

Civil Litigation in Thailand: PART 3 – defense and evidence

A defendant in Thai court must present a reply to the complaint within a statutorily prescribed time. If the defendant fails to do this, the court may refuse to allow admission of his defense if the result will be an unfounded delay of the proceedings. However, in our experience, courts will often allow extensions of time for almost any tenable reason (and sometimes without any reason). This common practice can be justifiably frustrating to a good faith plaintiff's desire for just and efficient resolution of the dispute. But it should be said that over the past decade we have noted improvement with regard to such procedural irregularities and we are confident such will continue to improve as Thailand continues on its course towards a fully developed rule of law jurisdiction.

By common-law jurisdiction standards, but not unlike most civil law countries, Thai law provides for very little pretrial discovery; the one exception being a request for admissions of fact. Each party must generally prepare and produce their own evidence and the other party must then refute the other party's evidence on its merits, with their own evidence, or both. A party may request that the court subpoena evidence from the other party. However, such a subpoena must identify the specific document sought and specific relevant purpose for which it is sought. Furthermore, the requesting party must show good cause for the court to grant such a motion. As a practical matter, such requests are not often made and even less often actually granted.

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