

**Notice of Guangzhou Intermediate People's Court on
Issuing *Several Opinions on Promoting the Establishment of
One-stop Diversified Dispute Resolution Mechanisms (for
Trial Implementation)***

Sui Zhong Fa [2020] No. 37

To all grass-roots courts and all departments of this court,

The *Several Opinions on Promoting the Establishment of One-stop Diversified Dispute Resolution Mechanisms (for Trial Implementation)* (“Opinion”) is formulated in line with the actual work of the courts for the implementation of the *Opinions on the Establishment of One-stop Diversified Dispute Resolution Mechanisms and One-stop Litigation Service Centers* and the *Opinions on the Further Reform of the Combined Modes of Cases Identification, Mediation, Fast Trial and Proceeding Expedition Applied by People’s Courts* issued by the Supreme people's court to further improve the diversified dispute resolution mechanisms adopted by courts in Guangzhou and satisfy the multiple judicial needs of public. The Opinion has been discussed and adopted by the Judicial Committee on February 26, 2020 and is hereby issued to you for your compliance and implementation.

Guangzhou Intermediate People's Court
February 27, 2020

Several Opinions on Promoting the Establishment of One-stop Diversified Dispute Resolution Mechanisms (for Trial Implementation)

Following opinions are hereby put forward for promotion of the establishment of one-stop diversified dispute resolution mechanisms in courts of Guangzhou, in accordance with the *Opinions of the Supreme People's Court on the Establishment of One-stop Diversified Dispute Resolution Mechanisms and One-stop Litigation Service Centers*, the *Opinions of the Supreme People's Court on the Further Reform of the Combined Modes of Cases Identification, Mediation, Fast Trial and Proceeding Expedition Applied by People's Courts*, the *Opinions of the Supreme People's Court on Further Promotion of the Reform of Multi-mechanism for Dispute Resolution* and the *Provisions of the High People's Court of Guangdong Province on Further Intensifying the Connection of the Litigation and Mediation*, for purpose of further improving the multi-mechanism of dispute resolution, putting the alternative dispute resolution mechanism in the first place, meeting the demands of the general public and enhancing the effect of pre-litigation disputes identification and disputes resolution during litigation:

1. Improving the mechanism for identification and connection the mediation and litigation

1.1. Actively participating in governance of litigation sources

An innovative development of “Fengqiao Experience” is required in this new age, that means disputes shall be resolved from the source under the leadership of Party committee and judicial functions shall be fulfilled in full to push the work of people's court to the control of dispute at source. Given the disputes frequently arising over private lending, financial borrowing, on-line shopping and platform services, labor, commercial housing sales, property management and housing leasing, the communication and coordination shall be further strengthened with judicial administrative organs, comprehensive governance organizations, finance, housing and construction, market supervision, human resources and social security authorities, people's mediation committee at sub-district and town level, judicial offices, arbitration agencies and other departments to take the advantage of the assessment and warning function of big data for the pre-litigation resolution of material disputes featuring high- frequency, public- involved and petition- involved and for the establishment of an integrated pre-litigation dispute resolution mechanism with resource sharing and multi-department interaction.

1.2. Establishment of better mediation-oriented mechanism

We will actively explore ways to expand the scope of disputes and types of cases through the mediation pre-procedure. Where a basic court accepts a case with a litigation subject matter of less than 10 million yuan, it shall apply the mediation pre-procedure and guide the pre-litigation mediation, with the exception of the following circumstances: If the subject matter amount is more than 10 million, the party concerned shall be actively guided to mediate if it is appropriate. If an intermediate court considers it appropriate to mediate a civil or commercial case of first instance, the subject matter shall not be subject to the above restrictions.

Exemptions for mediation first mechanism mainly include: cases for which the special procedure, procedure for hastening debt recovery and procedure for publicizing public notice for assertion of claims are applicable as provided in *Civil Procedure Law of the People's Republic of China*; cases subject to retrial; appeal from the opposition to execution; application of the third party revocation; a counterclaim filed by the counterpart; cases involving the confirmation of identity, real right or intellectual property right; an announcement required to be served to a party unaccounted for; a party to the case is abroad and cannot be contacted; or involving foreign affairs and unable to contact the parties or under other circumstances unsuitable for mediation; other circumstances not suitable for mediation, due to the nature of the case

1.3. Optimizing the judicial confirmation procedure

The implementation of the *Working Rules of Guangzhou Intermediate People's Court on the Judicial Confirmation for Non-litigation Mediation Agreement (for Trial Implementation)* (hereinafter referred to as “Rules”) shall be facilitated at courts of Guangzhou to intensify the effective combination of litigation and non-litigation strategies. The application scope of judicial confirmation procedure shall be expanded, which means that an application for judicial confirmation may be made with the people's court for a civil or commercial dispute with respect of which a mediation agreement is concluded by the parties thereof upon the mediation made by any administrative organ, people's mediation organization, commercial mediation organization, industry mediation organization, lawyer mediation offices, specially invited mediation organization or specially invited mediator; the jurisdiction of a case assigned by the court for mediation shall be vested with such court in principle of “the party assigning as the party confirming”; the jurisdiction of judicial confirmation cases other than those assigned for mediation shall be subject to the agreement reached by applicable parties of the case and if no such agreement is made, the provisions set forth in Rules shall be followed; each and all grass-roots level courts and Guangzhou Intermediate People's Court shall have the authority for judicial confirmation, provided that the provisions on subject matter jurisdiction and exclusive jurisdiction shall be followed; the case number and cause of action of a judicial confirmation case shall be determined in accordance with the Rules and a template ruling paper shall be used.

1.4. Regulating the mechanism for the conversion between mediation procedure and trial procedure

Upon receiving the materials for filing litigation, the court shall check and verify the resolution method of the dispute presented in such materials. If a party in a dispute applies for filing a case through an on-line case filing platform, the resolution method available and a letter of confirmation for pre-litigation mediation will be pushed intelligently based upon the specific case; if a party in a dispute files the case at the litigation service center of the court, the working staff shall issue the letter of confirmation to the party to confirm his/her intention for pre-litigation

mediation; for disputes suitable for mediation or those required to be arbitrated in advance by means of administrative review, the parties shall be notified or guided to select appropriate mediation organization or other means to resolve the dispute; prior to assign or entrust a case for mediation, the court shall have necessary review over the dispute to prevent false litigation; for cases identified by the court for mediation, on-line mediation is encouraged and the procedures for mediation shall be as follows: firstly, the staff registering the case shall allocate a case number for pre-litigation mediation or entrusted mediation and then scan and enter the complaint and relevant materials into the platform; subsequently, the administrator of the mediation platform shall input the case and relevant materials onto the platform and designate a mediator. In case an off-line mediation is required, such materials shall be transferred to the mediator directly. Secondly, the mediator, as the one to contact both parties, shall guide them to complete the Letter of Confirmation for Address for Service and the Letter of Confirmation for Electronic Address for Service and other forms and documents required and then organize the mediation. The mediation period shall be thirty (30) days for pre-litigation mediation, fifteen (15) days for inter-litigation mediation and seven (7) days for mediation with a summary procedure applied, starting from the date on which the mediation is organized or the date on which materials sent by the court are received by the mediator. The mediation period may be extended upon the agreement of the parties, provided that no more than sixty-day extension is allowed for pre-litigation mediation, no more than thirty-day extension for inter-litigation mediation and no more than fifteen-day extension for mediation with a summary procedure applied. Thirdly, if the dispute is resolved by mediation and an application is made for judicial confirmation, the case filing department and department for trial business of the court or the judicial officers of the litigation and mediation connection center shall review the application and issue a ruling paper; if the mediation failed in the period specified above, upon receiving the feedback from the platform or the mediator, the staff filing the case shall allocate a case number for litigation within seven (7) days and the dispute shall be referred to relevant judicial department based upon the complexity of the case. In case of any jurisdiction dispute arising in respect of a case which is filed for a dispute for which the mediation is failed, the first to file jurisdiction shall be determined based upon the time when the "Pre-litigation Mediation" name is compiled.

1.5. Improving the working mechanism for quick trial and expedited proceedings

The pilot of the reform of separation between complicated cases and simple ones under civil procedure shall be promoted actively in all courts of Guangzhou and the application scope of quick trial and expedited proceedings shall be expressly identified. The standard for the separation between complicated cases and simple ones shall be improved by means of listing the application scope, exclusions and conditions exist according to the requirements of the Supreme People's Court on identifying such standard based upon elements such as cause of action, legal relation, parties of litigation and litigation procedures. The system for quick trial and expedited proceedings applicable for cases of first and second trial shall be established and improved. The sole-judge trial system may be employed by basic courts to hear any and all civil and commercial cases in principle; the Intermediate

Court shall actively explore the types of case for which the sole-judge trial system and the trial in writing may be applied in the second instance. The trial force shall be organized and the judicial resources shall be allocated in a scientific way, and the number of judge and assistants shall be determined reasonably on a pro rata basis. The selection and management system of judges for quick trial shall be improved. New types of quick trial procedures for simple cases shall be tried, such as trial in writing, element-style trial and centralized trial; the pronouncement of judgment in court shall be encouraged for qualified cases; and the simplified ruling paper for civil case subject to quick trial shall be regulated and promoted. The trial assistance for cases subject to quick trial shall be guaranteed further from the perspective of scientific scheduling, electronic service, simplified service and intensive preservation measures. The application of technology measures in quick trial and expedited proceedings for the realization of the simplified and quick trial of simple cases. Such technology measures include, but not limited to, intelligent speech recognition, intelligent quick trial system, on-line trial and electronic service system. An intensive supervision shall be given by courts at each level on cases for which the quick trial is available and a case quality check and assessment system shall be developed to supervise the quality, efficiency and result of cases.

2. Strengthening the mediation organization and the mediator management and guidance.

2.1. Refining the specially-invited mediation system

The establishment of a specially-invited mediation system cross sectors and fields shall be promoted by each department of Guangzhou Intermediate People's Court and the responsible departments of grass-roots level courts. Various types of dispute resolution forces shall be mobilized, including trade unions, the Communist Youth League, women's federations, law societies, administrative organs, arbitration agencies, notary agencies, industry associations, trade organizations, people's mediation committees, chambers of commerce, lawyers, experts and scholars, to select and hire qualified organizations and people to serve as specially-invited mediation organizations or specially-invited mediators, or the working mechanism for connection of litigation and mediation shall be established with targeted mediation organizations by means of a cooperation agreement or otherwise. A register of mediator and a mediator profile database shall be established for specially-invited mediation organizations and mediators according to the courts connected with and their professional fields, which shall be incorporated with the On-line Dispute Resolution (ODR) platform for unified management so as to provide the parties in dispute with "menu-guided" choices.

2.2. Promoting the establishment of industry-based and profession-based mediation organizations

The establishment of industry-based and profession-based mediation organizations shall be promoted with the coordination of judicial administrative organs, finance, housing and construction, tourism, market supervision, human resources and social security authorities, chambers of commerce, industry associations and trade organizations and other departments in accordance with the reality and features of disputes in relevant industry and fields; efforts shall be made for the exploration of marketable and neutral commercial mediation service with

payment for civil and commercial cases to broaden the channel for dispute resolution. For agreements reached upon commercial mediation, volunteer performance is encouraged, and if necessary, the parties in dispute shall be guided to apply for payment order, provide notarized credit documents vested with the power of enforcement, apply for arbitration or for judicial confirmation. That is the way to transform from unpaid to paid service, from mediation assigned or entrusted by courts to mediation selected proactively by the parties and from litigation domination to multi dispute resolution. The mediation assignment and entrustment shall be improved for disputes concerning traffic and transportation, families, labor disputes, finance, intellectual property, tourism and property management and for contract disputes. The double-way connection shall be strengthened by means of staff stationing and work station establishment at each other's site and the share of mediation platforms to improve the convenience and benefit of mediation services and intensify the communication, cooperation and information sharing.

2.3. Playing the role of lawyer mediation officers

The lawyer mediation officers shall be established jointly with justice bureau and bar associations both at grass-roots level courts and the intermediate court. The working mechanism for connection of litigation and mediation shall be further enhanced to take full advantage of the specialization and professionalism of lawyer. The potential of lawyers to participate in dispute resolution shall be tapped and working mechanism shall be built for lawyers to inform the parties of the non-litigation methods to dispute resolution when accepting the principal-agent business.

2.4. Strengthening the mediation organization and the mediator management and guidance.

Institutionalized rules and policies shall be explored and issued actively in accordance with the objective realities and needs to regulate the rules on recommendation, review, employment, training, assessment, rewards and punishments, exit, confidentiality in respect of specially-invited mediation organizations and mediators and specifying the procedures for handling the cases assigned or entrusted to refine the management and guidance on specially-invited mediation organizations and mediators and ensure the smooth connection of litigation and mediation and the validity and fairness of mediation. Mediators shall be selected in a neutral, impartial and professional way and managed by category, such as specially-invited, full-time and part-time ones. Specific administration rules on their performance assessment shall be issued to identify their mediation tasks and to establish a mediation expense guarantee mechanism, based on which, mediation organizations and mediators which are incompetent at mediation shall be removed timely and those with an outstanding performance shall be granted with positive incentives.

3. Improving one-stop dispute resolution platform

3.1. Promoting the application of on-line dispute resolution (ODR) platform

As a comprehensive dispute resolution platform for "litigation, arbitration and mediation", a special column shall be opened in "On-line Litigation Service Center" page of gzcourt.org.cn to speed up the connection of the mediation platform of courts with arbitration, notarization, people's mediation, commercial mediation,

trade mediation, lawyer mediation and other non-litigation dispute resolution platforms and finally develop a on-line linked dispute resolution working system. The ODR platforms shall be launched at all courts of Guangzhou and shall be interconnected with the case filing and trial system of courts, by which, cases may be assigned or entrusted for mediation on such platforms. Platforms developed by basic courts internally shall be connected to the ODR platform for data interchange and information sharing. A vertical data transmission channel shall be opened at the level of basic court, intermediate court, high court and Supreme Court to ensure the truthful reflection of mediation data at the medication platform of the Supreme People's Court. The name lists of mediation organization and mediators shall be collected by types of people's mediation, professional mediation, industrial mediation, commercial mediation, lawyer mediation and invited mediation and shall be registered in and displayed on the platform for their dynamic management. The register book of Guangzhou Intermediate People's Court may be shared with basic courts and those of basic courts may be used by other courts with the consent of targeted mediation organizations or through a connection mechanism established with such organizations, promoting the share of mediation resources within the whole city. The information record, flow of work, mediation agreement, application for judicial confirmation, agreement performance and other activities during the mediation on ODR platform shall be recorded accordingly; result of mediation shall be recorded on the platform and reported to the case filing and trial system. The mediation record book management shall be further enforced and the data statistics and analysis shall be strengthened.

3.2.Encouraging other on-line mediation

For the purpose of improving the efficiency of on-line mediation and for more convenience of the parties in dispute, in addition to the ODR platform, on-line mediation by means of video, telephone and WeChat shall be explored actively; the mediation agreement or the transcript of mediation is allowed to be confirmed by electronic signature and other on-line means; subsequent verification of mediation materials and judicial confirmation may also be made on-line with the consent of the parties; the parties in dispute may be asked to jointly complete verification on site if the judge consider it necessary and litigation instruments may be served electronically with the consent of the parties.

4. Improving supporting guarantee measures

4.1. Establishing a management mechanism for overall coordination

A special work leading group for the “Two One-Stop” works shall be set up both at the grass-roots level courts and the Intermediate Court to manage the establishment of the “One-stop Dispute Resolution Center” as its top leadership project. At Guangzhou Intermediate People's Court, the Case Filing Chamber shall manage the pre-litigation mediation and the establishment of the “One-stop Dispute Resolution Center” with the cooperation of other departments; a special communication mechanism for the pre-litigation mediation and diversified dispute resolution shall be developed both at the basic court level and at the intermediate court level. The trial and execution departments of Guangzhou Intermediate People's Court and each basic court shall designate a staff for the communication and coordination, data report and supervision of special work to identify the responsibilities to guarantee the work achievement.

4.2. Developing special assessment and notification system

In order to raise the enthusiasm of guiding non-litigation dispute resolution, the weight of pre-litigation mediation in performance assessment system shall be increased to incorporate the pre-litigation exportation of dispute, assignment for mediation, judicial conformation and other factors into the performance assessment. A regular notification mechanism for data of cases subject to pre- and inter-litigation mediation shall be developed to regulate the monthly data statistic, ranking notification and quarterly special work reporting of the diversified dispute resolution carried out in each grass-roots level court. A special column for the “Connection of Litigation and Mediation” shall be set up on the intranet of the Intermediate Court for the display of the information on work undertaken by each department of the Intermediate Court and each grass-roots level court in respect of the connection of litigation and mediation mechanism and of the monthly statistical data, which shall be collected and updated in real-time by department, case type or other categories.

4.3. Exploring the leverage of legal costs

The exploration and use of the leverage of legal costs shall be encouraged for the stage of early and pilot implementation. In consideration of the availability of mediation, the cooperation of the parties in dispute and other factors, the court may, as appropriate, increase the burden of litigation costs of a party in dispute by more than 30% if such party fails to participate in mediation without reasonable cause or refuses to perform the mediation agreement or intentionally delays the litigation; instead, the litigation costs may be reduced appropriately for the party accepting the mediation entrusted by the court.

4.4. Exploring the record of undisputed facts

In case of no mediation agreement, the undisputed facts put forward in mediation shall be recorded in writing by the mediator with the consent of the parties in dispute and such record shall be signed by the parties for confirmation. The parties bear no burden of proof in the litigation for the confirmed undisputed facts, other than those involving interests of the state, the public interest and the legitimate rights and interests of others.

4.5. Improving the publicity and promotion

The non-litigation dispute resolution mechanisms and the mediation platforms of people's court may be further publicized and promoted by following means: typical pre-litigation mediation cases (including typical cases for disputes resolved by mediation assignment and entrustment, on-line mediation and otherwise) shall be published regularly or from time to time for the reference and study of mediators; a special area shall be designated to display leaflets in the Litigation Service Hall, or the propaganda content shall be rolling displayed on electronic screens to improve the case exposure to the parties, publicize the convenience and economy of mediation, and widen the publicity of typical cases of mediation; each basic court shall set up a litigation consultation, guidance and evaluation area in the Litigation Service Center, equipped with special personnel and corresponding intelligent equipment, to provide litigation result evaluation service and guide the parties in dispute to choose the most appropriate way for dispute resolution.

February 28, 2020