Table of Contents

The Author	3
List of Abbreviations	13
General Introduction	15
§1. GENERAL BACKGROUND	15
 §2. GENERAL INTRODUCTION OF CHINESE CIVIL PROCEDURE SYSTEM AND DISTINCTION WITH OTHER TYPES OF PROCEDURE I. Concept of Civil Procedure II. Distinction with Criminal Procedure III. Distinction with Administrative Procedure IV. Distinction with Arbitration V. Civil Procedure and Conciliation VI. Civil Procedure and Notary Law §3. SOURCES OF CIVIL PROCEDURE LAW §4. FUNDAMENTAL PRINCIPLES OF THE CCPL I. The Principles Reflecting the Fundamental Guarantees II. The Principles Directing the Characteristics of Civil Procedure III. The Principles Particularly Applicable to Foreign Litigants 	18 18 18 19 19 22 23 24 25 25 28 30
Part I. Judicial Organization	33
Chapter 1. The Courts and Their Members	33
§1. COURT I. Structure of the Court System II. Administration of the People's Court	33 33 34
§2. MEMBER OF THE JUDICIARY I. Qualification and Appointment of Judges II. Other Judicial and Personnel in the People's Court	36 36 39

Table of Contents		Table of Co	ntents
III. The System of Withdrawal for Judges IV. Awards and Sanctions for Judges	39 42	IV. Jurisdiction Based upon AgreementV. Jurisdiction Based upon RecognitionVI. Exclusive Jurisdiction	68 68 69
Chapter 2. The Bar	44	§2. International Treaties	69
§1. EXERCISE OF THE LEGAL PROFESSION I. Brief Introduction to the Lawyers System in China II. Conditions for Admission to Be an Agent Ad Litem	44 44 44	Part III. Actions and Claims	71
III. Conditions for Admission to Be a Lawyer IV. Rights and Duties	46 46	Chapter 1. Actions	71
V. Discipline	48	§1. DEFINITION	71
§2. Public Institutions and Private Organizations	51	§2. ADMISSIBILITY OF THE ACTION I. Plaintiff	71 72
Chapter 3. The Bailiff	53	II. Collective Actions III. The Third-Party Action	73 74
§1. Exercise of the Profession	53	IV. Detendant V. The Formal Requirements	75 75
§2. Organizations	53	VI. The Inadmissible Situations	76
Part II. Jurisdiction	55	§3. VEXATIOUS LITIGATION	77
Chapter 1. Domestic Jurisdiction	55	Chapter 2. Claims and Defences	78
§1. JURISDICTION IN GENERAL I. Competency and Jurisdiction	55	§1. CLAIMS	78
II. Jurisdiction in General	55	§2. DEFENCES I. Rebuttal	79 80
§2. SUBJECT MATTER JURISDICTION	50	II. Counterclaim	80
§3. JURISDICTION BY LEVEL OF COURT	55 55 56 50 58	Chapter 3. Sanctions on Procedural Irregularities	82
§4. TERRITORIAL JURISDICTION (VENUE) I. General Territorial Jurisdiction II. Special Territorial Jurisdiction	61	§1. Compulsory Measures against Obstruction of Civil Proceedings	82
III. Exclusive Jurisdiction and Jurisdiction Based upon an Agreement	62 64	§2. TIME LIMITS	84
§5. Transfer and Designation of Jurisdiction	65	Part IV. Proceedings	8'
Chapter 2. International Jurisdiction	67	Chapter 1. Pre-trial Proceedings: Preparations for Trial	8
I. RULES APPLICABLE IN THE ABSENCE OF A TREATY I. Introduction to the Applicable Principles II. The Principle of Territorial Jurisdiction III. Other Principles	67 67 67 68	I. Exchange of PleadingsII. Notice ServiceIII. Examination of Litigant MaterialsIV. Additional Participants	8 9 9

Table of Contents		Table of Contents
Chapter 2. Proceedings in First Instance	92	§2. OTHER FEES 116
§1. DEFINITION AND PRINCIPLES	92	§3. PAYMENT OF THE COSTS 116
§2. TRIAL IN COURT I. Preparation for Trial in Court	92 93	Chapter 2. Legal Aid
II. Court Investigation III. Court Debate	93 93	§1. THE LEGAL AID FROM THE COURT
IV. Deliberation V. Judgment	94 95	§2. LEGAL AID FROM THE LEGAL AID INSTITUTIONS 120
VI. Adjourned Trial VII. Suspension and Termination of Legal Proceedings	97 98	Part VII. Evidence
§3. Default Proceedings	98	Chapter 1. Burden of Proof 123
§4. Summary Procedure	99	Chapter 2. Preservation and Collection of Evidence 126
Chapter 3. Review Proceedings	101	§1. COLLECTION OF EVIDENCE 126
§1. APPEAL	101	§2. Preservation of Evidence 127
I. Conditions to Appeal II. Procedure for Lodging and Entertaining an Appeal	101 102	Chapter 3. Admissibility of Evidence 129
III. Appeal ProceedingsIV. Judgments and Rulings by the Court of Appeal	103 104	Chapter 4. Administration of Evidence 130
§2. PROCEDURE FOR TRIAL SUPERVISION I. Judicial Supervision	104	§1. Types of Evidence 130
II. Procuratorial Supervision III. Retrial by the Application of the Party	105	§2. DOCUMENTARY AND MATERIAL EVIDENCE 130
Part V. Incidents	109	§3. AUDIO-VISUAL MATERIAL AND ELECTRONIC DATA AS EVIDENCE 130
§1. JOINDER OF ACTION	109	§4. TESTIMONY OF WITNESSES AND STATEMENTS OF THE PARTIES 131
§2. DISCONTINUANCE, SUSPENSION AND TERMINATION OF ACTION	109	§5. EXPERT OPINION AND RECORDS OF INSPECTION 131
§3. Procedural Measures	110	Part VIII. Particular Proceedings
Part VI. Legal Costs and Legal Aid	111	Chapter 1. Special Procedure 134
		§1. Cases Concerning the Qualification of Voters 134
Chapter 1. Legal Costs	111	§2. Cases Concerning the Declaration of a Person as Missing OR Dead 135
§1. Costs to the Court in General	111 111	OR DEAD 135

112

II. The Court Fees

138

§3. Cases Concerning the Adjudgment of Legal Incapacity or Restricted Legal Capacity of a Citizen

Table of Contents

§4. Cases Concerning the Determination of Property as Ownerless	139
§5. Cases Concerning the Confirmation of a Mediation Agreement	140
§6. Cases Concerning the Realization of the Tangible Property as Security	140
Chapter 2. Procedure for Hastening Debt Recovery	141
Chapter 3. Procedure for Publicizing Public Notice for Assertion of Claims	143
Chapter 4. Procedure for Bankruptcy and Debt Repayment of Legal Person Enterprises	145
§1. THE SUBMISSION AND ACCEPTANCE OF BANKRUPTCY APPLICATION	145
§2. Creditors and the Creditors' Meeting	147
§3. SETTLEMENT AND REORGANIZATION	149
§4. BANKRUPTCY LIQUIDATION	151
Chapter 5. The Special Procedure of Maritime Litigation	153
§1. JURISDICTION	153
§2. Preservation	153
§3. MARITIME COMPULSORY ORDER, PRESERVATION OF EVIDENCE AND GUARANTY	154
§4. Trial Proceedings	155
§5. THE LIMITED FUND FOR RESPONSIBILITY	156
§6. REGISTRATION OF CREDITOR'S RIGHTS	156
§7. Preference Right for the Ship	157
Part IX. Property Preservation, Advance Execution and Enforcement of Judgment	159
Chapter 1. Property Preservation and Advance Execution	159

Table	of	Contents
TESTOR	CO.II.	Commente

§1. PROPERTY PRESERVATION I. Property Preservation before Judgment II. Property Preservation before Litigation III. The Execution of Property Preservation IV. Property Preservation in the Cases Involving Foreign Elements	159 159 159 160
§2. Advance Execution	161
Chapter 2. Enforcement of Judgment	162
§1. Enforcement in General	162
§2. JURISDICTION OF ENFORCEMENT	162
§3. APPLICATION FOR ENFORCEMENT	163
§4. IMPLEMENTATION OF ENFORCEMENT	164
§5. MEASURES OF ENFORCEMENT	166
§6. Suspension and Termination of Enforcement	168
§7. Enforcement in the Cases Involving Foreign Elements	168
Part X. Arbitration	171
§1. JURISDICTION OF ARBITRATION	171
§2. ARBITRATOR AND ARBITRATION COMMISSION I. Arbitrator II. Arbitration Commission III. Arbitration Tribunal IV. China Arbitration Association	172 172 173 173 174
§3. Arbitration Agreement	174
§4. ARBITRATION PROCEDURE I. Application and Acceptance II. Preparation before Opening of Hearing III. Hearing and Award IV. Application for Annulling Arbitration Award	175 175 176 177
and Enforcement	178

Table of Contents

§5. Arbitration Involving Foreign Elements	179
§6. Arbitration of Labour Disputes and Rural Land Contract Disputes	180
Selected Bibliography	185
Index	187

Atth. In Man Bookshop. com