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Arbitrary Change of Parties

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: As a common judicial phenomenon, arbitrary change of parties can be divided into three kinds of theory according to the behavior that caused the change of parties. The change of litigation theory is the German general saying that it cannot obtain legislative support within the framework of the provisions of the Japanese civil procedure law, and the new party is completely bound by the old party's litigation behavior, which is very unfavorable for the new party in many cases. The initiation of new lawsuits and the revocation of old lawsuits theory is the general theory in Japan. It regards the change of the parties as two separable phenomena of the initiation of a new lawsuit and the revocation of an old lawsuit. Through legal interpretation, it can be considered that the results of litigation that have occurred can be appropriately used in new lawsuits. The special behavior theory appears as an improved theory, but it cannot explain the essential difference between the initiation of new lawsuits and the revocation of old lawsuits theory, and it cannot fully explain the reason why the new party is bound by the old party's litigation results. If the conditions and effects are not significantly inappropriate, the initiation of new lawsuits and the revocation of old lawsuits theory should be supported.

: Arbitrary Party Change; Change of Litigation Theory; Initiation of New Lawsuits and the Revocation of Old Lawsuits Theory; Special Behavior Theory