

# On the Improvement of the Rules on the Obligation of Interpretation by Judges in Online Litigation

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## Abstract

As a new way of litigation, the practice of online litigation has attracted great attention, especially online civil litigation, which has also become a hot issue in the field of civil litigation. The online judge's obligation to interpret not only inherits the content of the existing obligation of traditional offline litigation, but also expands the scope of the obligation of interpretation, and the expansion of the online judge's obligation to interpret adapts to the requirements of online litigation following the principles of fairness and efficiency, convenience and benefit. However, the existing rules on online litigation are relatively general in their provisions on the obligation of interpretation by online judges, and judges usually enjoy a certain degree of discretion in the exercise of the obligation to interpret in online litigation, which makes there are some problems that need to be solved urgently in the performance of judges' obligation to interpret in online litigation.

**Keywords:** online litigation, interpretation obligations, code of civil procedure

## 1. Clarification of the Concept of the Duty of Interpretation of Judges in Online Proceedings

As part of judges' performance of their duties, the obligation to explain online litigation clarification refers to judges explaining the relevant legal issues of the case to the parties when hearing litigation cases, helping them fully and accurately understand the nature, facts, and application of law in litigation cases, as well as the significance and consequences of judgments and rulings made by adjudication organs. In fact, the obligation to explain litigation is not only a statutory responsibility and obligation but also a fundamental requirement to protect the parties' right to know and important human rights (Zhang Weiping, 2022). First of all, the connotation of the obligation to interpret

litigation reflects the rights and obligations of judges. In China's legal system, judges are judicial workers who have the ability to exercise judicial power independently, and the purpose of exercising judicial power is to correctly apply the law and ensure fair trial and judicial fairness. The obligation to explain litigation is the direct content, implementation method and purpose of judges' powers, and is the basic guarantee to ensure the effective realization of legal rights and obligations. Second, the scope of the obligation to interpret litigation is broad. The obligation to interpret online litigation is not limited to the traditional "interpretation of legal provisions", but also covers a series of tasks such as interpreting "the relevant content of laws, regulations and rules", "reading

judgments and rulings”, and “clarifying general legal principles and interpreting judicial interpretations”, which shows that the obligation to interpret online litigation plays an extremely important role in protecting the parties’ right to know. Third, the obligation to explain litigation plays an irreplaceable role in protecting the parties’ right to know. This is because the issues that the parties are concerned about in the course of litigation and their understanding of the relevant law are often one-sided and simplified, and often only rely on daily experience, practice or relatively simple legal provisions to understand. Judges, on the other hand, can make use of their professional ability, reading literacy, and depth of legal knowledge to provide clients with comprehensive and in-depth legal interpretations to help them fully and accurately understand (Xie Dengke, 2022).

The obligation to interpret online litigation is the basis of online litigation, and as an important duty of judges, it realizes the basic requirements of judicial fairness and judicial transparency. The so-called obligation to explain means that when adjudicating a case, judges should clearly explain the disputed facts, legal provisions, and precedents to the parties and other litigation participants in a certain way, so that they can clearly understand their rights and obligations, and provide safeguards for ensuring judicial fairness and safeguarding the legitimate rights and interests of the parties. In online litigation, the function of the duty of interpretation is even more important. It can not only promote the parties’ understanding and recognition of the facts of the dispute and the application of law, ensure judicial fairness, but also help improve the efficiency of online litigation. In addition, the obligation of interpretation can also promote broader social participation and the rational allocation of judicial resources, promote judicial

openness, transparency and information disclosure, thereby enhancing citizens’ awareness and trust in the rule of law and ensuring the smooth progress of online litigation. In practice, the obligation to interpret requires judges to have a high level of adjudication ability and good communication skills. It requires judges to have a deep understanding and grasp of the needs and problems of the litigants, take the initiative to introduce the facts of the case and the legal provisions to the parties during the trial process, provide legal assistance and guidance, avoid misunderstanding and prejudice of the parties, and safeguard the legitimate rights and interests of the parties. At the same time, the obligation to explain also requires the parties to actively cooperate, take the initiative to provide true and complete evidence and facts, ensure that the facts are clear, the legal provisions are clear, and finally achieve a fair trial (Zhang Weiping, 2022). In short, the obligation of interpretation is an important part of online litigation, which is conducive to promoting the healthy development of online litigation, improving judicial fairness and efficiency, strengthening the trust and support of parties to the judicial organs, and making positive contributions to the construction of the rule of law in China.

## 2. Analysis of Rules Related to the Obligation to Interpret Online Litigation

From 2017 to 2022, China established three Internet courts, namely the Hangzhou Internet Court, the Beijing Internet Court, and the Guangzhou Internet Court. These three courts have built their own special litigation platforms and formulated supporting online civil procedure rules, which provide sufficient practical exploration experience for the development of China’s civil litigation online trial system.

**Table 1.** Rules regarding the obligation to interpret online litigation

Laws/Rules of Local Court	Effective Date (Year)	Provisions dealing with the duty of interpretation
Rules of the Supreme People’s Court for Online Litigation of the People’s Courts	2021	Articles 2, 4, 9, 10, 18, 23, 25, 30, 32
Provisions of the Supreme People’s Court on Several Issues Concerning the Online Handling of Cases by People’s Courts (Draft for Solicitation of Comments)	Unknown	Articles 3, 7, 8, 21, 26, 27, 34

Hangzhou Internet Court Online Trial Specifications	2017	Part I (Pre-trial preparations) Article 1, Part II (Court Hearings) Article 4, Part III (Court Investigations) Articles 3 and 4, Part IV (Court Arguments) Articles 1 and 3
Beijing Internet Court Electronic Litigation Trial Specifications	2020	Articles 2, 7, 15 and 22
Detailed Rules for the Implementation of the Guangzhou Court on Improving the Rules for Electronic Litigation	2021	Articles 3, 10, 11, 13, 14, 17, 21, 29, 30, 31, 34, 35

As Table 1 indicated, the Online Litigation Rules of the local Internet courts and the Supreme Court both stipulate that judges shall perform the obligation of interpretation, and the normative sentences of legal norms and court rules are usually “prompt”, “explain”, “inform”, “explain”, “guideline”, “instruction”, “notice”, etc. This gives the court a legal basis for interpretation in litigation, which is of positive significance for enhancing the judge’s sense of responsibility, protecting the legitimate rights and interests of the parties, and achieving the purpose of resolving disputes by law.

The existing rules on online judges’ interpretation obligations have the following characteristics: First, the performance of online litigation interpretation obligations is electronic and technical. Relying on computer technology, the Internet Court has created a series of electronic litigation platforms that are compatible with online litigation, covering all stages from case filing to enforcement, promoting online judges to perform their interpretation obligations more conveniently, quickly and accurately, greatly reducing the burden on judges and promoting the efficiency of online litigation. Second, the scope of the obligation to interpret online litigation has been expanded and refined. The scope of online judges’ interpretation obligations is undoubtedly broader and more detailed than that of traditional offline litigation, which makes the judge’s control over the entire litigation more precise and meticulous, and has a greater impact on the exercise and protection of the rights of the parties. Before filing a case, the parties shall complete the preparatory work for registration and authentication in accordance with the guidelines for the proposed judge of the electronic litigation platform and the operational guidelines provided by the court on the Internet platform such as the WeChat official account

and the court’s official website; In the course of online hearings, judges’ obligation to explain only increases, in addition to the traditional offline obligation to explain, in order to connect online litigation and offline litigation, make litigation proceed smoothly, improve efficiency, and protect the lawful rights and interests of the parties, online judges also have a special obligation to inform, and special provisions on the online litigation rules should also be explained, so that the parties can fully understand their rights and their legal effects. Third, the obligation to interpret online litigation pursues the efficiency of court hearings. Online litigation is the “online” of offline litigation, and the reason why it should be online is to improve efficiency, provide convenience for parties to file lawsuits, respond to lawsuits, etc., and provide convenience for the court to collect evidence and organize case files. To achieve “online”, we must first use Internet technology to move the litigation procedures to the online litigation platform, then digitize the materials required for the litigation, and finally connect people to the electronic litigation platform to complete a series of procedures, so that each role can fulfill its own rights and obligations, and jointly promote the smooth progress of the litigation. For the parties to achieve the goals and tasks of successfully completing online litigation and making fair judgments, judges should play the role of guiding parties to participate in online litigation in order to achieve the goals and tasks of successfully completing online litigation and making fair judgments.

### 3. Flaws in the Rules Related to the Obligation to Interpret Online Litigation

The obligation of online judges to interpret is mainly stipulated in the Online Litigation Rules issued by the Supreme People’s Court and the

special online litigation rules of local Internet courts, and as the conditions for the expansion of online litigation become more mature, more and more courts have launched online litigation services and formulated relevant rules (Cao Jianjun, 2022).

As far as the current online litigation rules are concerned, the judge's interpretation obligation in online litigation mainly focuses on the following aspects: First, the online litigation platform provides the parties with operational guidelines and notices of procedural matters. The process of these operational guidelines is actually the process of information collection, so that most parties do not need to consult a lawyer or the court to know how to sue, and what electronic information needs to be submitted when suing; Second, online judges give feedback on the parties' case filing results and check the prosecution information by telephone, fax, etc. Ensure that the parties correctly file the case, and facilitate the parties' case filing and subsequent court hearings. Third, online judges take care of special vulnerable groups and provide more assistance to vulnerable groups so that they can truly enjoy equal procedural rights with other parties (Jiao Shengrong, 2006). Fourth, the online judge needs to inform service to ensure that the recipient receives the notice within the time limit and move the litigation process forward.

The scope of the above interpretation obligations shows that the rules of online litigation create many interpretation obligations for judges that are different from those of offline litigation, and the purpose is to meet the special convenience needs of online litigation, but they are all general provisions on specific aspects of matters, and do not stipulate the consequences of judges not performing their interpretation obligations or improper interpretation, resulting in a relatively large and even arbitrary operation for judges to perform their interpretation obligations. In addition, due to the extreme pursuit of efficiency in online litigation, the time of online court hearings has also been continuously compressed, making it possible for judges to infringe on the parties' right to debate by exercising the "power of interpretation", but the online litigation rules do not impose any restrictions on the performance of judges' interpretation obligations in online court hearings.

#### **4. Improvement of Online Judges'**

#### **Interpretation Obligations**

At present, there are three main sources of legitimacy for online trial exploration: one is from the authorization of the Standing Committee of the National People's Congress, the other is from the normative documents formulated by the Supreme People's Court, and the third is from local laws and regulations. Of the above three sources of legitimacy for online trials, only the first is the formal authorization of the legislature, and the other two are not formal institutional arrangements at the legal level, which are faced with the problem of insufficient legitimacy as a whole, and due to the lack of overall legitimacy, the operational norms in practice are not standardized and are relatively confusing (Hou Xuebin, 2016).

Most judges seem to prefer to conduct in-person hearings when they have the opportunity to use them. The author analyzes the reasons and believes that compared with offline trials, online trials have more uncontrollable factors and lack of perfect rule guarantee mechanisms, and the current difficulty in maintaining the trial order of online trials in China affects the substantive effect of online trials, which has become an important factor affecting the selection of judges, and then affects the performance of judges' online interpretation obligations. There is a lack of disciplinary mechanisms. In offline court hearings, judges may take reminders and reprimands for violations of court discipline, but in online court hearings, judges' control over court trials is weakened due to the characteristics of being present, and judges may not be able to achieve the purpose of maintaining court order by only reminding and admonishing conduct that seriously undermines legal discipline in court trials.

#### **5. Conclusion**

To sum up, it is necessary to improve the punishment mechanism for serious violations of court discipline in order to ensure the fulfillment of the obligation of online judges' interpretation. From the level of legal rules, punish behavior that ignores trial discipline and contempt the dignity of the court, and judges explain to litigation participants the consequences of violating court discipline, so that litigation participants can make more rational choices, and promote the healthy development of online trial judges' interpretations.

#### **References**

- Cao Jianjun. (2022). Online Litigation Rules and Codification of Civil Procedure. *Hebei Law Science*, (8).
- Hou Xuebin. (2016). Practical Development and Legislative Response of Electronic Litigation in China. *Contemporary Legal Science*, (5).
- Jiao Shengrong. (2006). On the Judge's Duty to Inform: Taking the Civil Procedure Law as an Example. *Journal of Lanzhou University*, (1), pp. 26-30.
- Xie Dengke. (2022). On the Parties' Procedural Choice in Online Litigation. *Nankai Journal* (Philosophy and Social Science Edition).
- Zhang Weiping. (2022). Legal Regulation of Online Civil Litigation: Basic Framework and Ideas. *Law Review*, (2).
- Zhang Weiping. (2022). Online Litigation: Institutional Construction and Jurisprudence: Reflections on Civil Procedure. *Contemporary Legal Science*, (3).