3/2/3: Implications

The discontinuance of trial proceedings results in the cessation of all periods that were running against the parties and the nullification of all the procedures, and actions, that accrued during the discontinuation.

5/3/2/4: Case Resumption

The trial shall be resumed if one of the dead party's heirs attended or a legal representative of the incapacitated attended the hearing.

5/3/3/0: Case dismissal

5/3/3/1: Dismissal Requirements

- a. The trial proceedings were stopped because of the plaintiff's action or lack of action, provided that six months had passed since the last action was taken in the case.
- b. The party who has interest shall request the dismissal
- c. The request to dismiss the case must be submitted against all the plaintiffs in the case or all the appellate in the appeal's cases.

5/3/3/2: Statute of Limitation

- a. The Statute of Limitations commences since the last action was taken in the case
- b. In the event of the discontinuance of the trial proceedings, from the day the person who is requesting the dismissal had notified the lawyer of the other party who died, or from the day he/she had notified the representative of the party that lost its capacity to litigate.

5/3/3/3: Implications of the decision issued in regards to case dismissal

- a. All preliminary decisions will be dismissed
- b. The original right shall continue and therefore a new request may be submitted.
- c. The right to maintain the original decision(s) in the case shall continue.
- d. The upholding of the right to maintain the procedures prior to the final decisions issued in the case.
- e. The right shall still exist even if the parties take oaths or give declarations.

5/3/3/4: Default dismissal

- a. In any event, the case shall be dismissed if two years have passed since the last valid action or procedure was taken.
- b. The rule stated in clause number one of this Article is not applicable regarding the cassation of judgments.

Q: Is the case dismissal a public order issue?

Q: Is the default case dismissal a public order issue?

Q: Can the court dismiss a case by itself?

Q: Are the implications of case dismissal similar to the implications of the default case dismissal?

5/3/4/0: Abandonment of the case

5/3/4/1: Requirements

- Upon a request by the plaintiff or the appellate at any stage of the trial
- There should be an agreement with the defendant if he was present at the trial

5/3/4/2: Types of abandonment

- Abandonment that finally ends the dispute
- Abandonment that does not end the dispute

5/3/4/3: Implications of the abandonment

- a. All actions and procedures taken should be nullified including submitting the case.
- b. The abandoning party must pay all expenses.
- c. Prohibition of bringing up of another new case unless the abandonment does not end the dispute

5/3/4/4: Compromising the judgment

If the parties compromised the judgment, that means he/she has waived his/her rights regarding the rights stated in the judgment.

Chapter V
The Trial
4- Court Contempt

5/4/1/0: Order of the sessions

5/4/1/1: responsibility for keeping order during court sessions

The presiding judge is responsible for controlling the hearing and administering it.

5/4/1/2: The right to evict someone from the courtroom

The head of the presiding panel has the power to order anyone who might affect the order of the hearing to be evicted from the courtroom.

5/4/1/3: Penalties

- a. If the concerned person refuses to comply with the order of the presiding judge to leave the room then the court may sentence him for 24 hours imprisonment or a fine that does not exceed 50 JDs.
- b. The court might revoke this judgment before the end of the hearing session.

5/4/1/4: Deletion of any phrase or word

The court has the power to order the deletion of any phrase or word that deems as a violation of general morals from the hearing minutes.

5/4/2/0: Committing a crime during the hearing

5/4/2/1: Arresting the offender during the trial

The court may order the arrest of the offender/s and refer him/her to the attorney general's office. The court should document what happened in writing.

5/4/2/2: Offences against the court or its staff

- a. If one person or more committed a misdemeanor during the hearing, which is considered as an offence against the court or one of its employees, the court may sentence him/her directly.
- b. The sentence must be carried out even if it is appealed.
- c. If the offender was an attorney, the above-mentioned rules must be carried out without violating the related rules stated in the law regulating the legal profession.

5/4/3/0: Unreasonably challenging final decisions

5/4/3/1:

If the court rejected the petition for a retrial, then it has the right to fine the petitioner.

5/4/3/2: the amount of the fine

The fine may reach up to 200 JDs or its equivalent of the currency in use.

Chapter V The Trial

5- Closing arguments and the conclusion of the trial

5/5/1/0: Closing arguments and

5/5/1/1: Conclusion of arguments

After the parties conclude the presentation of evidence and arguments, the court shall ask them to submit their concluding and closing arguments. The court may, by itself or upon a request by one of the parties, require that these arguments be in writing provided they will be read at the closing hearing.

5/5/1/1: Who starts the trial

- a. The plaintiff has the right to start the trial unless the defendant acknowledges all the claims stated in the list of claims, and he/she claims that there are legal reasons or additional facts that refute the plaintiff's case.
- b. If the plaintiff submitted refuting argument, the defendant can start the trial first.
- c. The party who starts the case has the right to present evidence.

5/5/1/2: Reserving the case for judgment

- a. The court decides to reserve the case for judgment after the closing of arguments.
- b. The court, upon a request submitted by one of the parties, or by itself, may decide to allow the arguments after closing the arguments phase if there are reasons that are serious and important in concluding the case.
- c. If the case was reserved for judgment and the panel was changed, then the new panel may hear the closing arguments and then issue its judgment.

5/5/1/3: Deliberation

- a. The panel of judges who heard the closing arguments should deliberate the judgment in secret or the judgment will be null and void.
- b. The court has the right to announce its judgment after the end of the trial or at another hearing.
- c. The judge announces the judgment by reading it. This is to be done in a public hearing or the judgment will be null and void.

5/5/1/4: The judgment issuance hearing

The judges who participated in the deliberations should attend the judgment issuance hearing. If the deliberations panel signs the judgment's draft and some of the judges were absent, then it is permissible for another panel to announce the judgment after stating this in the minutes.

5/5/1/5: Judgment issuance in case of disagreement among judges

Judgments should be issued unanimously or with the majority opinion. If there is no majority, and there are more than two opinions, the party that has the fewer number of judges, or which includes the less tenured judge, joins one of the two opinions after calculating the votes for the second time.

5/5/1/6: Filing the case

The judgment's draft has to be filed in the case's file after it is announced. The draft should include the judgment, its reasons, and the court's panel signature.

5/5/1/7: Reviewing the announced judgment

Parties shall have the right to review a copy of the judgment. Copies of the judgment may not be given to the parties unless the original copy is completed.

5/5/2/0: Issuing and filing, of Judgments and providing a copy

5/5/2/1: The obligation to issue the judgment

No court has the right to decline from issuing a judgment in a case before it as there is no legal provision covering the issue in dispute, or the legal provisions are ambiguous.

5/5/2/2: Filing of judgments

The presiding judge and reporter sign the original copy of the judgment, which includes the facts of the case and the reasons for and the wording of the judgment. The copy has to be kept in the case file.

5/5/2/3: Furnishing a copy of the judgment

It is permissible to give a copy of the judgment to whomever requests it even if he/she is not a party in the case, provided he/she pays the stated fee.

Chapter V
The Trial
6- Verdicts and Expenses

5/6/1/0: Issuing of Verdicts

5/6/1/1: The obligation to issue the verdict

No court has the right to decline from issuing a verdict in a case before it as there is no legal provision covering the issue in dispute, or the legal provisions are ambiguous.

5/6/1/2: Reserving the case for verdict

- a. The court decides to reserve the case for verdict after closing the arguments phase.
- b. The court, upon a request submitted by one of the parties, or by itself, may decide to allow the arguments after closing the arguments phase if there are reasons, which are serious and important in concluding the case.
- c. If the case was reserved for verdict and the panel was changed, then the new panel has to hear the closing arguments and then issue its verdict.

5/6/1/3: Deliberation

- a. The panel of judges who heard the closing arguments should deliberate the verdict in secret or the verdict will be null and void.
- b. The court has the right to announce its verdict after the end of the trial or at another hearing.
- c. The judge has to announce the verdict by reading it. This has to be done in a public hearing or the verdict will be null and void.

5/6/1/4: The verdict issuance hearing

The judges who participated in the deliberations should attend the verdict issuance hearing. If the deliberations panel signs the verdict's draft and some of the judges were absent, then it is permissible for another panel to announce the verdict after stating this in the hearing's minutes.

5/6/1/5: Verdict issuance in case of disagreement among judges

Verdicts should be issued unanimously or with the majority opinion. If there is no majority, and there are more than two opinions, the party

that has the fewer number of judges, or which includes the less tenured judge, has to join one of the two opinions after calculating the votes for the second time.

5/6/1/6: Filing the case

The verdict's draft has to be filed in the case file after it is announced. The draft should include the verdict, its reasons, and the court's panel signature.

5/6/1/7: Reviewing the announced verdict

Parties shall have the right to review a copy of the verdict announced. Copies of the verdict may not be given to the parties unless the original copy is completed.

5/6/2/0: Elements of the verdict and its shortcomings

5/6/2/1: Elements of the verdict

The verdict should include the following:

- a. Name of the court that issued it.
- b. The case number.
- c. Date of issuance.
- d. Names of the judges who participated in issuing and attending its announcement.
- e. The full names of the parties and their attendance and absence
- f. Summary of the facts the case.
- g. Summary of the parties' requests and their pleas and defences.
- h. Reasons behind the verdict and its wording.
- i. If the verdict was related to property, it shall include full description of such property to distinguish it from other properties.
- j. If the verdict includes the payment of a sum of money, then the court has the right, if there are real reasons to do so, to decide how the sum of money should be paid.

5/6/2/2: Shortcomings of the verdict

If the verdict's reasoning was defective and the names of the parties were not complete, and the names of the judges who issued the verdict were not mentioned, then, such defects make the verdict void and null.

5/6/3/0: Issuing and filing of Verdicts and providing a copy of it

5/6/3/1: Filing of verdict

The presiding judge and the judge's reporter sign the original copy of the verdict, which includes the facts of the case and the reasons and the wording of the verdict. The copy has to be kept in the case's file.

5/6/3/2: Furnishing a copy of the verdicts

It is permissible to give a copy of the verdict to whomever requests it even if he/she is not a party in the case, provided he/she pays the stated fee.

5/6/4/0: Enforcement of verdicts and decisions and providing an executive summary of it

5/6/4/1: Enforcement of verdicts and decisions

Verdicts, decisions, and orders must not be executed unless there is notification to the concerned party according to the law.

5/6/4/2: Providing an executive summary of the verdict

If the judgment was of the kind that must be executed, then the prevailing party has the right to receive a copy of the judgment in order to execute it. The copy must be stamped with the court's stamp and signed by the chief clerk.

5/6/4/3: Submitting a second copy of the executive summary

The prevailing party should not be given another copy of the judgment unless he/she proves that the first copy was lost or damaged.

5/6/5/0: Correction and interpretation of verdicts

5/6/5/1: Correction of verdicts

See 5/2/16/0 of the manual

5/6/5/2: Interpreting of verdicts

See 5/2/17/0 of the manual

5/6/5/3: Request to decide on abandoned substantial requests

See paragraphs under 5/2/18/0

5/6/6/0:Fees and Expenses

5/6/6/1: Awards of Fees and Expenses

The court awards the prevailing party the costs and fees of the case and the attorneys' fees when it issues the final judgment.

5/6/6/2: Fees and expenses during trial

The court has the right in the course of the trial to issue its decision regarding the fees and costs of any request or action related to the case. Such a decision does not affect its final decision regarding the costs and fees of the case.

5/6/6/3: Fees of cross claims

These rules are applicable to the fees and costs of the cross claim and the requests which stemmed from the case.

5/6/6/4: Fees in case of multiplicity of defendants

If there were more than one party who lost the case then the court has to order the division of the fees among them equally, or according to the percentage of what he/she has lost.

5/6/6/5: Partial fees and expenses

If it appears that the plaintiff has the right in some of what he/she claims then he/she should be awarded the fees and costs concerning those claims.

5/6/6/6: Obliging the prevailing party to pay the fees and expenses

If the losing party never contested the right claimed by the prevailing party then the court has the right to order the latter to pay all the fees and costs, or part of it, unless the losing party was notified of the right claimed before the case was brought before the court, and he/she did not did not pay the right claimed.

5/6/6/7: Fees and expenses of the joining party

It is for the court to order the party requesting to join the case to pay the fees and costs for joining the case if the court decides not to accept the request to join the case or his/her other requests.