

## 6.最高法院民事上訴發回或發交更審事件次數及原因－按年別分

單位：件

| 年別<br><br>Year | 裁判件數<br><br>Cases repealed | 發回或發交更審原因     |                |                                                                                |                                                                        |                                                                             |                                                                                                                                 |                                                             |
|----------------|----------------------------|---------------|----------------|--------------------------------------------------------------------------------|------------------------------------------------------------------------|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
|                |                            | 合計 Total      |                | 調查證據<br>不詳或未<br>予調查<br><br>Incomplete or<br>no<br>investigation of<br>evidence | 採用證據未<br>說明理由<br><br>No reason<br>provided for<br>evidence<br>admitted | 未採用證據<br>未說明理由<br><br>No reason<br>provided for<br>evidence not<br>admitted | 事實認定<br>錯誤不符<br>或不明或<br>記載不明<br><br>Erroneous,<br>inconsistent, or<br>unclear<br>ascertainment<br>of facts or<br>unclear record | 已受請求事<br>項未為判決<br><br>No judgment<br>on a claimed<br>matter |
|                |                            | 全部<br><br>All | 部分<br><br>Part |                                                                                |                                                                        |                                                                             |                                                                                                                                 |                                                             |
| 民國 85 年 1996   | 3 230                      | 1 217         | 137            | 747                                                                            | 41                                                                     | 74                                                                          | 262                                                                                                                             | 2                                                           |
| 民國 86 年 1997   | 3 974                      | 1 392         | 166            | 817                                                                            | 56                                                                     | 57                                                                          | 342                                                                                                                             | -                                                           |
| 民國 87 年 1998   | 3 148                      | 1 197         | 145            | 660                                                                            | 43                                                                     | 39                                                                          | 375                                                                                                                             | -                                                           |
| 民國 88 年 1999   | 3 585                      | 1 073         | 125            | 763                                                                            | 47                                                                     | 12                                                                          | 245                                                                                                                             | -                                                           |
| 民國 89 年 2000   | 3 029                      | 1 000         | 135            | 534                                                                            | 30                                                                     | 41                                                                          | 344                                                                                                                             | 1                                                           |
| 民國 90 年 2001   | 2 505                      | 722           | 77             | 355                                                                            | 20                                                                     | 32                                                                          | 200                                                                                                                             | 2                                                           |
| 民國 91 年 2002   | 2 694                      | 837           | 92             | 293                                                                            | 24                                                                     | 65                                                                          | 211                                                                                                                             | 2                                                           |
| 民國 92 年 2003   | 2 873                      | 790           | 114            | 268                                                                            | 41                                                                     | 73                                                                          | 297                                                                                                                             | 1                                                           |
| 民國 93 年 2004   | 2 689                      | 657           | 102            | 214                                                                            | 62                                                                     | 65                                                                          | 200                                                                                                                             | 1                                                           |
| 民國 94 年 2005   | 2 443                      | 541           | 71             | 193                                                                            | 27                                                                     | 43                                                                          | 161                                                                                                                             | 3                                                           |

## 6. Frequencies and Causes of Civil Appeals Cases Remanded or Assigned for New Trial by the Supreme Court — by Year

Unit: case

| Grounds for remand or assignment for new trial    |                                                                                            |                                           |                                                                   |                                                     |                                           |                                                                      |                                                                                  |
|---------------------------------------------------|--------------------------------------------------------------------------------------------|-------------------------------------------|-------------------------------------------------------------------|-----------------------------------------------------|-------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------------------|
| 未受請求事項而為判決<br><br>Judgment on an unclaimed matter | 判決不適用法規或適用不當<br><br>Judgment that does not apply or improperly applies a law or regulation | 法院組織不合法<br><br>Illegal court organization | 應迴避之法官參與裁判<br><br>Disqualified judge participates in adjudication | 判決理由矛盾<br><br>Contradiction of reasons for judgment | 證據未提示<br><br>Non-presentation of evidence | 未予當事人完全辯論之機會<br><br>Chance of complete argument not given to parties | 未經參與辯論法官參與判決<br><br>Judge not participating in argument participates in judgment |
| 1                                                 | 19                                                                                         | -                                         | -                                                                 | 26                                                  | -                                         | 3                                                                    | -                                                                                |
| -                                                 | 43                                                                                         | 3                                         | -                                                                 | 32                                                  | -                                         | 1                                                                    | 3                                                                                |
| 1                                                 | 16                                                                                         | 2                                         | 2                                                                 | 15                                                  | -                                         | -                                                                    | 2                                                                                |
| 1                                                 | -                                                                                          | 2                                         | 1                                                                 | 3                                                   | -                                         | -                                                                    | 2                                                                                |
| 2                                                 | 13                                                                                         | 1                                         | 3                                                                 | 23                                                  | -                                         | 3                                                                    | 4                                                                                |
| 3                                                 | 13                                                                                         | 4                                         | -                                                                 | 29                                                  | -                                         | 1                                                                    | -                                                                                |
| 8                                                 | 31                                                                                         | 1                                         | -                                                                 | 78                                                  | 1                                         | 4                                                                    | -                                                                                |
| 4                                                 | 33                                                                                         | -                                         | 1                                                                 | 38                                                  | -                                         | 8                                                                    | -                                                                                |
| 10                                                | 52                                                                                         | 4                                         | 1                                                                 | 42                                                  | -                                         | 5                                                                    | -                                                                                |
| 6                                                 | 33                                                                                         | 2                                         | -                                                                 | 39                                                  | -                                         | 3                                                                    | -                                                                                |

## 6.最高法院民事上訴發回或發交更審事件次數及原因－按年別分(續完)

單位：件

| 年別<br><br>Year | 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 |
| 民國 85 年 1996   | -                                                            | 18                                 | 16                                        | 2                                                      | 143                                                        | -                       | -                                  | -                                      | -                                                                                | -     |
| 民國 86 年 1997   | 2                                                            | 19                                 | 16                                        | -                                                      | 157                                                        | 3                       | 2                                  | -                                      | 3                                                                                | 2     |
| 民國 87 年 1998   | -                                                            | 8                                  | 17                                        | 110                                                    | 47                                                         | 5                       | -                                  | -                                      | -                                                                                | -     |
| 民國 88 年 1999   | 2                                                            | 9                                  | 9                                         | 68                                                     | 34                                                         | -                       | -                                  | -                                      | -                                                                                | -     |
| 民國 89 年 2000   | 1                                                            | 3                                  | 15                                        | 51                                                     | 61                                                         | 2                       | 2                                  | -                                      | -                                                                                | 1     |
| 民國 90 年 2001   | 1                                                            | 10                                 | 20                                        | 9                                                      | 96                                                         | 3                       | 1                                  | -                                      | -                                                                                | -     |
| 民國 91 年 2002   | 5                                                            | 30                                 | 24                                        | 3                                                      | 144                                                        | 3                       | 1                                  | -                                      | -                                                                                | 1     |
| 民國 92 年 2003   | 5                                                            | 15                                 | 18                                        | 9                                                      | 85                                                         | 3                       | 2                                  | -                                      | 1                                                                                | 2     |
| 民國 93 年 2004   | 3                                                            | 17                                 | 18                                        | 2                                                      | 57                                                         | 1                       | 3                                  | -                                      | -                                                                                | 2     |
| 民國 94 年 2005   | -                                                            | 19                                 | 8                                         | 2                                                      | 67                                                         | 2                       | 4                                  | -                                      | -                                                                                | -     |

## 6. Frequencies and Causes of Civil Appeals Cases Remanded or Assigned for New Trial by the Supreme Court — by Year(Cont.End)

Unit: case

| 發回件數占<br>裁判件數百<br>分比<br><br>Percentage of<br>remanded<br>cases among<br>total<br>adjudicated<br>cases | 發回或發交更審次數 Frequency of cases remanded or assigned for new trial |             |            |            |            |            |              |                                       |       |
|-------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|-------------|------------|------------|------------|------------|--------------|---------------------------------------|-------|
|                                                                                                       | 合計                                                              | 第一次         | 第二次        | 第三次        | 第四次        | 第五次        | 第六次          | 第七次                                   | 第八次以上 |
| Total                                                                                                 | First time                                                      | Second time | Third time | Forth time | Fifth time | Sixth time | Seventh time | Eighth or<br>more than<br>eighth time |       |
| 39.80                                                                                                 | 1 354                                                           | 927         | 270        | 102        | 38         | 11         | 3            | 3                                     | -     |
| 37.12                                                                                                 | 1 558                                                           | 1 136       | 278        | 101        | 28         | 8          | 2            | 2                                     | 3     |
| 40.33                                                                                                 | 1 342                                                           | 924         | 261        | 100        | 39         | 10         | 6            | 1                                     | 1     |
| 31.67                                                                                                 | 1 198                                                           | 810         | 244        | 93         | 30         | 13         | 3            | 2                                     | 3     |
| 35.24                                                                                                 | 1 135                                                           | 746         | 238        | 99         | 32         | 14         | 2            | 3                                     | 1     |
| 30.36                                                                                                 | 799                                                             | 496         | 182        | 70         | 36         | 11         | 2            | 1                                     | 1     |
| 32.78                                                                                                 | 929                                                             | 645         | 177        | 61         | 23         | 17         | 3            | 1                                     | 2     |
| 29.48                                                                                                 | 904                                                             | 670         | 158        | 53         | 15         | 4          | 4            | -                                     | -     |
| 26.33                                                                                                 | 759                                                             | 561         | 135        | 44         | 14         | 2          | 1            | -                                     | 2     |
| 23.60                                                                                                 | 612                                                             | 464         | 111        | 25         | 7          | 2          | 2            | 1                                     | -     |