

涉自贸区(港)诉讼指南

The Free Trade Zone (Port) Litigation Guide

诉讼代理指南

訴訟代理指南

Guide on Lawsuit Agency

海南省高级人民法院 印制

THE HIGHER PEOPLE'S COURT OF HAINAN PROVINCE



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I. 诉讼代理人的范围 / 訴訟代理人的範圍

The Scope of Litigation Representative

下列人員可作為訴訟代理人：

The following persons may serve as a litigation representative:

1. 律師、基層法律服務工作者
律師、基層法律服務工作者

A lawyer or legal service worker at the basic level

2. 當事人的近親屬或者工作人員
當事人的近親屬或者工作人員

A close relative or staff member of a party

3. 當事人所在社區、單位以及有關社會團體推薦的公民
當事人所在社區、單位以及有關社會團體推薦的公民

A citizen recommended by the community or employer of the party or recommended by a relevant social group.

II. 诉讼代理人需要提交的材料

訴訟代理人需要提交的材料

Materials to Be Submitted by the Litigation Representative

诉讼代理人除了需要向人民法院提交由當事人簽名或蓋章的授權委託書外，還需要提供以下材料：

訴訟代理人除了需要向人民法院提交由當事人簽名或蓋章的授權委託書外，還需要提供以下材料：

A litigation representative shall submit relevant materials to the people's court according to the following provisions in addition to the power of attorney:

1. 诉讼代理人是律師的，應當提交律師執業證、律師事務所證明材料；

訴訟代理人是律師的，應當提交律師執業證、律師

事務所證明材料;

A lawyer shall submit his legal professional qualification certificate and the certification documents on his law firm;

2. 诉讼代理人是基层法律服务工作者的,应当提交法律服务工作者执业证、基层法律服务所出具的介绍信及当事人一方位于本辖区内的证明材料;

訴訟代理人是基層法律服務工作者的,應當提交法律服務工作者執業證、基層法律服務所出具的介紹信及當事人一方位于本轄區內的證明材料;

A basic-level legal service worker shall submit his practice certificate, a reference letter issued by the basic-level legal service office, and the certification documents on the fact that one party to the case is within its jurisdiction;

3. 诉讼代理人是当事人近亲属的,应当提交身份证件和与委托人有近亲属关系的证明材料;

訴訟代理人是當事人近親屬的,應當提交身份證件和與委托人有近親屬關係的證明材料;

A close relative of the party shall submit his identity certificate and the certification documents on the fact that he is a close relative of the party;

4. 当事人的工作人员应当提交身份证件和与当事人有合法劳动人事关系的证明材料;

當事人的工作人員應當提交身份證件和與當事人有合法勞動人事關係的證明材料;

An employee of the party shall submit his identity certificate and the certification documents on his legal labor relationship with the party;

5. 诉讼代理人是当事人所在社区、单位推荐的公民的,应当提供身份证件、推荐材料和当事人属于该社区、单位的证明材料;

訴訟代理人是當事人所在社區、單位推薦的公民的,應當提供身份證件、推薦材料和當事人屬於該社區、單位的證明材料;

A citizen recommended by the community or employer of the party shall submit his identity certificate, the recommendation materials, and the certification documents on the fact that the party belongs to the community or employer;

6. 有关社会团体推荐的公民应当提交身份证件和符合法律规定条件的证明材料。

有關社會團體推薦的公民應當提交身份證件和符合法律規定條件的證明材料。

A citizen recommended by a relevant social group shall submit his identity certificate and the certification materials on satisfaction of the conditions as set out in law.

III. 诉讼代理人的人数 / 訴訟代理人的人數 The Number of Litigation Representatives

当事人及法定代理人可以委托1至2人代理诉讼。

當事人及法定代理人可以委托1至2人代理訴訟。

A party or a legal representative may retain one or two persons as litigation representatives.

IV. 委托代理人的代理权限 委托代理人的代理權限 The Extent of Authority

委托代理人代理权限有以下两种

委托代理人代理權限有以下兩種：

There are two kinds of authority:

1. 一般代理权限：代理人只能进行一般性诉讼权利的代理，如代理起诉、提供证据等。

一般代理權限：代理人祇能進行一般性訴訟權利的代理，如代理起訴、提供證據等。

General Authorization: The litigation representatives just have the general litigious rights, such as filing a lawsuit, submitting evidence etc.

2. 特殊代理权限：与实体权利联系紧密的诉讼权利或特别权利，如承认、放弃、变更诉讼请求，进行和解，提起反诉或者上诉，必须有委托人的特别授权。

特殊代理權限：與實體權利聯系緊密的訴訟權利或特別權利，如承認、放棄、變更訴訟請求，進行和解，提起反訴或者上訴，必須有委托人的特別授權。

Special Authorization: Under the special authorization, the litigation representatives shall have the litigious right to deal with substantive rights of the party, such as to admit, relinquish or modify any claims, reach a settlement, or file a counterclaim or an appeal on behalf of a party or a legal representative, a litigation representative must have a special authorization from the party or legal representative.