

Civil Litigation in Thailand: PART 4 – trials

After both parties have made their first filings in civil court case in Thailand, the court sets a date for a pretrial conference. However, the Thai Civil and Procedure Code allows the presiding court to order a settlement conference at any time during the case. As a matter of practice (and perhaps Thai culture) a settlement conference is almost always ordered prior to the pretrial conference. This is the case, even if the parties make it very clear that they have already done all they could to settle and failed or that they are unwilling to settle. This practice often results in what many foreign parties consider an unfortunate expenditure of resources and an unnecessary delay in the proceedings.

Assuming the settlement conference does not succeed in terminating the case, the parties then proceed to a pretrial conference during which they specify to the court which issues they believe need to be resolved—thus, this pretrial conference is often referred to as the “settlement of issues”. The court then sets the date or dates for the taking of evidence on these issues—in other words, the trial date.

Unfortunately, a Thai civil court trial usually consists of several evidence and/or witness hearings. Each party presents its evidence consecutively; however, the hearing of the parties’ evidence may often be separated by several days, weeks, or even months depending on the case and the court’s schedule.

It is important to note (particularly for those most familiar with court case proceedings under a common-law tradition) trials in Thailand, unlike most civil law countries, are a matter of the evidence being presented to the judge and not the parties “making a case” — particularly with regard to points of law. In fact, during the actual trial, the lawyers may have very little to say. Depending on the judge, the parties’ lawyers may be limited to questioning various witnesses and speaking to the court with regard to procedural matters. Quite often it is the judge or judges who conduct

the questioning of the witnesses.

After the hearing of evidence is concluded the parties may, if permitted by the court, submit closing statements. The court then also fixes a date to pronounce its judgment. This day can vary depending on the procedural law under which the case is brought and how busy particular court is but it's usually within 30 to 90 days after the conclusion of the trial.

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