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THAILAND Newsletter

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Electronic Hearings in Thai Civil Court Procedures

The COVID-19 pandemic has had a major impact on all legal proceedings in Thailand. Since the start of the pandemic in 2020, most court hearings have been postponed and rescheduled. This has resulted in a significant delay in all court proceedings. Although the Thai courts might have experience presenting witnesses using video conference, holding **"Electronic Hearings"** is new and much more comprehensive.

To implement the Directive of the President of the Supreme Court on Electronic Court Judgements (the **"Directive"**), which came into effect on 1 October 2020, the Office of the Judiciary has already issued a number of announcements to govern electronic Hearings for those civil cases as it deems appropriate. For example hearings for appointment of an estate administrator, hearings for declaration of a person as having disappeared or a hearing for appointment of a guardian or a curator. Without clear directions and subsequent regulations standardizing methods and conditions for parties to comply with the Directive, electronic hearings, would possibly be limited to only ex-parte types of civil cases.

On 20 July 2021, during the third wave of Covid-19 pandemic in Thailand, the Office of the Judiciary issued its latest announcement cancelling all previous announcements concerning electronic hearings. The announcement directly regulates electronic hearing procedures for all types of civil case. Even though the latest announcement does not make a significant change to electronic hearing procedures compared with previous announcements, this creates a single guideline and therefore standardization to ensure that all parties have the same understanding.

Key features of the latest announcement can be summarized as follows:

- The announcement clearly prescribes that hearings for 'all types' of civil cases under the Civil Procedure Code may be held electronically, not only ex-parte cases.
- The applications permitted to be used for holding a video conference during an electronic hearing are limited to (1) Google Meet, (2) Cisco Webex and (3) Zoom. However, for an inquiry hearing for uncomplicated cases, e.g., the appointment of an estate

administrator, hearing for a consumer case, petty case, simple case or other inquiry hearings for a petition, an electronic hearing can be conducted through other applications that provide stable video and voice communication such as Line or Microsoft Teams (upon the request of the party concerned).

- The court documents will be produced and stored electronically. The electronic signature on such documents must be in the following form:
 - sign on a device that can show the signature on the document;
 - any action which can indicate that the person approves the information e.g., face-scan or finger-scan; or
 - e-signature on a system specified by the Office of the Judiciary which requires the signatory to be registered and verified in such system first.
- The documentary evidence will be submitted and stored electronically before the hearing. If the court considers that the originals are necessary, the court may order the party to submit the originals later. During the presentation of witnesses, a party may present their evidence by sharing their screen or presenting the original evidence using a video camera in order to allow the court and opposing party to check the evidence against that submitted prior to the hearing.
- Any documents or photocopies prepared for cross-examination must be prepared in electronic form and shared on screen for cross-examination. Such documents must be officially submitted to the courts afterwards within appropriate time for filing them into the case file.
- Once the witness testimony is finished at each hearing, the judge will read the witness statements in the presence of the parties who attend such electronic hearing in the courtroom and make the witness statements available in the system for the concerned parties to review on their screens. After that, the concerned parties need to affix their electronic signature to the witness statement.
- All transmissions of court documents (e.g., the court writ or other documents) can be made electronically via their registered email that was recorded in the court system.

As the end of the pandemic may not be arriving soon, this latest announcement attempts to maintain confidence that legal proceedings can continue efficiently throughout the country and, at the same time, creates a "new-normal" standard for Thai Courts.

If you have any questions in relation to the issues raised in this briefing, please contact the authors in the left-hand column.

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