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**ОБЯЗАННОСТЬ ИСТЦА ПО ОПЛАТЕ СУДЕБНЫХ
РАСХОДОВ В ПЕРВОЙ ИНСТАНЦИИ ВО ВЬЕТНАМЕ
THE PLAINTIFF'S RESPONSIBILITY TO PAY
THE COURT FEES FOR THE FIRST INSTANCE IN VIET NAM**

Аннотация: Решение гражданских дел показывает, что значительная часть дел успешно разрешается через медиацию, что подчеркивает высокую концентрацию внимания судей и их эффективные усилия в процессе медиации. Однако важной проблемой, которая возникает, является вопрос о судебных издержках, которые стороны обязаны покрыть, если они приходят к соглашению о разрешении дела. Несмотря на наличие соответствующих положений в законодательстве, они остаются неясными, что приводит к различным трактовкам и даже спорам о том, кто должен нести ответственность за оплату судебных издержек в случае успешного урегулирования спора.

Abstract: The resolution of civil cases reveals that a significant portion of cases are successfully mediated, highlighting the judges' strong focus and effective mediation efforts. However, a key issue that arises is the matter of court fees that parties must cover when they reach an agreement to settle a case. While the law includes provisions regarding this, they lack clarity, leading to varied interpretations and even debates over who should be responsible for paying the court fees in the event of a successful settlement.

Ключевые слова: суд, юридический, дело, истец, закон, Вьетнам.

Keywords: court, legal, case, plaintiff, law, Vietnam.

1. Legal Provisions on Cases Where the Plaintiff Must Pay Court Fees

1.1 In Marriage and Family Cases

Under current law, the plaintiff is typically required to pay court fees in marriage and family cases, unless exempt or relieved from payment as outlined in Clause 1, Article 11, and Clause 1, Article 12 of Resolution No. 326/2016/UBTVQH dated December 30, 2016, issued by the Standing Committee of the National Assembly, which regulates the collection, exemption, reduction, management, and use of court fees and charges [1]. Specifically, the plaintiff is obligated to pay court fees in the following situations:

First Case: Divorce Disagreement. If the plaintiff and defendant do not agree to divorce, the plaintiff is required to pay first-instance civil court fees for the divorce case, regardless of whether the Court accepts or rejects the plaintiff's request. This is stipulated by Clause 4, Article 147 of the 2015 Civil Procedure Code (CPC) and Point a, Clause 5, Article 27 of Resolution No. 326 [2].

Second Case: Dispute Over Division of Common Propert. If the plaintiff and defendant dispute the division of joint property, the plaintiff must pay court fees corresponding to the disputed property's value. This fee is similar to a civil case with a threshold value equal to the portion of property the plaintiff is entitled to. Similarly, the defendant is required to pay court fees for their share of the disputed property, based on its value as specified in Point b, Clause 5, Article 27 of ResolutionNo. 326.



Third Case: Mediation and Agreement Before Trial. In cases where the Court has conducted mediation, and while the plaintiff and defendant initially disagree on the division of joint property, they later reach an agreement before the trial begins, requesting the Court to formalize it in the judgment or decision, the plaintiff and defendant are each required to pay 50% of the first-instance civil court fees. These fees are based on the value of the property each party will receive as per Point d, Clause 5, Article 27 of Resolution No. 326.

The fourth case involves a dispute between the plaintiff and the defendant over the division of both common property and the common obligations of the spouses. If the Court conducts mediation and the parties reach an agreement on some aspects of the division of property and obligations, but not on others, both the plaintiff and defendant are still required to pay court fees for the entire division process, as specified in Point e, Clause 5, Article 27 of Resolution No. 326.

The fifth case concerns alimony obligations. If the plaintiff and defendant reach an agreement on the amount and method of alimony during a conciliation meeting (in cases of successful conciliation) or before the trial begins, but request the Court to formalize this in a judgment or decision, the plaintiff who is obligated to pay alimony must pay 50% of the first-instance civil court fees, similar to a civil case without a threshold value, as outlined in Point b, Clause 6, Article 27 of Resolution No. 326. However, if the Court opens a trial, the plaintiff must bear 100% of the first-instance civil court fees as in a civil case without a threshold, as prescribed in Points a, c, and d, Clause 6, Article 27 of Resolution No. 326.

The sixth case involves a dispute over determining the parentage of a child. If the plaintiff's request to establish paternity is denied by the Court, or if the defendant's request is accepted, the plaintiff must pay court fees. Although the law does not specify the exact level of court fees for these types of disputes, in practice, courts apply the first-instance civil court fees as they would in civil cases without a threshold. However, disputes concerning the parentage of a minor child or an adult child who has lost civil capacity are excluded from this provision, as per Clause 1, Article 11 of Resolution No. 01/2024/NQ-HDTP dated May 16, 2024 [3]. If the Court conducts conciliation before the trial and the parties agree to settle the case, both the plaintiff and defendant are only required to pay 50% of the first-instance civil court fees, as specified in Clause 3, Article 147 of the 2015 Civil Procedure Code and Clause 7, Article 27 of Resolution No. 326.

The seventh case pertains to the situation where both the plaintiff and defendant agree to divorce before the opening of the trial. In this case, both parties must pay 50% of the prescribed court fees, with each party paying 25% of the first-instance civil court fees without a threshold, as specified in Point a, Clause 1, Article 11 of Resolution No. 01/2024. If the plaintiff and defendant agree to divorce during the trial, both parties must bear 100% of the first-instance civil court fees without a threshold, with each party paying 50% of the fees, according to Point b, Clause 1, Article 11 of Resolution No. 01/2024.

The eighth case involves a situation where, before the trial begins, the plaintiff and defendant voluntarily agree to divorce but cannot reach an agreement on matters related to their common children or common property. If the Court proceeds with the trial and issues a first-instance judgment, both the plaintiff and the defendant must each pay 50% of the first-instance civil court fees without a threshold for the divorce request (with each party paying 25% of the court fees). Regarding property relations, each party (plaintiff and defendant) is required to pay court fees based on the value of the property they are entitled to share, in accordance with the law on court fees as specified in Clause 3, Article 11 of Resolution No. 01/2024.

1.2. In Civil, Commercial, and Labor Cases

Similar to marriage and family cases, unless the plaintiff is exempt or relieved from paying court fees as outlined in Clause 1, Article 11 and Clause 1, Article 12 of Resolution No. 326, the plaintiff must pay court fees in the following cases:



First Case: Full Claim Rejection by the Court. If the Court rejects the entire plaintiff's claim, the plaintiff must bear all first-instance civil court fees. If the Court accepts only part of the plaintiff's claim, the plaintiff is responsible for paying the first-instance civil court fees corresponding to the part of the claim that was not accepted, as prescribed in Clause 4, Article 26 of Resolution No. 326.

Second Case: Agreement Reached Before the Trial. If the plaintiff and defendant reach an agreement through mediation before the trial begins, both parties must pay 50% of the first-instance civil court fees, including cases without a threshold, as specified in Clause 3, Article 147 of the 2015 Civil Procedure Code and Clause 7, Article 26 of Resolution No. 326.

Third Case: Agreement Reached at the First Instance Trial. If the plaintiff and defendant reach an agreement at the first instance trial, they must still pay the full first-instance civil court fees as if the case were being trialed. However, if they reach an agreement under the simplified procedure outlined in Clause 3, Article 320 of the 2015 Civil Procedure Code, they will each pay 50% of the court fees for resolving the case under the simplified procedure, as prescribed in Clause 4, Article 26 of Resolution No. 326.

Fourth Case: Division of Common Property and Inheritance. If the parties cannot agree on the division of common property or inheritance, or if they disagree on their respective shares, and one party requests the Court to resolve the division, each party (including the plaintiff) must pay first-instance civil court fees based on the value of the property they are entitled to, as outlined in Point a, Clause 7, Article 26 of Resolution No. 326.

If the division of common property or inheritance requires consideration of property obligations with a third party, the parties (including the plaintiff) must pay court fees based on the portion of the property they receive after deducting the value used to fulfill obligations with the third party. The parties must share the court fees equally for the portion of the property used to fulfill such obligations, in accordance with the Court's decision, as outlined in Point a, Clause 7, Article 26 of Resolution No. 326.

2. Problems Regarding the Plaintiff's Obligation to Pay Court Fees in Cases of Successful Mediation Before the Opening of the Trial

In the practice of resolving civil cases in courts today, there are differing views and interpretations about the plaintiff's obligation to pay court fees in cases where the parties agree to resolve the case before the trial opens. These cases highlight the ongoing debate on whether the plaintiff must pay a portion of the court fees, specifically 50%, and if so, the exact amount (e.g., 25% or another figure), as well as whether it is reasonable for the plaintiff to still bear this cost when the case is settled amicably before trial [4, c.12].

Legal provisions on this matter are found in Clause 7, Article 26 of Resolution No. 326/2016/UBTVQH, dated December 30, 2016, which stipulates that in cases where the Court mediates before the trial and the parties agree to resolve the case, they must each pay 50% of the court fees, including cases without a threshold. This is a specific interpretation of Clause 3, Article 147 of the 2015 Civil Procedure Code, which states: "Before opening the trial, the Court shall conduct conciliation; if the parties reach an agreement on the settlement of the case, they shall only have to pay 50% of the first-instance court fees prescribed in Clauses 1 and 2 of this Article."

In such cases, the Court serves as an intermediary and does not make binding decisions for the parties. Whether the case is successfully resolved or not depends entirely on the parties' willingness to reach an agreement on all issues to be settled. This means that the plaintiff has a right and an obligation to contribute to the settlement of the case, not just the defendant or other parties involved. It is important to note the distinction between "the parties agreeing on the settlement of the case" and "successful reconciliation" [5, c.23].

In general civil cases, when the parties agree on how to resolve the dispute (e.g., agreeing on the plaintiff's claim, the defendant's counterclaim, or an independent claim from another party), it is



not yet considered a "successful settlement." A settlement is only considered successful when the parties also agree on the issue of court fees [6, c.30]. If no such agreement is reached, the case is considered unresolved, and the Court must proceed with the trial. In practice, some cases still require trial because the parties cannot agree on the court fees.

Therefore, only when the parties "agree on all issues to be resolved" can the case be considered successfully settled. As stated in Clause 5, Article 211 of the 2015 Civil Procedure Code: "In case the parties reach an agreement on the issues to be resolved in a civil case, the Court shall draw up a record of successful conciliation." At this point, the judge will issue a decision recognizing the parties' agreement, based on the conciliation record.

Thus, when the parties agree on the resolution of the case, the issue of whether the plaintiff's claims (or counterclaims) are accepted or rejected by the Court does not arise. It is important not to apply the provisions of Clause 1, Article 147 of the 2015 Civil Procedure Code or Clause 1, Article 26 of Resolution No. 326, which states that "the litigant must pay court fees for requests that are not accepted by the Court," as an argument for the defendant bearing all court fees if the defendant accepts the plaintiff's claim in a successful conciliation.

In practice, however, two differing opinions persist regarding the plaintiff's obligation to pay court fees in cases where the parties agree on the settlement before the trial begins.

3. Proposals and Recommendations

Given the challenges presented by the current legal regulations regarding the obligation to pay court fees in cases where litigants reach an agreement on the settlement of the case, as outlined by the author, it is crucial to address these issues promptly. To resolve the difficulties currently faced in practice, the author proposes an amendment and supplementation to the provisions in Clause 7, Article 26 of Resolution No. 326 as follows:

Proposed Amendment: "If the parties reach an agreement on the settlement of the case following Court mediation before the trial begins, they must each pay 50% of the court fees, even in cases without a threshold value. In this scenario, the percentage of court fees each party agrees to pay will be equal."

4. Conclusion

Accurately determining the plaintiff's obligation to pay court fees not only ensures the Court resolves the case in line with legal requirements, but also contributes to faster case resolution. This approach helps reduce the time required to settle the case, lowers travel costs for the parties, and alleviates other related expenses. In many instances, disputes over court fees lead to the Court having to bring the case to trial. Therefore, the study and refinement of legal regulations regarding the plaintiff's obligation to pay court fees is essential. This will help establish consistency in law enforcement, particularly in the current judicial system.

Список литературы:

1. Nghị quyết số 326/2016/UBTVQH ngày 30/12/2016 của Ủy ban Thường vụ Quốc hội quy định về mức thu, miễn, giảm, thu, nộp, quản lý và sử dụng án phí và lệ phí Tòa án./ Постановление № 326/2016/UBTVQH от 30 декабря 2016 года Постоянной комиссии Национальной ассамблеи, регулирующее взимание, освобождение, сокращение, взыскание, уплату, управление и использование судебных пошлин и сборов. URL: <https://thuvienphapluat.vn/van-ban/Thue-Phi-Le-Phi/Nghi-quyet-326-2016-UBTVQH14-muc-thu-mien-giam-thu-nop-quan-ly-su-dung-an-phi-le-phi-Toa-an-337085.aspx> (дата обращения: 25.4.2025).

2. Bộ luật Tố tụng dân sự nước Cộng hòa xã hội chủ nghĩa Việt Nam số 24/2004/QH11 ngày 15.06.2004/ Гражданский процессуальный кодекс Социалистической Республики Вьетнама № 24/2004/QH11 от 15 июня 2004г. URL: <https://thuvienphapluat.vn/van-ban/Thu-tuc-To-tung/Bo-luat-To-tung-dan-su-2004-24-2004-QH11-52189.aspx> (дата обращения: 29.4.2025).



3. Nghị quyết số 01/2024/NQ-HĐTP ngày 16/5/2024 của Hội đồng Thẩm phán Tòa án nhân dân Tối cao hướng dẫn áp dụng một số quy định của pháp luật trong giải quyết vụ việc về hôn nhân và gia đình./ Постановление № 01/2024/NQ-HĐTP от 16 мая 2024 года Совета судей Верховного народного суда, определяющее порядок применения ряда правовых положений при разрешении дел, связанных с браком и семьей. URL: <https://vbpq.toaan.gov.vn/webcenter/portal/htvb/chi-tiet?dDocName=TAND332696> (дата обращения: 25.4.2025).

4. Dương Tấn Thanh, Bàn về nghĩa vụ chịu án phí sơ thẩm của nguyên đơn, Tạp chí Luật sư Việt Nam, số 8, 2024, tr.12./ Зюонг Тан Тхань, Обсуждение обязанности истца уплатить судебные издержки первой инстанции, Журнал «Юристы Вьетнама», № 8, 2024, с.12.

5. Hoàng Trung, Bàn về nghĩa vụ chịu án phí dân sự trong trường hợp các bên đương sự thỏa thuận được với nhau về việc giải quyết vụ án trước khi mở phiên tòa, Tạp chí Kiểm sát, số 4, 2025, tr.23./ Хоанг Чунг, Обсуждение обязанности уплаты гражданских судебных издержек в случаях, когда стороны достигают соглашения об урегулировании дела до начала судебного разбирательства, Журнал прокуратуры, № 4, 2025, с. 23

6. Nguyễn Hữu Duyên, Bàn về nghĩa vụ chịu án phí dân sự trong trường hợp các đương sự thỏa thuận thành, Tạp chí Tòa Án, số 10, 2024, tr.30./ Нгуен Хуу Дуен, Обсуждение обязанности уплаты судебных издержек в гражданских судебных делах, когда стороны достигают соглашения, Судебный журнал, № 10, 2024, с. 30.

