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Notice by the Supreme People's Court of Issuing the Guiding Opinions (Part I) on Several Issues of Properly Hearing Civil Cases concerning the COVID-19 Pandemic

最高人民法院印发《关于依法妥善审理涉新冠肺炎疫情民事案件若干问题的指导意见(一)》的通知

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(No. 12 [2020] of the Supreme People's Court)

(法发〔2020〕12号)

The higher people's courts of all provinces, autonomous regions, and municipalities directly under the Central Government; the Military Court of the People's Liberation Army; and the Production and Construction Corps Branch of the Higher People's Court of Xinjiang Uygur Autonomous Region:

各省、自治区、直辖市高级人民法院，解放军军事法院，新疆维吾尔自治区高级人民法院生产建设兵团分院：

The Guiding Opinions (Part I) of the Supreme People's Court on Several Issues of Properly Hearing Civil Cases concerning the COVID-19 Pandemic is hereby issued to you for your earnest implementation.

现将《最高人民法院关于依法妥善审理涉新冠肺炎疫情民事案件若干问题的指导意见（一）》印发给你们，请认真贯彻执行。

Supreme People's Court

最高人民法院

April 16, 2020

2020年4月16日

Guiding Opinions (Part I) of the Supreme People's Court on Several Issues of Properly Hearing Civil Cases concerning the COVID-19 Pandemic

最高人民法院关于依法妥善审理涉新冠肺炎疫情民事案件若干问题的指导意见（一）

For the purposes of implementing the guiding principle as proclaimed by the CPC Central Committee in the meeting to advance the work on coordinating the

为贯彻落实党中央关于统筹推进新冠肺炎疫情防控和经济社会发展工作部署会议精神，依法妥善审理涉新冠肺炎疫

prevention and control of the COVID-19 and economic and social development, properly hearing civil cases concerning the coronavirus, protecting the lawful rights and interests of the people, maintaining social and economic order, and safeguarding social fairness and justice, in accordance with the provisions of laws and judicial interpretations and in light of experiences in judicial practices, the guiding opinions are hereby offered as follows.

疫情民事案件，维护人民群众合法权益，维护社会经济秩序，维护社会公平正义，依照法律、司法解释相关规定，结合审判实践经验，提出如下指导意见。

I. Maximizing the role of judicial services in protecting rights and interests: The people's courts at all levels shall fully recognize the impact of the pandemic on economy and society, focus on the general plan of coordinating the prevention and control of the COVID-19 and economic and social development, leverage the role of judiciary in adjusting social relations, and actively participate in resolving disputes at the sources. The people's courts shall continue to put the non-litigation dispute resolution mechanism in the first place, give priority to mediation in resolving disputes, encourage the parties in dispute to resort to conciliation under negotiation, share risks, and work together to get through the challenging time, and take solid measures to settle disputes in the early stages and at the primary level. When hearing civil cases concerning the pandemic, the people's courts shall, based on the actual case information, accurately apply laws, balance the interests of the parties concerned, protect their lawful rights and interests, serve the economic and social development, and achieve the harmonization of legal effect and social effect.

一、充分发挥司法服务保障作用。各级人民法院要充分认识此次疫情对经济社会产生的重大影响，立足统筹推进疫情防控和经济社会发展工作大局，充分发挥司法调节社会关系的作用，积极参与诉源治理，坚持把非诉讼纠纷解决机制挺在前面，坚持调解优先，积极引导当事人协商和解、共担风险、共渡难关，切实把矛盾解决在萌芽状态、化解在基层。在涉疫情民事案件审理过程中，根据案件实际情况，准确适用法律，平衡各方利益，保护当事人合法权益，服务经济社会发展，实现法律效果与社会效果的统一。

II. Accurately applying the rule of force majeure: In hearing civil cases concerning the pandemic, the people's courts shall correctly apply the specific provisions on force majeure, and strictly control the application conditions. Civil disputes directly caused by the pandemic or pandemic prevention and control measures, which meet the statutory requirements for force majeure, shall be properly handled in accordance with the provisions set forth in [Article 180 of the General Provisions of the Civil Law of the People's Republic of China](#) and [Articles 117 and 118 of the Contract Law of the People's Republic of China](#), unless otherwise provided for in other laws and administrative regulations. A party claiming the application of partial or whole liability exemption in case of force majeure shall bear the burden of proving the facts of failure to perform part or all of civil obligations directly caused by force majeure.

二、依法准确适用不可抗力规则。人民法院审理涉疫情民事案件，要准确适用不可抗力的具体规定，严格把握适用条件。对于受疫情或者疫情防控措施直接影响而产生的民事纠纷，符合不可抗力法定要件的，适用《[中华人民共和国民法总则](#)》[第一百八十条](#)、《[中华人民共和国合同法](#)》[第一百一十七条](#)和[第一百八十条](#)等规定妥善处理；其他法律、行政法规另有规定的，依照其规定。当事人主张适用不可抗力部分或者全部免责的，应当就不可抗力直接导致民事义务部分或者全部不能履行的事实承担举证责任。

III. Properly hearing contractual disputes according to the law: When applying laws for contractual disputes directly caused by the pandemic or pandemic prevention and control measures, the people's courts shall, unless it is otherwise agreed upon by the parties concerned, handle the disputes according to the following rules by taking into full consideration of the impact of the pandemic on different regions, industries and cases, and precisely grasp the causal relationship between the pandemic or pandemic prevention and control measures and failure to perform contracts as well as the causative potency:

三、依法妥善审理合同纠纷案件。受疫情或者疫情防控措施直接影响而产生的合同纠纷案件，除当事人另有约定外，在适用法律时，应当综合考量疫情对不同地区、不同行业、不同案件的影响，准确把握疫情或者疫情防控措施与合同不能履行之间的因果关系和原因力大小，按照以下规则处理：

1. A party that fails to perform a contract due to the pandemic or pandemic prevention and control measures shall, subject to the provisions on force majeure, be partially or wholly exempted from liability according to the degree of impact of the pandemic or pandemic prevention and control measures. A party to whom failure to perform a contract or additional losses may be attributable shall bear corresponding liabilities according to the law. A party that fails to perform a contract due to the pandemic or pandemic prevention and control measures but claims to have provided timely notification shall bear the corresponding burden of proof.

（一）疫情或者疫情防控措施直接导致合同不能履行的，依法适用不可抗力的规定，根据疫情或者疫情防控措施的影响程度部分或者全部免除责任。当事人对于合同不能履行或者损失扩大有可归责事由的，应当依法承担相应责任。因疫情或者疫情防控措施不能履行合同义务，当事人主张其尽到及时通知义务的，应当承担相应举证责任。

2. If a party only feels it difficult to perform a contract due to the pandemic or pandemic prevention and control measures, the parties concerned may re-negotiate the contract; and if the parties can continue performing the contract, the people's court shall strengthen efforts in mediation and actively guide the parties to continue the performance. The people's court shall not support a party's request to dissolve the contract due to difficulty in performance. If continuing performing the contract makes it obviously unfair to one party, and the party requests to change the performance period, performance method or price of the contract, the people's court shall, based on actual conditions of the case, decide whether to support such a request. If, after the contract is changed, the party still claims the application of partial or whole liability exemption, the people's court shall not support such a claim. If a party requests to dissolve the contract because the purpose of the contract cannot be achieved, the people's court shall support such a request.

（二）疫情或者疫情防控措施仅导致合同履行困难的，当事人可以重新协商；能够继续履行的，人民法院应当切实加强调解工作，积极引导当事人继续履行。当事人以合同履行困难为由请求解除合同的，人民法院不予支持。继续履行合同对于一方当事人明显不公平，其请求变更合同履行期限、履行方式、价款数额等的，人民法院应当结合案件实际情况决定是否予以支持。合同依法变更后，当事人仍然主张部分或者全部免除责任的，人民法院不予支持。因疫情或者疫情防控措施导致合同目的不能实现，当事人请求解除合同的，人民法院应予支持。

IV. Handling labor disputes according to the law: The people's courts shall strengthen coordination with local governments and the relevant authorities, and support employers in employing flexible laborers during the period of pandemic prevention and control. When hearing labor disputes during the pandemic, the people's courts shall accurately apply the provisions set forth in [Article 26 of the Labor Law of the People's Republic of China](#) and [Article 40 of the Labor Contract Law of the People's Republic of China](#). If an employer claims rescission of labor relationship with a laborer merely on the ground that the laborer is a confirmed COVID-19 patient, a suspected COVID-19 patient, an asymptomatic infected person, or a person staying in quarantine, or the laborer is from an area with a relatively severe pandemic situation, the people's court shall not support such a claim. In handling labor disputes, the people's courts shall correctly understand and apply, mutatis mutandis, the policies and regulations developed by the relevant administrative departments of the State Council and the provincial people's governments on properly handling labor relationship during the period of pandemic prevention and control.

四、依法处理劳动争议案件。加强与政府及有关部门的协调，支持用人单位在疫情防控期间依法依规采用灵活工作方式。审理涉疫情劳动争议案件时，要准确适用《[中华人民共和国劳动法](#)》[第二十六条](#)、《[中华人民共和国劳动合同法](#)》[第四十条](#)等规定。用人单位以劳动者是新冠肺炎确诊患者、疑似新冠肺炎患者、无症状感染者、被依法隔离人员或者劳动者来自疫情相对严重的地区为由主张解除劳动关系的，人民法院不予支持。就相关劳动争议案件的处理，应当正确理解和参照适用国务院有关行政主管部门以及省级人民政府等制定的在疫情防控期间妥善处理劳动关系的政策文件。

V. Using punitive damages according to the law: If a business operator's sales of anti-viral supplies such as facial masks, protective goggles, protective suits, disinfectants, as well as food and drugs falls into any circumstance under [Article 55 of the Law of the People's Republic of China on Protection of Consumer Rights and Interests](#), paragraph 2 of [Article 148 of the Food Safety Law of the People's Republic of China](#), paragraph 3 of [Article 144 of the Pharmaceutical Administration Law of the People's Republic of China](#), and [Article 15 of the Provisions of the Supreme People's Court on Several Issues concerning the Application of Law in the Trial of Cases Involving Food and Drug Disputes](#), and a consumer claims the use of punitive damages according to the law, the people's court shall support such a claim.

五、依法适用惩罚性赔偿。经营者在经营口罩、护目镜、防护服、消毒液等防疫物品以及食品、药品时，存在《[中华人民共和国消费者权益保护法](#)》[第五十五条](#)、《[中华人民共和国食品安全法](#)》[第一百四十八条](#)第二款、《[中华人民共和国药品管理法](#)》[第一百四十四条](#)第三款、《[最高人民法院关于审理食品药品纠纷案件适用法律若干问题的规定](#)》[第十五条](#)规定情形，消费者主张依法适用惩罚性赔偿的，人民法院应予支持。

IV. Suspending extinctive prescription according to the law: If, during the last six months of the prescriptive period, a claim cannot be filed due to the pandemic or pandemic prevention and control measures, and an obligee claims the suspension of the period according to the provisions set forth in subparagraph 1, paragraph 1 of [Article 194 of the General Provisions of the Civil Law of the People's Republic of China](#), the people's court shall support such a claim.

六、依法中止诉讼时效。在诉讼时效期间的最后六个月内，因疫情或者疫情防控措施不能行使请求权，权利人依据《[中华人民共和国民法总则](#)》[第一百九十四条](#)第一款第一项规定主张诉讼时效中止的，人民法院应予支持。

VII. Extending the period of litigation according to the law: If a party misses the period of litigation prescribed by law or designated by a people's court due to the pandemic or pandemic prevention and control measures, and applies for an extension of the period in accordance with the provisions set forth in [Article 83 of the Civil Procedure Law of the People's Republic of China](#), the people's court shall, by taking into full consideration of the pandemic situation and the evidence provided by the party, decide whether to permit such an extension and protect the party's procedural rights according to the law. If a party who is a confirmed COVID-19 patient, a suspected COVID-19 patient, an asymptomatic infected person, or a relevant close contact applies for an extension of the litigation period which expires during the quarantine, the people's court shall permit such an extension.

七、依法顺延诉讼期间。因疫情或者疫情防控措施耽误法律规定或者人民法院指定的诉讼期限，当事人根据《[中华人民共和国民事诉讼法](#)》[第八十三条](#)规定申请顺延期限的，人民法院应当根据疫情形势以及当事人提供的证据情况综合考虑是否准许，依法保护当事人诉讼权利。当事人系新冠肺炎确诊患者、疑似新冠肺炎患者、无症状感染者以及相关密切接触者，在被依法隔离期间诉讼期限届满，根据该条规定申请顺延期限的，人民法院应予准许。

VIII. Strengthening efforts in judicial assistance: If a party facing financial difficulty due to the pandemic applies for exempting, reducing or suspending the payment of litigation expenses, the people's court shall examine the application and make a corresponding decision in a timely manner. For a litigant that truly needs judicial assistance, the people's court shall promptly take assistance measures according to the application of the litigation.

八、加大司法救助力度。对于受疫情影响经济上确有困难的当事人申请免交、减交或者缓交诉讼费用的，人民法院应当依法审查并及时作出相应决定。对于确实需要进行司法救助的诉讼参加人，要依其申请，及时采取救助措施。

IX. Taking preservative measures in a flexible manner: For enterprises facing financial difficulty due to the pandemic, particularly micro, small and medium-sized enterprises, the people's courts may adopt flexible property preservation measures or property preservation guarantees to effectively ease the burden of businesses and assist them in resuming work and production.

九、灵活采取保全措施。对于受疫情影响陷入困境的企业特别是中小微企业、个体工商户，可以采取灵活的诉讼财产保全措施或者财产保全担保方式，切实减轻企业负担，助力企业复工复产。

X. Effectively ensuring the unified application of law: The people's courts at all levels shall strengthen guidance for and supervision on the trials of pandemic-related civil cases, maximize the role of professional judge meetings and judicial committees, and report the issues of the application of law in major, difficult and complicated cases to judicial committees for discussion and decision. The people's courts at a higher level shall provide more guidance to the people's courts at a lower level by publishing typical cases, so as to ensure unified judicial standards.

十、切实保障法律适用统一。各级人民法院要加强涉疫情民事案件审判工作的指导和监督，充分发挥专业法官会议、审判委员会的作用，及时重大、疑难、复杂案件的法律适用问题，应当涉及提交审判委员会讨论决定。上级人民法院应当通过发布典型案例等方式加强对下级人民法院的指导，确保裁判标准统一。

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