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On Certain Issues of Court Application of Provisions of the Civil Procedure Code of the Russian Federation and the Commercial Procedure Code of the Russian Federation on Court Order Proceedings

In order to ensure the correct and uniform court application of provisions of the Civil Procedure Code of the Russian Federation (hereinafter referred to as “the CPC RF”) and of the Commercial Procedure Code of the Russian Federation (hereinafter referred to as “the ComPC RF”) regarding court order proceedings, the Plenary Session of the Supreme Court of the Russian Federation, guided by Articles 2 and 5 of Federal Constitutional Law of 5 February, 2014 No. 3 “On the Supreme Court of the Russian Federation”, hereby rules to provide the following explanations:

General Provisions. Claims Stated in Court Order Proceedings

1. A court order is a court decree (judicial act) issued on the basis of an application for the recovery of monetary sums or for reclamation of movable property from the debtor on claims stipulated in Article 122 of the CPC RF and on the basis of an application for the recovery of monetary sums on claims stipulated in Article 229.2 of the ComPC RF.

The aforementioned claims are considered only in court order proceedings (Chapter 11 of the CPC RF and Chapter 29.1 of the ComPC RF), therefore if a statement of claim (application) is submitted, that contains claims subject to consideration in court order proceedings, this results in the return of the statement

of claim (application) (Item 1.1 of Part 1 of Article 135 of the CPC RF, Item 2.1 of Part 1 of Article 129 of the ComPC RF).

2. An application for the adoption (issue) of a court order (hereinafter referred to as “application for the issuance of a court order”) on claims considered in court order proceedings may be filed by citizens (natural persons and individual entrepreneurs), organizations, public authorities, local self-government bodies, other bodies and organizations. Pursuant to Article 45 of the CPC RF, a prosecutor may file an application for the issuance of a court order to a justice of the peace.

3. Claims considered in court order proceedings must be unobjectionable.

Unobjectionable claims are such claims that are supported by written evidence, whose reliability is beyond doubt, and that are acknowledged by the debtor.

4. Pursuant to Item 1 of Article 229.2 of the ComPC RF, the recoveror’s claim shall be regarded as acknowledged by the debtor, if no disagreement with the presented claim and with the evidence supporting it follows from documents presented to the court.

If the debtor presents objections regarding the validity of the transaction from which the claim arises or the amount of presented claims within the time from the moment of filing of application for the issuance of a court order to the moment of issuance of a court order, this may signify the debtor’s disagreement with the presented claims.

5. Monetary sums subject to recovery in court order proceedings shall mean principal debt amounts, as well as interest and forfeits (fine, late fee) accrued on the basis of a federal law or a contract, obligatory payments and penalties, whose total amount at the time of filing of an application for the issuance of a court order shall not exceed five hundred thousand rubles – for applications considered by justices of the peace (including applications for reclamation of movable property from the debtor) (Part 1 of Article 121 of the CPC RF), four hundred thousand rubles and one hundred thousand rubles – for applications considered by commercial courts (Items 1-3 of Article 229.2 of the ComPC RF).

The amount of a monetary sum specified in the application for the issuance of a court order shall be estimated as a fixed monetary sum and not subject to recalculation for the date of issuance of the court order, as well as for the date of the actual performance of the monetary obligation.

6. If the claim presented by the recoveror is addressed to several persons, who are joint debtors (for instance, to the borrower and the guarantor under a credit contract), or if several claims are contained in one application filed by the recoveror (for instance, claims on recovery of the principal debt and of a forfeit), a

justice of the peace or a commercial court may issue a court order, if the total amount of the presented claims does not exceed the limits stipulated in Article 121 of the CPC RF and Article 229.2 of the ComPC RF.

If a claim is presented based on an obligation involving share debtors (for instance, co-owners of residential or non-residential premises), the amount of claims to each of such debtors shall not exceed the limits stipulated in Article 121 of the CPC RF and Article 229.2 of the ComPC RF. A separate application for the issuance of a court order shall be filed and a separate court order shall be issued in relation of each of the share debtors.

7. As for claims arising from civil law relations, the recoveror and the debtor shall not be obliged to perform mandatory measures of pre-trial settlement, stipulated in Part 5 of Article 4 of the ComPC RF, before applying to a commercial court with an application for the issuance of a court order.

The rules of Part 5 of Article 4 of the ComPC RF do not apply when one applies to a commercial court with a statement of claim (application) after a court order was revoked by the commercial court.

8. Based upon the general rules of subject matter competence of justices of the peace and of commercial courts regarding the consideration of applications for the issuance of a court order, the court competent to consider such an application is determined with due regard to the nature of legal relations and to the composition of participants of those relations, unless otherwise stipulated in law (Chapter 3 of the CPC RF, Chapter 4 of the ComPC RF).

9. As for claims based upon a notary's protest of a promissory note due to non-payment, non-acceptance and undated acceptance, a justice of the peace and a commercial court may issue a court order with due regard for the provisions of Paragraph 4 of Article 122 of the CPC RF, Item 2 of Article 229.2 of the ComPC RF, Article 5 of Federal Law of 11 March, 1997 No. 48 "On Bill of Exchange and Promissory Note".

10. In court order proceedings, commercial courts consider claims for the recovery of obligatory payments and penalties (Item 3 of Article 229.2 of the ComPC RF). If a tax body issues a decision following a tax inspection, then objections filed prior to such a decision in accordance with Item 6 of Article 100, Items 1-6.1 of Article 101, Items 5-7 of Article 101.4 of the Tax Code of the Russian Federation (hereinafter referred to as "the TC RF") are not by themselves evidence that the claims filed by the tax body on the basis of such a decision may not be considered in court order proceedings.

Herewith, if the debtor appeals against the decision of the tax body (territorial bodies of the Pension Fund of the Russian Federation and (or) Social Insurance

Fund of the Russian Federation) to a higher body, this shall preclude the issuance of a court order irrespective of the results of consideration of the appeal by the higher body.

11. A justice of the peace or a commercial court shall issue a court order on a claim for the recovery of debt, including for the payment for non-residential premises and communal services, based on a contract and proceeding from the interrelated provisions of Item 1 of Article 290 of the Civil Code of the Russian Federation (hereinafter referred to as “the CC RF”), Articles 153, 158 of the Housing Code of the Russian Federation, Paragraphs 3 and 10 of Article 122 of the CPC RF, Item 1 of Article 229.2 of the ComPC RF.

Taking into account Item 1 of Article 44 of Federal Law of 7 July, 2003 No. 126 “On Communication”, as applied to Paragraphs 3 and 10 of Article 122 of the CPC RF, Item 1 of Article 229.2 of the ComPC RF, a court order shall also be issued by a justice of the peace or a commercial court on a claim to pay for communication services other than telephone communications (for instance, telematic communications services).

Based on provisions of Paragraph 11 of Article 12 of the CPC RF, Item 1 of Article 229.2 of the ComPC RF, a court order shall be issued by a justice of the peace or a commercial court if a claim is presented for the recovery of obligatory payments and contributions, in particular from members of consumer cooperatives and housing owner associations (Sub-items 1 and 4 of Item 3 of Article 50 of the CC RF), related, for instance, to the payment of expenses on maintenance and current repairs of common property in an apartment building and payment of communal services.

As regards the aforementioned claims and the claims specified in Item 1 of Article 229.2 of the ComPC RF, the presence of contractual relations between the recoveror and the debtor may be evidenced not only by a written contract, drawn in the form of a single document signed by the parties, but also by other documents confirming the presence of an obligation, provided that the court has no doubts that there is no issue of law in the case.

12. For instance, claims for the recovery of losses caused by non-performance (improper performance) of a contract, for compensation of moral harm, for termination of a contract, for declaring a transaction as invalid are not subject to consideration in court order proceedings.

The provisions of Chapter 29.1 of the ComPC RF on court order proceedings do not apply to cases on holding a person administratively liable (Paragraph 1 of Chapter 25 of the ComPC RF).

By virtue of Paragraph 2 of Item 1 of Article 63, Paragraph 2 of Item 1 of Article 81, Paragraph 8 of Item 1 of Article 94, Paragraph 7 of Item 1 of Article 126, Paragraph 3 of Item 2 of Article 213.11, Paragraphs 2 and 3 of Item 1 of Article 213.19 of Federal Law of 26 October, 2002 No. 127 “On Insolvency (Bankruptcy)” (hereinafter referred to as “the Law on Bankruptcy”), from the date of introduction of supervision, financial recovery, external management, adoption of decision to declare the debtor bankrupt and to institute competition management or realization of the citizen’s property, from the date of introduction of a citizen’s debt restructuring procedure and of the commercial court’s approval of the citizen’s debt restructuring plan, the creditors’ claims regarding monetary obligations and demands to perform obligatory payments (except for current payments) may only be filed within the framework of a bankruptcy case in the manner stipulated in Articles 71 and 100 of the Law on Bankruptcy and may not be considered in court order proceedings.

Manner of Court Order Proceedings

13. When an application for the issuance of a court order is filed, the rules of general territorial jurisdiction apply. With due regard to the provisions of Chapters 3 and 11 of the CPC RF, Paragraph 2 of Chapter 4, Chapter 29.1 of the ComPC RF, when an application for the issuance of a court order is filed, the rules of jurisdiction regarding the plaintiff’s discretion in claim proceedings shall also apply (Article 29 of the CPC RF, Article 36 of the ComPC RF), as well as the rules of contractual jurisdiction (Article 32 of the CPC RF, Article 37 of the ComPC RF). These rules shall also apply if the parties’ agreement only stipulated the jurisdiction for claim proceedings.

14. If the power of attorney indicates the representative’s right to sign a statement of claim (application) and to submit it to court, this shall also mean that the representative has the right to sign and submit an application for the issuance of a court order (Article 54, Part 3 of Article 124 of the CPC RF, Part 2 of Article 62, Part 3 of Article 229.3 of the ComPC RF).

15. An application for the issuance of a court order shall also contain the obligatory information stipulated in Article 124 of the CPC RF, Article 229.3 of the ComPC RF.

The recoveror is obliged to attach documents stipulated in Items 1-5, 9 of Part 1 of Article 126 of the ComPC RF (Part 5 of Article 3 of the ComPC RF) to the application for the issuance of a court order.

Documents that confirm that an obligation exists and that the time for its performance has come (for instance, a contract or a written acknowledgement)

must be presented in substantiation of an application for the recovery of funds, as well as for reclamation of movable property.

A tax body must present a tax payment claim in substantiation of an application for the recovery of obligatory payments and penalties (Articles 69, 70 of the TC RF).

Moreover, court recovery of obligatory payments and penalties may be performed by the tax body that missed the term for extrajudicial recovery (Item 3 of Article 46, Item 1 of Article 47 of the TC RF). In such cases, the tax body shall specify this fact in the application for the issuance of a court order.

16. When provisions of Part 4 of Article 229.3 of the ComPC RF are applied, it shall be taken into account that copies of the application for the issuance of a court order and of documents attached thereto shall be sent by the recoveror to the debtor in the manner stipulated for the plaintiff's sending of copies of the statement of claim and of documents attached thereto to other persons participating in the case (Part 3 of Article 125, Item 1 of Part 1 of Article 126 of the ComPC RF).

17. A document confirming the payment of the state fee in the stipulated manner and amount or a document confirming the recoveror's right to benefits regarding the payment of the state fee should be attached to an application for the issuance of a court order (Article 89, Part 2 of Article 123, Paragraph 3 of Article 132 of the CPC RF, Article 105, Part 4 of Article 229.3 of the ComPC RF, Articles 333.36 and 333.37 of the TC RF).

A motion for postponement of payment of the state fee, its payment in installments, decrease of its amount or relief from its payment may be submitted together with the application for the issuance of a court order (Articles 89, 90 of the CPC RF, Item 2 of Part 1 of Article 126 of the ComPC RF, Item 2 of Article 333.20, Item 2 of Article 333.22 of the TC RF).

If such a motion is satisfied, the court shall indicate this in the court order. If the courts refuses to satisfy the motion for postponement of payment of the state fee, its payment in installments, decrease of its amount or relief from its payment, it shall adopt a decree to return the application for the issuance of a court order (Item 3 of Part 1 of Article 229.4 of the ComPC RF, Part 4 of Article 1 of the CPC RF).

18. Taking into account that an application for the issuance of a court order and documents attached to it may be submitted to court in electronic form, in particular in the form of an electronic document signed by a digital signature in the manner stipulated in the legislation of the Russian Federation, by filling out a form placed on the official website of the court (Part 11 of Article 3, Part 11 of Article 35, Part 1 of Article 124 of the CPC RF, Part 7 of Article 4, Part 1 of Article 41, Part 1 of Article 229.3 of the ComPC RF), a person may send documents converted into electronic form by scanning devices (electronic document copies), and (or)

documents created in electronic form without their prior documentation on paper, signed by a digital signature in the manner stipulated in the legislation of the Russian Federation (electronic documents).

The filing of an application for the issuance of a court order and of documents attached to it by sending electronic document copies is performed in accordance with the rules of submission of electronic documents, applied by courts. Herewith it should be taken into account that the examination of information contained in the application for the issuance of a court order and in documents attached to it, sent by the recoveror, as well as the issuance of a court order, are performed without summoning the recoveror and the debtor and without holding a court session (Article 126 of the CPC RF, Part 2 of Article 229.5 of the ComPC RF).

A judge checks whether the application for the issuance of a court order meets the requirements to its form and content (Article 124 of the CPC RF, Article 229.3 of the ComPC RF). If the judge has any doubts as to the contents of information contained in the document presented as an electronic document copy, in particular when such a document is certified by an enhanced qualified digital signature (for instance, some pages are missing, parts of the document are unreadable), the application for the issuance of a court order shall be subject to return (Part 1 of Article 125 of the CPC RF, Part 1 of Article 229.4 of the ComPC RF).

If the application for the issuance of a court order and documents attached to it are submitted as electronic documents signed by an enhanced qualified digital signature, such documents shall be deemed to be equal to paper documents signed by a hand-written signature (Article 6 of Federal Law of 6 April, 2011 No. 63 “On Electronic Signature”).

19. When considering an application for the issuance of a court order, a justice of the peace or a commercial court shall adopt one of the following court decrees (judicial acts): a court order, a decree on the return of the application for the issuance of a court order, a decree on the refusal to accept the application for the issuance of a court order.

The application for the issuance of a court order may not be left without action, without consideration, court order proceedings may not be terminated (Part 7 of Article 229.5 of the ComPC RF, Part 4 of Article 1 of the CPC RF). No decree on the refusal to issue a court order may be adopted with regard to an application for the issuance of a court order.

20. A justice of the peace or a commercial court shall return an application for the issuance of a court order in accordance with Part 1 of Article 125 of the CPC RF, Part 1 of Article 229.4 of the ComPC RF, in particular in the following situations:

- a motion for postponement of payment of the state fee, its payment in installments, decrease of its amount or relief from its payment is dismissed;

- the recoveror’s claims result from non-performance or improper performance of several contracts, except for claims to joint debtors, for instance, to the principal debtor and guarantors;
- the application for the issuance of a court order contains claims against several debtors with share obligations;
- the sum specified by the recoveror exceeds the sum confirmed by the attached documents;
- facts are established that constitute grounds for leaving the statement of claim (application) without consideration (Paragraphs 2 – 6 of Article 222, Part 4 of Article 1 of the CPC RF, Items 1, 4-7 of Part 1 of Article 148, Part 5 of Article 3 of the ComPC RF).

If a justice of the peace or a commercial court returns the application for the issuance of a court order on the grounds specified in Part 1 of Article 125 of the CPC RF, Part 1 of Article 229.4 of the ComPC RF, this shall not preclude repeated filing of the same application, provided that the defects that constituted grounds for the return of the statement are eliminated (Part 2 of Article 125 of the CPC RF, Part 2 of Article 229.4 of the ComPC RF).

A decree is adopted on return of the application for the issuance of a court order.

21. A justice of the peace or a commercial court shall refuse to accept an application for the issuance of a court order on the basis of Part 3 of Article 125 of the CPC RF, Part 3 of Article 229.4 of the ComPC RF, in particular in the following situations:

- the amount of the presented claim or the total amount of several claims specified in one application exceeds the stipulated limits;
- apart from claims specified in Article 122 of the CPC RF, Article 229.2 of the ComPC RF (for instance, on the recovery of debt), other claims are presented, which are not provided for in the aforementioned articles (for instance, on termination of a contract, on the recovery of compensation for moral harm);
- the application for the issuance of a court order and documents attached to it affect the rights and lawful interest of persons other than the recoveror and the debtor. The presence of joint, share debtors or other persons who provided collateral, against whom no claims are presented in the application for the issuance of a court order, shall not constitute grounds for refusal to accept such an application;
- facts are established that constitute grounds for termination of proceedings in the case (Article 220, Part 4 of Article 1 of the CPC RF, Article 150, Part 5 of Article 3 of the ComPC RF).

If the justice of the peace or the commercial court refuses to accept the application for the issuance of a court order on grounds stipulated in Part 3 of Article 125 of

the CPC RF, this precludes repeated filing of the same application for the issuance of a court order (Part 3 of Article 134 of the CPC RF, Part 4 of Article 1271 of the ComPC RF). In such cases, the person may apply to court in the manner of claim proceedings or of proceedings in cases that arise from administrative and other public legal relations, indicating that the acceptance of an application for the issuance of a court order was denied.

A decree is adopted on refusal to accept the application for the issuance of a court order.

22. A decree on return of the application for the issuance of a court order, a decree on refusal to accept the application for the issuance of a court order may be appealed against in the manner stipulated in Article 331 of the CPC RF, Article 188 of the ComPC RF. In such a case, a complaint against the decree of the justice of the peace or of the commercial court may be submitted within fifteen days since the day of its adoption (Article 332 of the CPC RF, Part 5 of Article 3 of the ComPC RF).

Regarding the features of court order proceedings as of one of the forms of summary proceedings, appeals against the decree on return of the application for the issuance of a court order, the decree on refusal to accept the application for the issuance of a court order are considered by a single judge of a court of appeal without summoning the recoveror and the debtor (Part 3 of Article 7, Part 1 of Article 3351, Part 4 of Article 1 of the CPC RF, Part 1 of Article 272.1, Part 5 of Article 3 of the ComPC RF).

An appeal against a decree on return of an application for the issuance of a court order, a decree on refusal to accept an application for the issuance of a court order are considered by the court of appeal within no more than fifteen days since receipt of such an appeal by the court of appeal (Part 3 of Article 272, Part 5 of Article 3 of the ComPC RF, Part 4 of Article 1 of the CPC RF).

23. The grounds for return of application for the issuance of a court order or for refusal to accept it are to be established by a justice of the peace or a commercial court within three days since receipt of the application by the justice of the peace or the commercial court (Part 4 of Article 125 of the CPC RF, Part 4 of Article 229.4 of the ComPC RF).

The expiry of the abovementioned period shall not deprive the judge of the right to adopt a decree to return the application for the issuance of a court order or to refuse to accept it, if there are grounds that preclude the issuance of a court order, in particular if the recoveror submits a motion for return of that application (Parts 1 and 3 of Article 125 of the CPC RF, Parts 1 and 3 of Article 229.4 of the ComPC RF).

24. A justice of the peace shall issue a court order regarding the presented claims within five days (a commercial court – within ten days) without court proceedings and summoning of the parties (Article 126 of the CPC RF, Part 2 of Article 229.5 of the ComPC RF).

In court order proceedings, it is not allowed to order to present additional documents, to draw third persons to participation in the case, to summon witnesses, experts, specialists, interpreters, etc.

25. The expiry of the prescription period regarding the stated civil law claim, as well as the claim for early return of the debt amount, not connected with a statement on termination of such a contract, shall not preclude the issuance of the court order.

When considering an application for the issuance of a court order, the court may not decrease the forfeit in accordance with Article 333 of the CC RF.

The debtor may refer to the expiry of the prescription period, to disagreement with the early return of the debt amount, as well as to the presence of other grounds for decrease of the forfeit (fine, late fee) in its objections against the execution of a court order which, in such a case, is subject to revocation by the justice of the peace or the commercial court (Article 129 of the CPC RF, Part 4 of Article 229.5 of the ComPC RF).

26. The expiry of periods for the recovery of obligatory payments and penalties, in particular of the time period stipulated in Item 3 of Article 46, Item 1 of Article 47, Item 2 of Article 48, Item 1 of Article 115 of the TC RF, precludes the issuance of a court order (Item 3 of Article 229.2, Chapter 26 of the ComPC RF). In that case, a commercial court refuses to accept an application for the issuance of a court order (Item 3 of Part 3 of Article 229.4 of the ComPC RF).

27. It is not allowed for a justice of the peace or a commercial court to apply provisional measures in court order proceedings (Part 7 of Article 229.5 of the ComPC RF, Part 4 of Article 1 of the CPC RF).

28. A justice of the peace prepares the court order in the form of two counterparts, on paper. The court order may be additionally drawn in electronic form (Part 1 of Article 13, Part 3 of Article 127 of the CPC RF).

A commercial court, apart from drawing the court order in electronic form, shall draw it in the form of two counterparts, on paper (Part 3 of Article 229.5 of the ComPC RF).

The first counterpart of the court order is attached to the materials of court order proceedings, the second counterpart remains in the materials of court order

proceedings until the expiration of the time period within which the debtor may file objections against the execution of the court order (Article 129 of the CPC RF, Part 6 of Article 229.5 of the ComPC RF).

If a justice of the peace or a commercial court satisfies the claims stated against several debtors, the number of drawn counterparts of the court order increases accordingly.

A paper copy (copies) of a court order shall be sent to the debtor (debtors) by the commercial court within five days since its issuance (Part 3 of Article 229.5 of the ComPC RF). This rule is subject to application by justices of the peace by virtue of Part 4 of Article 1 of the CPC RF.

If the debtor does not provide any objections within the stipulated period, the second counterpart of an effective court order shall be certified by the official seal and sent to the recoveror by registered mail with acknowledgement of receipt, unless the recoveror submits a motion to be personally handed the court order or to have such a court order forwarded for enforcement on paper or in electronic form (Part 1 of Article 130 of the CPC RF, Part 6 of Article 229.5 of the ComPC RF).

When a court order is forwarded for enforcement on paper or in electronic form, as well as if a court order is revoked due to objections received from the debtor, the second counterpart of the court order shall not be certified by the official seal, shall not be sent to the recoveror, but shall be attached to the materials of court order proceedings.

29. The rules of Article 177 of the ComPC RF on sending a court decision to persons participating in the case by its publication on the official website of a commercial court in restricted access mode shall not be applied by commercial courts in court order proceedings, since the court order is sent to the recoveror on paper.

30. The debtor is deemed as having received a copy of a court order if a justice of the peace or a commercial court has evidence that the copy of the court order which was sent by registered mail with acknowledgement of receipt was received by the debtor (Part 1 of Article 113 of the CPC RF, Part 1 of Article 122 of the ComPC RF), as well as in cases specified in Parts 2-4 of Article 116 of the CPC RF, in Parts 2-5 of Article 123 of the ComPC RF). A citizen, an individual entrepreneur or a legal person bears the risk of non-receipt of a copy of the court order under the circumstances that are in their control.

31. A justice of the peace or a commercial court shall revoke a court order if the debtor files objections against its execution within ten days. Such objections may contain only the debtor's disagreement with the court order (Article 129 of the CPC RF, Part 4 of Article 229.5 of the ComPC RF).

Objections received from one of the joint debtors shall lead to the revocation of the court order issued in regard of all the debtors.

A decree is adopted on revocation of the court order, which shall not be subject to appeal.

32. The ten-day period for the debtor to file objections against the execution of the court order (Article 128 of the CPC RF, Part 3 of Article 229.5 of the ComPC RF) shall start from the day when the debtor receives a paper copy of the court order or from the day when the storage period, stipulated for court mail by mail organizations, expires (for instance, FSUE “Russian Post” stipulates a seven-day mail storage period).

The mail storage period starts from the day when a court mail item arrives at the place of service – a post office at the debtor’s place of residence (location).

The date of arrival of the mail item to the place of service is determined according to the stamp on the mail item or with the use of the registered mail tracking system on the official website of FSUE “Russian Post”.

A mail item tracking report shall be printed and attached to the materials of court order proceedings.

33. If the ten-day time period for filing objections against the execution of a court order is missed, the debtor may also file objections against the execution of the court order after that, substantiating the inability to file objections within the stipulated period by reasons beyond its control (Part 5 of Article 229.5 of the ComPC RF). By virtue of Part 4 of Article 1 of the CPC RF, objections against the execution of a court order may also be presented to a justice of the peace after the expiry of the stipulated time period.

Herewith it should be kept in mind that the circumstances the applicant specifies as reasons for inability to timely file objections may be taken into account if they existed within the time period stipulated for filing objections, and the debtor sent such objections to the court no later than ten days since the moment when such circumstances ceased to exist.

A decree on revocation of the court order shall indicate these circumstances as grounds for the judge’s acceptance of the debtor’s objections.

34. Documents confirming the debtor’s inability to present objections within the stipulated period for reasons beyond its control should be attached to the debtor’s objections submitted after the expiry of the stipulated time period.

Such evidence may include documents refuting information from the official website of FSUE “Russian Post” which was accepted by a justice of the peace or a commercial court as evidence that the debtor may be deemed as having received a copy of the court order, documents confirming that the debtor did not receive a copy of a court order because mail delivery rules were violated, documents confirming that the debtor-citizen did not receive a copy of the court order because of absence at the place of residence, in particular due to illness, business trip, vacation, moving to another place of residence, etc.

35. The revocation of a court order shall constitute independent grounds for the reversal of execution of a court order, if at the time of filing of application for the reversal of execution of the court order or during its consideration proceedings were not initiated in the case based upon a statement of claim submitted by the recoveror (Article 443 of the CPC RF, Article 325 of the ComPC RF).

A justice of the peace or a commercial court resolves the issue of reversal of execution of the court order in the manner stipulated in Article 444 of the CPC RF and Article 326 of the ComPC RF.

36. If the application for the issuance of a court order is returned or if it is not accepted, the paid state fee is subject to return to the recoveror in the manner stipulated in the Tax Code of the Russian Federation.

If the recoveror applies with a statement of claim (application), the paid state fee may be offset against the subsequent payment of the state fee for submission of the statement of claim (application) (Sub-item 13 of Item 1 of Article 333.20, Sub-item 7 of Item 1 of Article 333.22 of the TC RF).

37. Since a justice of the peace or a commercial court issues a court order without summoning the recoveror and the debtor, the correction of slips of pen, misprints, arithmetical errors that do not change its contents shall also be carried out without summoning the abovementioned persons (Part 2 of Article 126 of the CPC RF, Part 2 of Article 229.5 of the ComPC RF). The decree regarding the correction of slips of pen, misprints, arithmetical errors may be appealed against together with the court order (Part 1 of Article 376, Part 1 of Article 386.1 of the CPC RF, Part 11 of Article 229.5, Part 1 of Article 288.1 of the ComPC RF).

Execution of a Court Order

38. No writ of execution is necessary for the enforcement of a court order, since a court order is simultaneously an enforcement document, and it is enforced in the manner stipulated for the enforcement of court decisions (Part 2 of Article 121, Part 1 of Article 130 of the CPC RF, Part 2 of Article 229.1, Part 6 of Article 229.5 of the ComPC RF).

Since an application for the issuance of a court order only contains the date and place of birth, as well as the place of work of the debtor-citizen, when such information is known to the recoveror, the absence of such information in a court order shall not constitute grounds for the bailiff-executor to adopt a decision to refuse to initiate enforcement proceedings by virtue of Item 4 of Part 1 of Article 31 of Federal Law of 2 October, 2007 No. 229 “On Enforcement Procedure”.

39. A justice of the peace or a commercial court shall issue a writ of execution for the recovery of state fee in favor of the corresponding budget on the basis of a court order simultaneously with handing the second counterpart of the court order certified by the official seal of the court to the recoveror, for its presentation for enforcement (Part 1 of Article 130 of the CPC RF, Part 6 of Article 229.5 of the ComPC RF).

40. A justice of the peace or a commercial court shall send a writ of execution for the recovery of state fee in favor of the corresponding budget to the bailiff-executor for its enforcement (Part 2 of Article 130 of the CPC RF, Part 8 of Article 229.5 of the ComPC RF).

41. A justice of the peace shall issue a duplicate of a court order and send it for enforcement in accordance with the rules on issue of a duplicate of a court order and sending it for enforcement (Article 130 and 430 of the CPC RF); a commercial court shall perform these actions in accordance with the rules of issue of a duplicate of a writ of execution and sending of a court order for enforcement (Part 6 of Article 229.5 and Article 323 of the ComPC RF).

A duplicate of a court order shall fully reproduce the lost court order, and the stamp “Duplicate” shall be placed in its top right corner.

Appealing against a Court Order in a Court of Cassation

42. A cassation appeal may be submitted against a court order (Part 1 of Article 376, Part 1 of Article 386.1 of the CPC RF, Part 11 of Article 229.5, Part 1 of Article 288.1 of the ComPC RF).

A cassation appeal against a court order issued by a justice of the peace shall be submitted directly to a court of cassation in the manner stipulated in Article 377 of the CPC RF.

A cassation appeal against a court order issued by a commercial court shall be submitted in accordance with the rules of Article 275 of the ComPC RF to the commercial court of cassation authorized to consider it, through the commercial

court that issued the court order. Failure to observe the stipulated manner of filing a cassation appeal against a court order shall not constitute grounds for the return of such a cassation appeal. A judge of the commercial court of cassation, in order to establish the grounds for consideration of the court order in cassation proceedings, may request the case from the commercial court that adopted the challenged court order (Part 2 of Article 288.1 of the ComPC RF).

43. A cassation appeal against an effective court order shall be considered in accordance with the rules of Chapter 41 of the CPC RF with due regard to the features stipulated in Article 386.1 of the CPC RF, in accordance with the rules of Chapter 35 of the ComPC RF with due regard to the features stipulated in Article 288.1 of the ComPC RF. In view of this, the cassation appeal against a court order may be left without action by a commercial court (Article 280 of the ComPC RF), returned by the court (Article 379.1 of the CPC RF, Article 281 of the ComPC RF), proceedings regarding the cassation appeal may be terminated by the commercial court (Article 282 of the ComPC RF), the appeal may be left without consideration on its merits by the court of general jurisdiction (Item 6 of Part 1 of Article 390 of the CPC RF).

44. If a court order resolves the issue of rights and obligations of a person who did not participate in court order proceedings, such a person (for instance, bankruptcy creditors, the authorized body, the insolvency receiver) may appeal against the court order in the context of Part 4 of Article 13 and Part 1 of Article 376 of the CPC RF, Article 42 and Part 11 of Article 229.5 of the ComPC RF. For instance, if the issued court order leads to or may lead to an unjustified increase of payables to the prejudice of bankruptcy assets, the court of cassation shall revoke the court order in the context of Article 387 of the CPC RF, Item 4 of Part 4 of Article 288 of the ComPC RF.

Closing Provisions

45. An application for the issuance of a court order, a cassation appeal against a court order shall be considered by the court in accordance with the provisions of the CPC RF and the ComPC RF that are effective at the time of performance of a separate procedural action by the court, in particular of adoption of a court ruling (judicial act) (Part 3 of Article 1 of the CPC RF and Part 4 of Article 3 of the ComPC RF).

46. In view of adoption of this Ruling, the following provisions shall be declared inapplicable: Items 1-5 of Ruling of the Plenary Session of the Supreme Court of the Russian Federation No.3 and of the Plenary Session of the Supreme Commercial Court of the Russian Federation No. 1 of February 5, 1998 “On Certain Issues of Application of the Federal Law “On Bill of Exchange and Promissory Note”.

47. When applying the explanations contained in Items 18 and 28 of this Ruling, it should be taken into account that the provisions of the CPC RF and the ComPC RF, as amended by Federal Law of 23 June, 2016 No. 220 “On Amendment of Certain Legislative Acts of the Russian Federation Regarding the Use of Electronic Documents in the Activities of Judicial Bodies”, that provide for the opportunity to file documents to courts in electronic form, in particular in the form of electronic documents signed by a digital signature in the manner stipulated in the legislation of the Russian Federation, and that provide for drawing of court rulings (judicial acts) in the form of electronic documents signed by an enhanced qualified digital signature, shall be used with due regard for the time of entry of such provisions into force and on condition that the courts possess the required technical capacities.

Chief Justice of the Supreme Court of
the Russian Federation

V.M. Lebedev

Secretary of the Plenary Session, Judge of
the Supreme Court of the Russian Federation

V.V. Momotov