

Employment Litigation in Thailand: PART 1 – procedure and timing

When there is a dispute between an employer and an employee in Thailand that cannot be settled informally one of the parties may consider taking the issue to court. By way of the Labor Court Establishment and Procedure Act (1979) (the “Act”), Thailand has established a special “**Labor Court**” and procedure to resolve employment-related disputes.

The Labor Court has jurisdiction over disputes involving the following:

1. employment contracts.
2. wrongful acts between employers and employees in connection with a labor dispute or in connection with the performance of work under an employment agreement.
3. appeals against a decision of a member of the Labor Relations Committee or the Minister of the Interior (where 1 or 2 above were first submitted to such Committee or Minister instead of going directly to the Labor Court).

Pursuant to the Act, a typical Labor Court case would proceed as follows:

1. A party who initiates a labor case (the “**Plaintiff**”), against the other party, files a “**Plaint**” detailing their grievance to the local Labor Court branch where the work place is located. The **Plaint** can be filled either in writing or orally.
2. The Labor Court is then required to fix the date and time for a hearing and, without delay, summon the Defendant to appear in the Labor Court on that date.

3. If the Defendant would like to file an Answer to reply to and defend against the Plaintiff, the Defendant may do so within the time fixed by the Labor Court prior to the hearing date.
4. Prior to the first hearing, and for the purposes of protecting the relationship between the parties, the Labor Court will require the Plaintiff and Defendant to meet with a representative of the Labor Court to discuss a possible amicable settlement of the dispute.
5. If the parties are able to reach such a settlement they will then enter a compromise agreement and withdraw the case. Note: such a compromise agreement would then be fully and virtually “automatically” enforceable by the Labor Court should one party not honor such agreement.
6. However, if the parties cannot settle the dispute, the litigation will continue. In which case, the parties will then submit any relevant evidentiary documents in support of their claims or defenses to the Labor Court.
7. The first hearing of evidence will then proceed. Note: this may be on the same day as the unsuccessful settlement negotiations or it may be at a later date as determined by the Labor Court but once such hearing has begun it may not be adjourned for more than seven days until completed.
8. After all the necessary evidence has been taken, the hearing will be pronounced closed and the Judgment deciding the case will be pronounced within three days from such date.
9. The Act requires that the Judgment be made in writing and specify, in brief, the relevant facts, decisions, and reasons therefor, as found and decided by the Labor Court.
10. It should be noted that the Act provides that that Labor Court is directed to consider an employee’s particular: working conditions; costs of living; personal hardships; wage level; employment rights, and other employment benefits, as compared to a similarly situated employee elsewhere — in making it’s decisions.

11. Either party may appeal the Judgment directly to the Supreme Court of Thailand within fifteen days from the date of the pronouncement of the Judgment.
12. Timing from the date that the Plaintiff is filed until the Judgment is rendered is generally nine to twenty-four months. However, a complicated case may require significantly more time. And completion of the any appeal will likely take several years.
13. Finally, with regard to costs, it should be noted that the Act exempts all Labor Court cases from any court filing fees.

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