

Special Representative Litigation in the Field of Civil Securities Disputes Brief Analysis of the System

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Abstract. As a kind of institutional innovation, the special representative litigation for securities civil disputes is of great value to protect the interests of small and medium-sized investors, enhance the efficiency of class action litigation, and promote judicial fairness and justice. This paper focuses on the institutional innovation, characteristics, superiority and shortcomings of the special representative litigation for securities civil disputes, and examines the policy suggestions for its improvement under the premise of guaranteeing fairness from three dimensions: dynamic mechanism, long-term mechanism and management mechanism.

Keywords: Special Representative Litigation System for Securities Civil Disputes; Litigation Trust; Litigation Economy.

1. Overview

According to the third paragraph of Article 95 of the Securities Law, special representative litigation means that the investor protection agency, entrusted by more than fifty investors, may participate in the litigation as a special representative and register with the people's court in accordance with the provisions of the preceding paragraph for the rights holders confirmed by the securities registration and settlement agency, except where the investor expressly does not wish to participate in such litigation. Special representatives have the following characteristics:

1.1 Public Welfare

First, the subject of the special representative litigation has a public interest. As the main body of the special representative litigation system, the main function of the investment insurance institutions is to promote and educate investors in the public interest, provide services entrusted by investors to resolve disputes, reflect the requirements of the government regulators on behalf of investors, such as small and medium-sized investors service center is a securities and financial public interest institutions approved by the Securities and Futures Commission, adhere to the public interest attributes, in addition to the necessary expenses to carry out special representative litigation, do not charge any fees.[1]

Second, the proceedings of the special representative litigation system are of public interest. In addition, investors do not need to pay the case acceptance fee in advance to the court, and even if they lose the case, they can apply to the court for remission of relevant litigation costs according to the specific circumstances of the case. These provisions reduce the cost of litigation for investors, improve the efficiency of the lawsuit to protect their rights, and help solve the problem of difficulty in prosecuting and expensive to protect their rights in the case of many and scattered investors, and help get out of the "collective action dilemma".

1.2 Innovative

The investment insurance agency is an agency specially established under the Regulations on Certain Issues Concerning Representative Proceedings in Securities Disputes issued by the Supreme People's Court for the purpose of protecting small and medium-sized investors. The investment insurance agency can be entrusted to represent issuers and intermediaries in securities disputes, negotiate matters of prior payment and damaged investors, and sign agreements. They may also hold

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