

Stopping the course of the judicial litigation and dropping it, a study in the Jordanian Civil Procedures Law

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Abstract:

Explaining cases of stopping and dropping the litigation and their reasons in the Jordanian Code of Procedure, the problematic of this study is to explain the stopping of the Jordanian legislator from cases of stopping and dropping the litigation and the adequacy of the legal texts regulating it in Jordanian legislation. The two researchers followed the descriptive and analytical approach in analyzing legal texts, particularly the texts of the Jordanian Code of Civil Procedure, the jurisprudence, and the opinions of the jurists. Likewise, the comparative approach, whenever necessary, in order to enrich the study, and the researchers reached a number of findings and recommendations, and the most important result was: that the litigation may be intercepted by situations that lead to affecting the course of its outcome, such as endowment and omission. The researchers recommended the necessity of expanding the study of the judicial litigation and what influences it in the cases of stopping and abrogation, due to its importance in determining the legal positions of the parties.

Key words: adversarial, course stopping, dropping.

First: The importance of the study:

It is known that the civil judicial litigation passes through several stages, starting from the date of its registration with the competent court and ending with the issuance of a judicial judgment ending it. The principle ends the litigation with its separation and the issuance of a judgment that ends the dispute on its subject matter, whether by ruling what the entire litigant had requested, or part thereof, or in a matter subordinated to the original request, or by dismissing the claim, and this is the general principle. Formal and substantive procedures are followed in the various stages of the case. But in exceptional cases, the lawsuit may be objected to by an opponent who does not complete the lawsuit for any reason, and these symptoms include stopping the course in the litigation in all its forms and manifestations, as well as cases of dropping that lead to stopping the hearing of the case.

Through this study, these cases will be explained in the Jordanian Code of Civil Procedure, because these cases are considered an exceptional and rare method in practical application because there are no complex legal studies on this topic, especially in Jordanian jurisprudence and the judiciary, and they are not summarized in one study.

Second: The problem of the study:

The problem with this study is represented in the Jordanian legislator's statement of stopping the course in the judicial litigation and dropping it. The Jordanian legislator did not address in detail the cases of stopping and dropping the case.

Third: Study Questions:

This study will answer the following questions:

What is meant by the litigation and stopping the course?

What are the types of stopping and dropping in the Jordanian Civil Procedure Code?

What is dropping the litigation and its downfall?

What are the causes of dropping and dropping situations?

Fourth: The objectives of the study:

- Statement of what is meant by the litigation stopping the course?

- Explain what is meant by dropping the litigation?

- Statement of the types of stopping and dropping.

- Statement of dropping causes and states of dropping.

Fifthly: the importance of the study:

The importance of this study lies in the fact that legal disputes represent a large aspect of the cases pending before Jordanian courts, so the importance of stopping and dropping the judicial litigation relates to this type of case and its spread and as it affects a large segment of society from the right-holders. These means also have many and very important legal implications, both for the litigants and for the right-holders from others. Also the cases of stopping and dropping make problems for judges and legal researchers, which necessitate studying these cases in order to clarify the legislative stopping from them.

Sixth: Related Previous Studies:

The two researchers sought to find a similar study, and reached a group of studies related to some address variables, including:

Hamdallah, Saed Wahid (2009) conducted a study entitled: Interruption of the course of civil lawsuits under Palestinian law, a comparative study, aimed at explaining the reasons for the discontinuation of the litigation course, cases of extinguishment of the litigation and the consequences thereof, appeals against measures and their abolition in Palestinian legislation.

Al-Zoubi and Awad Ahmed (2010) conducted a study entitled: Abolishing the litigation and dropping it according to the Jordanian Civil Procedures Law. This study was limited to dropping the litigation and its failure in the Jordanian Civil Procedure Code, as one of the symptoms of the litigation without talking about stopping as a symptom of the litigation. As stipulated in the Jordanian Civil Procedures Law.

The current study will be distinguished from previous studies by not being limited to the case of dropping the litigation and its failure. Rather, the current study will deal with other cases of termination of the litigation that impede the completion of the case, leading to its termination without being able to decide on the subject matter of the case, such as stopping, in the Jordanian Code of Civil Procedure. As what was mentioned in the previous study did not deal in detail with cases of stopping and dropping the litigation.

Seventh: Approach of the study:

The study of stopping the course in the judicial litigation and its dropping it into the Jordanian civil litigation law requires researchers to adopt an integrated methodology to create a clear and comprehensive framework for analysis, and the most prominent of these approaches is: the descriptive and analytical approach: by explaining and analyzing the legal texts in the stopping of the course in the civil litigation and its fall, Especially in the Jordanian Code of Civil Procedure, and analyzing and describing these texts and accurately describing the aspects related to the variables of this study and its criticism.

Stopping the course and its varieties in the civil judicial litigation

The stopping of the course in the lawsuit is considered one of the most prominent issues stipulated by the Jordanian legislator and its treatment that would lead to stopping the case. Saying that the Jordanian legislator has confused between the legal stopping course the litigation and the interruption of the litigation and making them one of the reasons for stopping consideration of the litigation.

And one of the symptoms that lead to stopping the hearing of the lawsuit is dropping. When the opponent fails to attend the case sessions, the judge can drop that lawsuit temporarily due to absence or permanently because of fulfillment. For example, for the plaintiff to request dropping the lawsuit because he has collected the amounts owed by the defendant, and so that the researchers can explain the course in the lawsuit as well as dropping

What is the judicial litigation and stopping the course?

The judicial litigation is the result of the lawsuit. The judicial claims that the plaintiff submits before the competent court to adjudicate them are called the judicial litigation, and are based on a set of procedures that must be legally respected by the judge and the parties. The judge supervises the implementation of these procedures from the start of the judicial litigation until its end, and it is the responsibility of the parties to the litigation to respect the judgment that the judge will reach in it, and the nature of the judicial litigation and stopping the course will be explained through the following two sections:

First branch: The concept of the judicial litigation and stopping the course

In order for the concept of the judicial litigation and the stopping of the course to be defined, it is imperative to state what is meant by the judicial litigation and stopping the course, and this will be done through the following:

First: Defining the judicial litigation.

The judicial litigation was defined as: "A set of procedures that are carried out before the judiciary from the time it has been resorted to in order to defend the right until the end of these procedures with the issuance of

a final judgment ending the judiciary's relevance to the subject for which the court has been resorted. The right to resort to the judiciary to obtain legal protection for the claimed right"(El-Sherbiny: 2006, 19).

The Journal of Judicial Rulings defined in Article (1613) the litigation as: "A person requests his right in the presence of the ruler, and it shall be said to the plaintiff, the plaintiff, and the wanted defendant."

The researchers believe that the litigation is: a situation that arises as a result of a conflict between a group of parties, one of whom is a plaintiff and the other a defendant, and the subject of this dispute is one of the rights recognized by the law.

Second: Defining the stopping of the course as the litigation:

The stopping of the course in the litigation is defined as: "The absence of the course in the case for a period of time, in the event that one of the reasons for stopping occurs during its consideration, while remaining productive of its effects. By virtue of a court ruling, it is called a judicial stopping, or by force of law, in what is known as legal stopping (Al-Abboudi, 2006, 256).

The stopping is the absence of the course in the litigation for a period of time, and this is due to the occurrence of one of the facts specified by the law during the period of hearing the case. The stopping period may be predetermined, and that period may be subject to a procedure of legal procedures required by the course in the case again (Al-Dulaimi, 2008, 17)

The stopping the litigation does not differ from the stopping of the lawsuit, as both express the same meaning, and stopping the litigation means the absence of a course in it and the transition from one procedure to another, and that suspension is based on the litigant's agreement, the court ruling, or the law. The litigants in the case may have the desire to settle the dispute amicably and want to take a period in order to complete the reconciliation efforts between them. Therefore, they can request the court to temporarily stopping the case in order to complete these endeavors. This stopping must be for a specific period so that the lawsuit does not remain pending without a decision (Mahmoud, 2005, 676).

The stopping of the course in the litigation is the failure to undertake its procedure in the event that there is one of the reasons for stopping mentioned in the Jordanian Civil Procedures Code in Articles (122,123) of the same law until that reason ceases to exist.

Types of Stopping:

Stopping the litigation is temporarily suspending or suspending judicial procedures due to the existence of one of the reasons for stopping the lawsuit stipulated in the Code of Civil Procedure, until this reason that led to the stopping of hearing the case is removed, and these reasons are outside the status of personal litigants. The stopping may be by agreement, that is, through an agreement between the litigants, and the stopping may be according to a judgment issued by the court. The legislature may also stipulate some cases that lead to stopping the consideration of the case, and this type of stopping is called legal stopping (Barbara, 2013, 41), and the researchers will work to address these three types through the following points:

First: Agreement stopping:

In fact, one or both of the parties to the litigation may have some reasons that require delaying the consideration of the case for a period of time, as there may be conciliation efforts between the parties or there are attempts by them to resort to arbitration. These attempts may collide with the judge's reluctance to postpone without taking any action. Therefore, the legislator has granted the parties the right to suspend the case temporarily, but within conditions and controls (Abu Al-Wafa, 1983, 521).

Article (123/1) of the Jordanian Code of Civil Procedure stipulated that, as it states: "A case may be stopping by the agreement of the litigants not to take a course in it for a period not exceeding six months from the date of the court's approval of their agreement. It is not permissible for any of the litigants to request during This period is to re-register the lawsuit except with the approval of his opponent. It is clear from the previous text that the maximum limit for stopping the agreement between the parties is six months, and the researcher believes that this period is a good period that gives the parties a sufficient and complete opportunity to resolve the dispute between them. There is money coming to the defendant and it comes during the stopping period of the agreement, and then he ends the dispute by paying his debts.

However, some researchers believe that this period is very long, and this length of time may lead to the occurrence or emergence of other barriers or other symptoms that may hinder the litigation or lead to failure to resolve them. Also, such a period leads to the continuation of the judicial litigation for a long period of time, and this matter contradicts the accomplished justice that most legal systems seek to reach. Supporters of this opinion (Al-Zoubi, 2019, 625) argue that the Jordanian legislator should determine the period according to the desire and conviction of the judge.

The researchers believe that it is possible to respond to this opinion that the Jordanian legislator has made the upper limit for the period of six months and has not restricted the litigants in this matter to a specific period except the upper limit, and this is a good thing because the parties are the owners of the lawsuit and its true

owners and they can dispose of it in any way. Also, the litigants are more aware of their conditions and conditions and the appropriate period for them in order to reach a solution to the conflict or bring their views closer, and that the period over which the stakeholders, namely the litigants, agree upon which they must take into account their interests and that wasting time may be in their interest, which makes them keen on time in a way that may exceed the same court.

The litigants must submit an application to the court for a course in the lawsuit after the end of the agreement's stopping period, otherwise the court will drop the lawsuit. And this matter was affirmed by Article (123/2) of the Code of Civil Procedure, as it says, "If one of the litigants does not apply for a course in the case within the eight days following the end of the term - no matter how long the time is - the case shall be dropped."

Second: Judicial stopping:

This stopping does not differ from its predecessor in terms of provisions, but the conditions for its occurrence and whoever orders it differ somewhat, this type of stopping is ordered by the court on its own, so the stopping in this case is by a direct decision of the court and issued as a result of the text of the law ordering the suspension. The effect of this stopping begins from the date of issuance of the decision. And this is according to the text of the law, this type of stopping is not done based on the litigants' agreement or because of the presence of a text in the law, but rather it is up to the judge's discretion. (Al-Mahmoud, 2005, 70), and the judicial stopping may take place in several forms and forms, and it may be a suspended suspension or a criminal endowment.

Article (122) of the Code of Civil Procedure stipulates that "the court shall order the stopping of the case if it deems that the judgment in its subject matter is suspended on the adjudication of another matter upon which the judgment will be stopping. As soon as the reason for the stopping has disappeared, any of the litigants shall have the right to request the course in the case."

It is understood from the previous text that in the event that an issue of subsidiary matters is presented to the court that hears the case and which is outside its jurisdiction in terms of qualitative or functional. This issue may affect the judgment that will be issued by the court, it is possible for the court to stopping the judicial litigation until the matter is decided in this sub-matter, and this type of stopping is called the judicial commentary. (Al-Takroui, 2009, 452)

In order for the judicial suspension to be stopping to take place, the matter must be related to the cause of the judicial stopping that is necessary in order to settle it. The assessment of this case is up to the trial judge, so it is assumed that the judge searches the substantive issue before him so that he can know the legal adaptation. It must be verified that this issue is related to the original lawsuit, and if it becomes clear to the court that the issue raised before the court is not a necessary or serious issue, then the court may rule not to stopping the case (Abdeen, 1994, 903).

It is also stipulated that the matter that can be stopping the consideration of the case in a court of law must be one of the matters that deviate from the jurisdiction of the subject judge examining the lawsuit. The objection falls within the jurisdiction of the court examining the case, so it is not permissible for the case to be stopping the case. Rather, the judge must look into that issue and decide on it from within the case before him (Meligy, 2007, 43).

Accordingly, the matter that would be judicially stopping the litigation would not be considered by the same court. And you must decide on the primary issue without stopping the case, as the judge who hears the original lawsuit is the same who falls within his jurisdiction to decide on subsidiary matters, and this case is similar to the requests that are submitted to the court during the consideration of the case, so the court may move to consider the application submitted to it. This matter may be repeated in other matters, bearing in mind that the principle is that the case is not stopping the case in any way as long as the issue falls within the jurisdiction of the same court (Abu Al-Wafa 1983, 585)

In order for the judicial stopping to be properly accomplished, it must be that the matter which is decided upon does not lead to the full resolution of the judicial litigation. Among the other conditions is that a court decision is issued stopping the consideration of the original case, as the case cannot be stopped without a decision by the court to do so (Ragheb, 1986, 335).

The stopping the judicial litigation may be by the judiciary punitive, that is, in the form of a penalty imposed on the parties to the case, and the aim of this kind of stopping the hearing of the case is to reduce the delaying of the parties in the case. Some procedural laws stipulated this matter, including Article (99) of the Egyptian Civil and Commercial Procedure Law, which states: "The court shall rule on whoever among its employees or litigants fails to deposit documents, or from carrying out any of the pleading procedures on time. For whom the court has set a fine of not less than twenty pounds and not exceeding two hundred pounds, and that is by a decision that establishes in the session minutes the enforcement power of the judgments, and it is not acceptable to challenge it in any way, but the court has the right to exempt the convicted person from all or part of the fine if he shows an acceptable excuse. Instead of ruling on the plaintiff with a fine, the court may rule to

stopping the case for a period not exceeding three months after hearing the statements of the defendant. You are "

Through research and scrutiny of Jordanian legislation, the two researchers did not find a similar text, and accordingly the researchers believe that the Jordanian legislator was right when he did not stipulate such an order because the penalty may not be effective if the intention of one or both parties is to obstruct the case and its progress. How can the penalty be stopping the case, and if it is better to limit the fines only without the need to stipulate the permissibility of stopping the case as a kind of penalty for the delay of one of the litigants in any of the procedures.

Third: Legal stopping:

In fact, the litigation remains in progress, and the litigation may sometimes be objected to an accident that leads to its suspension. The litigant may be due for legal reasons, and in this case it is called the legal stopping, and the legal stopping is in most cases in the case of a judge's refusal or a case of conflict of jurisdiction. . As well as the appeal of unconstitutionality and consideration of the criminal case related to the subject matter of the case before the trial judge (Zagha, 2017, 28). The two researchers will address these cases through the following:

A-stopping due to the judge's response:

The Jordanian legislator has dealt with cases of judge's dismissal in Article (134) of the Jordanian Code of Civil Procedure, whereby the text states that "a judge may be recused for one of the following reasons: 1- If he or his wife has a case similar to the case he is considering or if one of them finds a dispute with one of the litigants or With his wife after the case brought before the judge, unless this lawsuit has been filed with the intention of dismissing him from hearing the case before him 2- If his divorcee from whom he has a child or one of his relatives or in-laws on the lineage column has an ongoing dispute before the court with one of the litigants in the case or with His wife, unless this litigation was instituted after the case brought before the judge with the intention of dismissing him. 3- If one of the litigants was working for him. 4- If he used to live with one of the litigants or had received a gift from him prior to or after the filing of the case. If there is hostility or affection between him and one of the litigants, it is likely that he will not be able to rule without inclination. "

In the event that any of these previous cases apply, it is possible for any of the litigants to submit a request for the judge's dismissal, and in the event that the judge's response request includes his requirements, it is possible for the judge to be dismissed, and in this case the case is stopping until the president of the court decides on a request. The judge responded. The court's decision to return is productive of its effects. In the event of a ruling for restitution, all previous procedures shall be considered null and by the judge (Al-Takrouiri, 2009, 107).

There is no special legal text in Jordanian legislation regarding legal stopping due to the judge's response, but some other legislations have provided for this, including the Egyptian legislation, in accordance with Article (162) of the Egyptian Procedure Law, in which it was stated that submitting a recusal request leads to stopping consideration of the original case. .

As the Egyptian Court of Cassation ruled in its decision that "the text of Article 162 of the Law of Procedures indicates that the stopping of the original lawsuit, after submitting the recusal request, is a stopping of a special type that falls under the force of law and the legislator aims to prevent the judge requested to be dismissed from carrying out any procedural activity in the case. Otherwise, it will be null and void. " (Egyptian Cassation No. 1080/1986, Compilation of Rulings of the Egyptian Court of Cassation)

B-stopping due to a jurisdiction dispute:

In some cases, there may be a conflict of jurisdiction between a group of regular courts, and the dispute may be in a positive way, where either of the two courts believes that it has the authority and jurisdiction to hear the case, and the dispute may be negative where neither court believes that it has no jurisdiction to hear the case, and it has been mentioned. The stipulation of this order in Article (35) of the Jordanian Code of Civil Procedure states: "1- If there is a dispute over jurisdiction, whether positive or negative, between two regular courts, then any of the parties has the right to submit an application to settle the dispute to the following court: A- If it is The dispute is between two reconciliation courts, or between a court of first instance and a court of peace, or between two courts of first instance belonging to one court of appeal, so the Court of Appeal appoints the court competent to hear the case - if the dispute is between two courts that do not belong to a single court of appeal and an appeals court, then the Court of Cassation appoints the court competent to hear the case. - If any of the parties produced a notice indicating that he had submitted a request to appoint the reference to stopping the course in the case.3-The Cassation and Appeal Courts shall examine the application for appointing the reference for scrutiny without inviting the parties to appear before them.

Through the researchers' extrapolation of the previous text, it can be said that the case is transferred from the court to another court in order to resolve the dispute over jurisdiction, the case in terms of the subject matter

is considered non-stop even if it is transferred from one court to another in order to determine the jurisdiction, since the matter of jurisdiction is one of the procedures that the court takes. By examining it from the objective or formal aspect, and deciding whether or not the jurisdiction of the court is part of the procedures required by law in order to settle the dispute.

However, one aspect of jurisprudence Al-Afif, (2012, 242) believes that merely submitting a request in order to determine jurisdiction requires that the case be considered before either of the two conflicting courts until the competent authority is appointed to examine the case and decide on it. The procedure that takes place prior to a decision on jurisdiction is considered void.

C- Stopping the judicial litigation to challenge the unconstitutionality of laws.

Article (58) of the Jordanian constitution stipulates that "1 - A Constitutional Court shall be established by law, to be located in the capital, and is considered an independent and independent judicial body, and is composed of at least nine members, including the president, appointed by the king. 2- The term of membership in the Constitutional Court is six years. Not renewable. "

The primary jurisdiction of the Constitutional Court is to verify the extent to which laws comply with the provisions of the constitution and do not conflict with it or violate it (Shatnawi and Hamletleh, 2013, 619)

An appeal to the unconstitutionality of laws can be made by the same court that examines the judicial litigation, and it can resort to that in the event that this provision is necessary for the determination of the case, and the litigation cannot be decided independently of it. Litigants may also challenge the constitutionality of the law and argue that it is unconstitutional if it is necessary to decide the case. The court can manage the seriousness of this appeal or not, and after the unconstitutionality of the law is challenged before the trial court, the appeal is referred to the Constitutional Court (Ahmad, 2004, 99).

The stopping due to a challenge to the unconstitutionality of the laws is a logical issue as the judicial litigation cannot continue. The reason for this is that there is no point in continuing to consider the judicial litigation in the presence of a challenge to the constitutionality of the laws. It is also not possible to decide on the case or to benefit from what has been done from subsequent procedures if it is concluded that the law that was ruled is unconstitutional and contrary to the provisions of the constitution (Shatnawi and Hamletleh, 2013, 620)

D- Stopping the litigation until the criminal case is settled

Civil liability is sometimes linked to criminal liability, and the civil litigation may be related to the criminal case or it is an independent case, and this is what Article (6) of the Jordanian Criminal Procedure Code emphasized, and the legal basis for this link is that the criminal is reasonable for the civil. The basis of this rule means that the criminal judgment has authority before the civil judge, and accordingly, the civil lawsuit must be suspended in the face of the criminal case and until its termination until the issuance of the criminal judgment, and the authenticity is not absolute. In some cases, it may happen that a person is acquitted, yet his civil liability for the harmful act is established, such as if a person destroys the money of others and demands compensation for the damages incurred by him as a result of this act (Al-Jawhdhar, 1992, 209)

The suspension in such a case is temporary, meaning that this suspension cannot be relied upon as a means of ending the judicial litigation. Therefore, it is possible to return to the civil litigation, regardless of the outcome of the criminal court. If the defendant is acquitted in the criminal case, then it is certain that the civil case must be returned to the case and the course in the proceedings of the case, and after that the judge must issue a decision to dismiss the case if the civil lawsuit is based in an absolute way on the criminal case. But if the civil lawsuit is affected by the criminal case, the judge must persist in examining the case and settling it.

Civilian dropping the judicial litigation

In order to speak of dropping and the downfall of the judicial litigation, it is necessary to explain the causes and cases of dropping and the downfall of the litigation, and this will be discussed through the following two requirements:

Judicial reasons for dropping the litigation

The reasons for dropping the judicial litigation according to the Jordanian Code of Civil Procedure are either substantive or procedural, and this will be addressed through the following:

First: the merits of dropping adversarial.

Objective dropping is the dropping that focuses on the right itself, and through this type of dropping the litigation is completely and definitively eliminated. This type of dropping may occur at any stage of the civil lawsuit, and none of the litigants may renew the case again, just as they are not permitted to do so. By instituting a new lawsuit related to the same right, and from the jurisprudential point of view this type of dropping falls

under the clause of release, and its effects from the procedural point of view are reflected in preventing the right of claim. (Dalmatians, without a year of publication, 406)

Objective dropping, whether for fulfillment or exoneration, or for any other reason, is in fact leading to dropping the claim completely, and this effect occurs whether I intend to achieve it or not. Article (444) of the Jordanian Civil Code affirmed this matter in which it was stated: "If he is cleared. The creditor is a debtor, choosing the right he has over him, the right has fallen and the obligation lapsed. And dropping of the right is one of the issues that lead to the end of the litigation between the parties without adjudicating them and without any of the parties having the right to return to the court again and without a ruling to do so (Al-Zoubi, 2019, 149).

Second: the procedural reasons for dropping adversarial

Procedural dropping means dropping for one of the formal reasons required by law. The judicial litigation consists of a set of procedures required by law. The procedures in Jordanian legislation represent a means that the legislator has established in order to protect the same objective right and organize the litigation process. The Jordanian legislator has expanded the reasons for dropping litigation. The Jordanian legislator has specified the reasons for temporary and final dropping for a civil lawsuit (Al-Naqeeb, 2014, 40). The provision for this type of dropping is mentioned in Articles (67, 124). The lawsuit may not be renewed if dropping is final, and it is also possible for temporary dropping to terminate the litigation in If the case has not been renewed.

Objective dropping is when dropping deals with the right itself. This is in contrast to procedural dropping, which is in the formal reasons required by law.

Cases of judicial dropping the litigation

As for the cases of the litigation, the litigation ceases to be a defect in the procedures in several cases, and this will be dealt with through the following:

First: dropping the litigation due to a defect in the case list:

Article (124) of the Code of Civil Procedure stipulates that "the court may decide to drop the lawsuit in the following cases: 1 - If the list does not include the cause of the lawsuit. 2 - If the required rights are estimated at less than their value, then the court has mandated the plaintiff to correct the value within 3 - If the required rights are appropriately assessed, but the fees that were paid were incomplete, the court charged the plaintiff to pay the required fee during the specified period, and he failed to do so.

A distinction must be made here between the cause of the lawsuit and the reason for the right. One of the rules on which legal jurisprudence has settled in explaining this issue is that the reason for the right is the established legal event. The factual nature that led to the occurrence of that lawsuit, and the legal grounds that would prove the lawsuit, i.e. the origin or source of the right or obligation that is the subject matter of the lawsuit, is included in the cause of the lawsuit (Abu Al-Wafa, 1983, 355).

Second: dropping the litigation for not paying the rest of fees.

The text on judicial fees was mentioned in general terms in the Jordanian court fees system for the year 2005, and they are stipulated in pieces or in relative terms in some cases. The lawsuit owner can assess the lawsuit when registering it in relative terms or for the purposes of filing the lawsuit, after which it becomes clear to the court the true value of the lawsuit and then assigns the plaintiff to pay a fee difference and complete the fees. In such cases, the court may drop the lawsuit without asking the plaintiff to complete the fee difference, and the duty to verify and collect the fees is among the court's jurisdiction (see Jordanian Rights Discrimination No. 3588/2004).

Third: dropping the litigation by the will of the litigants:

The behavior of the litigants and the extent of their commitment may affect the attendance of the lawsuit or because of a dropping the litigation for any reason and it may be a dropping of the litigation due to the failure of one of the parties to attend the case sessions. This article is for dropping by the court; it is possible for the court in the event that the two parties fail to attend the session to postpone consideration of the case for another session or for dropping the litigation and this is temporary. And the matter of this behavior by the court is a matter of discretion of the court itself, and it is a penalty for failure of the parties to attend court sessions. (See the Jordanian Rights Discrimination No. 1094/1997, 8585/2019 Discrimination of Jordanian Rights)

This type of dropping was specifically stipulated in Article (5/67) of the Code of Civil Procedure, where it states, "If no party is present, the court may postpone the case or drop it." As for the other type of dropping due to the absence of litigants, it is the one that takes place at the request of the defendant in the absence of the plaintiff. In the event that the plaintiff or his representative does not attend the trial sessions for any reason, then the defendant has the right to ask the court to dropping the litigation, because the litigation is not one of the issues. That dropping is absolutely controlled by the plaintiff who runs it whenever he wants and stops it

whenever he wants, and this dropping may turn from temporary to permanent in the event that the lawsuit is not renewed after its fall (Al-Zoubi, 2010, 151).

And dropping may take place at the request of the plaintiff himself in the presence of the defendant, if the defendant agrees to that. The reason for dropping the lawsuit is not authorized except with the defendant's consent to this dropping, and there was no text requiring the court to clarify the reason for dropping or its type, such as determining that the reason for dropping is a fulfillment or temporary reconciliation or something else, and this is what the Jordanian Court of Cassation confirmed when it ruled. The attorney of the plaintiffs and before the court of first instance and at the hearing of May 9/2000 requested the court to drop his case. The attorney of the defendant who was present at the hearing agreed to the request for dropping, and then the court dropped the case. He requests dropping according to the aforementioned Article (126), whether the dropping he is requesting is a temporary dropping or a final and fulfilling dropping (Discrimination of Rights No. 1919/2001, Adalah Publications).

Fourth: dropping the litigation to not be tracked:

In fact, everyone has the right to resort to the judiciary in order to settle litigations, but when resorting to the courts, every individual must strive to proceed with the litigation in good faith, so it is not permissible for the purpose of the litigation to be to waste the court's time or the defendant's time and incur losses because of the exercise of the right to resort to the judiciary and the courts. In order for the litigation to be carried out in good faith by the plaintiff, he must provide the court with the defendant's address in a true form and not in a fictitious or a copy that prevents his notification. The prosecutor must also provide the court with all the changes that happen that lead to a breach of the trial and its fairness (Saad, 1973, 448).

This matter has been confirmed by Article (6/67) of the Jordanian Code of Civil Procedure, where it states: "If the plaintiff cannot be informed for any reason and does not appear to the court within three months from the date of his filing the lawsuit, the court may decide to dropping the lawsuit and the related requests unless it appears. The defendant desires to pursue it, and in this case he shall pay the expenses of informing the plaintiff of the publication. "

The researchers believe that dropping for non-tracking is a better way than dropping because of absence, because the absence may have a justification for the plaintiff, such as if he or his agent were exposed to an accident while going to court or subjected to force majeure that prevented him from attending the session, and not dropping the case for absence gives the plaintiff another opportunity to complete his case. In the event that he is not tracked in his lawsuit, it is better to drop it, and that the period specified by the legislator, which is three months, is a sufficient period in the view of the researcher to verify that the plaintiff did not follow up on his lawsuit.

It must be said that dropping is a stopping of temporary measures, as the legislator permitted the renewal of the lawsuit if its dropping was temporary, and the researcher mentioned that the plaintiff may not renew his lawsuit even if dropping is temporary for one of his own reasons. In this case, we are faced with a realistic case that has made temporary dropping a final ruling in the lawsuit for the plaintiff not to renew his claim. In fact, dropping is a judgment decision, meaning that it represents an actual and real separation in the lawsuit, and the legal force resulting from dropping is the same as the consequence of the decision of the ruling that ends the litigation, therefore, dropping of all kinds, even if it is temporary, leads to dismissal.

Conclusion:

After studying the topic of stopping the judicial litigation and dropping it from civil lawsuits in Jordanian legislation as two of the symptoms that affect the course of the judicial litigation, the researchers reached through this study a set of conclusions and recommendations as follows:

First: Results:

1- That the litigation may be intercepted by cases that lead to an influence on the course of its outcome, such as suspension and abrogation.

1. The study of stopping and dropping the litigation contributes to defining the lawsuit procedures and the judicial trial mechanisms.

2. Stopping the judicial litigation will be carried out at the will of both parties for a period of six months. This period shall be sufficient for the reform between the two parties and the resolution of the dispute through friendly means, and in the event that the case is not renewed, it shall be dropped.

Second: Recommendations:

1. The two researchers hope from the Jordanian legislator the necessity of addressing the stopping and dropping cases and what affect the judicial course of litigation, due to its importance in determining the legal positions of the parties.

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2. The researchers hope that the Jordanian legislator will increase the period for which the lawsuit is dropped to six months. This is in order to save time and effort, as dropping the lawsuit and renewing it may lead to wasting more time than the time allocated for waiting for litigants to track their lawsuit.

3. The two researchers hope that the Jordanian legislator will limit dropping to not being tracked without absence. The reason for that is that the absence may be justified. As for the non-tracking, its justification is more difficult and almost impossible.