

涉自贸区(港)诉讼指南

The Free Trade Zone (Port) Litigation Guide

举证注意事项

舉證注意事項

Notice of Adducing Evidence

海南省高级人民法院 印制

THE HIGHER PEOPLE'S COURT OF HAINAN PROVINCE



举证注意事项 舉證注意事項

Notice of Adducing Evidence

I. 当事人对自己提出的主张，有责任提供证据。

當事人對自己提出的主張，有責任提供證據。

A party shall have the burden to provide evidence for its claims.

II. 当事人及其诉讼代理人因客观原因不能自行收集的证据，可以在举证期限届满前书面申请人民法院调查收集。上述证据包括：

當事人及其訴訟代理人因客觀原因不能自行收集的證據，可以在舉證期限屆滿前書面申請人民法院調查收集。上述證據包括：

Where the parties and its litigation representatives are unable to collect evidence for some objective reasons, the parties and its litigation representatives may apply in written to the people's court for investigation and collection before the expiry of the evidence-producing term. The evidence includes:

a) 属于国家有关部门保存并须人民法院依职权调取的档案材料；

屬於國家有關部門保存并須人民法院依職權調取的檔案材料；

The archive files kept by relevant organs of the state and must be accessed by the people's court upon authority;

b) 涉及国家秘密、商业秘密、个人隐私的材料

涉及國家秘密、商業秘密、個人隱私的材料；

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

c) 当事人及其诉讼代理人确因客观原因不能自行收集的其他材料。

當事人及其訴訟代理人確因客觀原因不能自行收集的其他材料。

Other materials that cannot be collected by the parties

and its litigation representatives for objective reasons.

III. 举證期限可以由當事人協商一致，並經法院認可。法院確定的一審舉證期限不得少於15日。當事人申請延長舉證期限的，應當在舉證期限屆滿前提出書面申請。

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The time limit for adducing evidence may be negotiated by the parties, and subject to permission of the Court. The time limit for adducing evidence determined by the Court shall not be less than 15 days for a case at first instance. A party which applies for an extension the time limit for adducing evidence shall submit an application in writing before the expiration of the time limit for adducing evidence.

當事人應當在法院確定的舉證期限內提交證據。逾期提供證據的，應當說明理由，必要時法院可以要求當事人提供相應的證據。當事人拒絕說明理由或理由不被採納的，法院可以根據不同情形，決定不予採納該證據或採納該證據，並對當事人予以訓誡、罰款。

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A party shall provide evidence for its claims within the time limit. Where a party provides any evidence beyond the time limit, the party shall provide an explanation; and the Court may request the party to provide corresponding evidence, if necessary. If the party refuses to explain or the party's explanation is not acceptable, the Court may, according to different circumstances, deem the evidence inadmissible or adopt the evidence but impose an admonition or a fine on the party.

IV. 當事人及其訴訟代理人申請人民法院調查收集證據或當事人申請證據保全的，均應提交書面申請，並

不得迟于举证期限届满前七日。

當事人及其訴訟代理人申請人民法院調查收集證據或當事人申請證據保全的，均應提交書面申請，並不得遲于舉證期限屆滿前七日。

The application of the parties and its litigation representatives to the court for evidence investigation and collection or the application for evidence preservation shall be filed in written at no later than seven days prior to the expiration of the time limit for adducing evidence.

V. 當事人申請證人出庭作證的，應當在舉證期限屆滿十日前提出。

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A party which applies for the presence of a witness in court shall propose at no later than ten days before the expiration of the time limit for adducing evidence.

VI. 當事人應當對其提交的證據材料逐一分類編號，對證據材料的來源、證明對象和內容作簡要說明，簽名蓋章，注明提交日期，並依照對方當事人人數提出副本。

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The parties shall categorize and number the evidential materials submitted thereby, make a brief specification of the sources of the evidential materials, the evidenced object, put on their signatures and mark the date of submission and submit duplicate pieces numbered in accordance with the number of defendants and third parties.

VII. 書證應當提交原件。物證應當提交原物。提交原件或者原物確有困難的，可以提交復制品、照片、副本、節錄本。提交外文書證，必須附有中文譯本。

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The originals as documentary evidence shall be submitted. The originals as physical evidence shall be

submitted. If it is difficult to submit the originals, replicas, photographs, copies or extracts may be submitted. Documentary evidence in a foreign language must be submitted with Chinese versions.

VIII. 视听资料、电子数据类证据应通过光盘/U盘备份后提交法院；原件应于开庭时出示。用有形载体表现其存储内容的数据电传、电子邮件等电子数据的复制件，应经公证或者经对方当事人确认后，才具有与原件同等的证明力。

視聽資料、電子數據類證據應通過光盤/U盤備份後提交法院；原件應于開庭時出示。用有形載體表現其存儲內容的數據電傳、電子郵件等電子數據的復制件，應經公證或者經對方當事人確認後，才具有與原件同等的證明力。

The backup copies of audio-visual materials or electronic data shall be stored in the CD/USB and submitted to the Court; the original forms should be presented at trial. The duplicate copy of data telex, e-mail and other electronic data that tangibly express the content it recorded should only be notarized or accepted by the other party, it has the same probative force as the original.

