

## 7.最高法院民事上訴發回或發交更審事件次數及原因－按機關別分

中華民國 102 年

單位：件;%

| 機關別<br><br>Organ                                  | 裁判件數<br><br>Cases repealed | 發回或發交更審原因     |                |   |   |  |  |   |
|---|----------------------------|---------------|----------------|---|---|--|--|---|
|   |                            | 合計 Total      |                | 調查證據不詳或未予調查<br><br>Incomplete or no investigation of evidence | 採用證據未說明理由<br><br>No reason provided for evidence admitted | 未採用證據未說明理由<br><br>No reason provided for evidence not admitted | 事實認定錯誤不符或不明或記載不明<br><br>Erroneous, inconsistent, or unclear ascertainment of facts or unclear record | 已受請求事項未為判決<br><br>No judgment on a claimed matter |
|   |                            | 全部<br><br>All | 部分<br><br>Part |   |   |  |  |   |
| <b>合計</b>   | <b>2 547</b>               | <b>541</b>    | <b>110</b>     | <b>212</b>  | <b>6</b>  | <b>25</b>  | <b>199</b>   | <b>2</b>  |
| 臺灣高等法院<br>Taiwan High Court                       | 1 451                      | 303           | 70             | 131   | 4   | 14   | 111  | 2   |
| 臺灣高等法院臺中分院<br>Taiwan High Court, Taichung branch  | 422                        | 105           | 14             | 34  | 1   | 5  | 37   | -   |
| 臺灣高等法院臺南分院<br>Taiwan High Court, Tainan branch    | 243                        | 52            | 11             | 23  | 1   | 4  | 13   | -   |
| 臺灣高等法院高雄分院<br>Taiwan High Court, Kaohsiung branch | 298                        | 57            | 11             | 16  | -   | 1  | 28   | -   |
| 臺灣高等法院花蓮分院<br>Taiwan High Court, Hualien branch   | 35                         | 10            | 1              | 3   | -   | -  | 6  | -   |
| 福建高等法院金門分院<br>Fujian High Court, Kinmen branch    | 9                          | -             | -              | -   | -   | -  | -  | -   |
| 智慧財產法院<br>Intellectual Property Court             | 57                         | 9             | 3              | 3   | -   | 1  | 2  | -   |
| 臺灣臺北地方法院<br>Taiwan Taipei District Court          | 12                         | 1             | -              | -   | -   | -  | 1  | -   |
| 臺灣士林地方法院<br>Taiwan Shilin District Court          | 6                          | 1             | -              | 1   | -   | -  | -  | -   |
| 臺灣新北地方法院<br>Taiwan New Taipei District Court      | 5                          | -             | -              | -   | -   | -  | -  | -   |
| 臺灣桃園地方法院<br>Taiwan Taoyuan District Court         | 2                          | 1             | -              | 1   | -   | -  | -  | -   |
| 臺灣新竹地方法院<br>Taiwan Hsinchu District Court         | -                          | -             | -              | -   | -   | -  | -  | -   |
| 臺灣苗栗地方法院<br>Taiwan Miaoli District Court          | -                          | -             | -              | -   | -   | -  | -  | -   |
| 臺灣臺中地方法院<br>Taiwan Taichung District Court        | 2                          | -             | -              | -   | -   | -  | -  | -   |
| 臺灣南投地方法院<br>Taiwan Nantou District Court          | 1                          | 1             | -              | -   | -   | -  | 1  | -   |
| 臺灣彰化地方法院<br>Taiwan Changhua District Court        | 1                          | -             | -              | -   | -   | -  | -  | -   |
| 臺灣雲林地方法院<br>Taiwan Yunlin District Court          | -                          | -             | -              | -   | -   | -  | -  | -   |
| 臺灣嘉義地方法院<br>Taiwan Chiayi District Court          | 1                          | -             | -              | -   | -   | -  | -  | -   |
| 臺灣臺南地方法院<br>Taiwan Tainan District Court          | -                          | -             | -              | -   | -   | -  | -  | -   |
| 臺灣高雄地方法院<br>Taiwan Kaohsiung District Court       | 1                          | 1             | -              | -   | -   | -  | -  | -   |
| 臺灣屏東地方法院<br>Taiwan Pingtung District Court        | -                          | -             | -              | -   | -   | -  | -  | -   |
| 臺灣臺東地方法院<br>Taiwan Taitung District Court         | -                          | -             | -              | -   | -   | -  | -  | -   |
| 臺灣花蓮地方法院<br>Taiwan Hualien District Court         | -                          | -             | -              | -   | -   | -  | -  | -   |
| 臺灣宜蘭地方法院<br>Taiwan Ilan District Court            | 1                          | -             | -              | -   | -   | -  | -  | -   |
| 臺灣基隆地方法院<br>Taiwan Keelung District Court         | -                          | -             | -              | -   | -   | -  | -  | -   |
| 臺灣澎湖地方法院<br>Taiwan Penghu District Court          | -                          | -             | -              | -   | -   | -  | -  | -   |
| 福建金門地方法院<br>Fujian Kinmen District Court          | -                          | -             | -              | -   | -   | -  | -  | -   |
| 福建連江地方法院<br>Fujian Lienchiang District Court      | -                          | -             | -              | -   | -   | -  | -  | -   |

## 7. Frequencies and Causes of Civil Appeals Cases Remanded or Assigned for New Trial by Supreme Court – by Organ

2013

Unit: case;%

| Grounds for remand or assignment for new trial |  |                            |   |                                       |                              |  |  |
|--|--|----------------------------|---|---------------------------------------|------------------------------|--|--|
| 未受請求事項而為判決                                     | 判決不適用法規或適用不當   | 法院組織不合法                    | 應迴避之法官參與裁判                                      | 判決理由矛盾                                | 證據未提示                        | 未予當事人完全辯論之機會                                     | 未經參與辯論法官參與判決   |
| Judgment on an unclaimed matter                | Judgment that does not apply or improperly applies a law or regulation | Illegal court organization | Disqualified judge participates in adjudication | Contradiction of reasons for judgment | Non-presentation of evidence | Chance of complete argument not given to parties | Judge not participating in argument participates in judgment |
| 3  | 75   | -                          | -   | 20                                    | -                            | 3  | 1  |
| 2  | 42   | -                          | -   | 12                                    | -                            | 2  | -  |
| -  | 15   | -                          | -   | 2                                     | -                            | -  | 1  |
| -  | 9  | -                          | -   | 2                                     | -                            | -  | -  |
| -  | 6  | -                          | -   | 3                                     | -                            | -  | -  |
| 1  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | 2  | -                          | -   | 1                                     | -                            | 1  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -   | -                                     | -                            | -  | -  |
| -  | -  | -                          | -</   |                                       |                              |  |  |

7.最高法院民事上訴發回或發交更審事件次數及原因－按機關別分(續完)

中華民國 102 年

單位：件；%

| 機關別<br>Organ                                      | 發回或發交更審原因 Grounds for remand or assignment for new trial     |                                    |   |  |  |                         |                                    |  |  |       |
|---|--|------------------------------------|---|--|--|-------------------------|------------------------------------|--|--|-------|
|   | 未到場當事人未經合法通知而為判決   | 未行使闡明權                             | 未盡命舉證責任                                   | 採用攻擊或防禦方法未說明理由   | 未採用攻擊或防禦方法未說明理由  | 當事人不適格                  | 訴訟未經合法代理                           | 違背言詞辯論公開之規定                            | 法院權限之有無辨別不當或違背專屬管轄   | 其他    |
|   | Judgment made in the absence of a party not legally summoned | Right of elucidation not exercised | Failure to order presentation of evidence | No reason provided for accepting an offense or defense | No reason provided for not accepting an offense or defense | Incompetence of a party | Litigation not legally represented | Violation of the rule of open argument | Improidentification of court jurisdiction or violation of exclusive jurisdiction | Other |
| 合計  | 1  | 26                                 | 15  | 2  | 59   | -                       | 1                                  | -                                      | -  | 1     |
| 臺灣高等法院<br>Taiwan High Court                       | -  | 14                                 | 7   | 1  | 30   | -                       | 1                                  | -                                      | -  | -     |
| 臺灣高等法院臺中分院<br>Taiwan High Court, Taichung branch  | -  | 9                                  | 2   | -  | 13   | -                       | -                                  | -                                      | -  | -     |
| 臺灣高等法院臺南分院<br>Taiwan High Court, Tainan branch    | -  | 2                                  | 3   | -  | 5  | -                       | -                                  | -                                      | -  | 1     |
| 臺灣高等法院高雄分院<br>Taiwan High Court, Kaohsiung branch | 1  | 1                                  | 2   | -  | 10   | -                       | -                                  | -                                      | -  | -     |
| 臺灣高等法院花蓮分院<br>Taiwan High Court, Hualien branch   | -  | -                                  | -   | 1  | -  | -                       | -                                  | -                                      | -  | -     |
| 福建高等法院金門分院<br>Fujian High Court, Kinmen branch    | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 智慧財產法院<br>Intellectual Property Court             | -  | -                                  | 1   | -  | 1  | -                       | -                                  | -                                      | -  | -     |
| 臺灣臺北地方法院<br>Taiwan Taipei District Court          | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣士林地方法院<br>Taiwan Shilin District Court          | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣新北地方法院<br>Taiwan New Taipei District Court      | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣桃園地方法院<br>Taiwan Taoyuan District Court         | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣新竹地方法院<br>Taiwan Hsinchu District Court         | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣苗栗地方法院<br>Taiwan Miaoli District Court          | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣臺中地方法院<br>Taiwan Taichung District Court        | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣南投地方法院<br>Taiwan Nantou District Court          | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣彰化地方法院<br>Taiwan Changhua District Court        | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣雲林地方法院<br>Taiwan Yunlin District Court          | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣嘉義地方法院<br>Taiwan Chiayi District Court          | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣臺南地方法院<br>Taiwan Tainan District Court          | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣高雄地方法院<br>Taiwan Kaohsiung District Court       | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣屏東地方法院<br>Taiwan Pingtung District Court        | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣臺東地方法院<br>Taiwan Taitung District Court         | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣花蓮地方法院<br>Taiwan Hualien District Court         | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣宜蘭地方法院<br>Taiwan Ilan District Court            | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣基隆地方法院<br>Taiwan Keelung District Court         | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 臺灣澎湖地方法院<br>Taiwan Penghu District Court          | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 福建金門地方法院<br>Fujian Kinmen District Court          | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |
| 福建連江地方法院<br>Fujian Lienchiang District Court      | -  | -                                  | -   | -  | -  | -                       | -                                  | -                                      | -  | -     |

