

DISPUTE RESOLUTION

Commercial. Creative. Communicate. Competitive



Competently Litigating Your Matter

Dispute Resolution

A dispute can be expensive and time consuming, often developing to its stage that can physically and emotionally exhaust those personnel who are involved with. With uncertainty, anxiety, and heavy workload mounting, evidently a dispute diverts a significant amount of resources away from clients' core business, and if left unresolved, it can endanger the entire existence of the company.

In many cases, a dispute can be settled without the need for court proceedings. Obviously, this is a viable option as long as clients' commercial objectives are still achieved. We will provide our clients with the strategic negotiation and litigation/arbitration analysis, which will explain clients' existing legal standing (strengths and weaknesses), pinpoint contingent liabilities and highlight possible options for our clients. We have expertise to advise clients on when (not) to settle and how to make most of a settlement, regardless of whether the settlement is concluded in a courtroom or outside.

If going to court or arbitration is inevitable, our highly skilled litigation team is ready to fight for you. Our attorneys will walk you through every step of litigation or arbitral process, from evidence review, selection of witnesses to trial. Your case is as important to us as it is to you. This is why we provide a focused, individualized service. We will carefully inform and familiarize our clients with any particular strategy before executing it, so that our clients can participate in all important decisions.

As the lead litigator at our firm, NARIT & Associates, I take the direct responsibility to ensure that our fully functioned litigation team deliver the highest caliber of services to our clients. I will personally oversee your matter and proactively discuss any issues that may arise as the case is progressing. Ultimately, we will strive to achieve a successful, cost-effective outcome for our clients.

I hope you find this informative. Irrespective of your legal troubles in Thailand, please do not hesitate to contact us for more information about our litigation services, or if you require our fresh opinion on any situation you may be facing, feel free to call me at any time.

Narit Direkwattanachai, LL.M. Cambridge
Lead Litigator
+66 86 785 0793
+66 2248 2872
narit@naritlaw.com



*We are appropriately skilled to offer our clients
a seamless service and priceless local knowledge,
and to guide them through all forms of dispute resolution.*

Overview of Thailand Litigation System

Whenever a commercial dispute arises, the damaged party who intends to seek the legal remedy, must follow the below steps.

1. The damaged party must file a lawsuit to a court of first instance having a jurisdiction over the case.
2. The counterparty will be given an opportunity to file an answer to the lawsuit.
3. Then each party will bring witnesses to testify before judges
(There is no jury trial in Thailand. Thailand only adopts the bench trial).
4. Upon completion of the trial, the court will make a decision.
5. In general, the losing party may appeal the decision of the court of first instance to the Court of Appeals.
6. Likewise, the losing party may appeal the decision of the Court of Appeals to the Supreme Court.
7. A decision becomes final when no appeal is filed or the appeal is filed and the higher court (the Court of Appeals or the Supreme Court) decides one way or another.
8. The winning party can enforce the final court decision with the help of the Legal Execution Department to seize the assets of the losing party and selling them by a public auction.



Having adopted the codes of law, Thailand is a civil law jurisdiction. Thai judges decide cases based on the statutes, which have been passed by Parliament. Hence, the statutes or the Acts of Parliament are the source of law.

Court precedents in the previous cases are not legally binding to the judges in the subsequent cases, but the court precedents may be perceived as highly influential.

Unfortunately, our system allows a losing party to exhaust the lengthy appeal process and with the long queue at the Supreme Court, it will take ages to get a final decision. There is no speedy enforcement.

Our Approach

COMMERCIAL

To provide our clients with an innovative, yet commercially practical solution that can achieve clients' commercial objectives, either through negotiation, settlement, lawsuit, arbitration or other alternative methods.

CREATIVE

To identify creative interventions that will either prevent disputes from escalating or will resolve them within legal constraints and clients' requirement.

COMMUNICATE

Transparency is our policy. We will actively communicate with our clients the way we handle the case, provide strategic advice and elaborate in details every possible consequence of any proposed action prior to executing it.

COMPETITIVE

Clients worry about their spiraling cost of disputes, and we understand that. Cost management is always in our mind. As a client, you can expect highly competitive lawyer fees for the legal services in English from a quality law firm.



Why Choose Us?

Competent in Delivering Report and Correspondence in English

It is our priority that our clients understand everything during the process of litigation, especially in this non-English speaking litigious business environment. Our team of talented lawyers is able to explain the situation seamlessly and answer any question(s) clients may have in English, either verbally or in writing, as well as to provide our clients with a timely case report in English at the price that is value of money.

Masterful in Handling English Document-Heavy Litigation

Our English speaking attorneys can quickly review/prepare a case that involves a large amount of documents in English without the need to wait for their Thai translation first. The solid English proficiency our attorneys possess enables us to handle the English document-heavy litigation in a speedy, yet accurate manner. This is what differentiates us from a number of our competitors.

Familiar with MNC's Rules of Conduct

We have a long standing record in serving MNC's, foreign-owned companies and overseas companies, which are frequently associated with special internal regulations, policies and constraints on how their cases should be fought based on. Our lawyers will work closely with clients to handle the Thai side of cross-border, multi jurisdictional disputes in the manner acceptable to clients.

Complete Litigation Service in Key Business Areas

We offer a complete litigation service from representing clients in the court of first instance, filing an appeal (or an answer to an appeal) all the way to the Supreme Court, assisting in enforcement of the winning judgment to conducting asset search/seizure. Having the right blend of specialist knowledge and general litigation experience, our litigators can assist clients in key business areas, including debt collection, contractual disputes, bankruptcy, construction disputes, labor disputes and tax litigation.



***As clients are facing
their legal battle,
accuracy in communication
is obviously crucial,
especially in
this non-English speaking
litigious business
environment.***

Debt Collection

Trade debt is one of the most common troubles affecting many businesses in Thailand. Basically the customer fails to pay for goods or services already delivered and the vendor has to take certain legal actions to recover the trade debt.

This process typically starts with a follow up notice or call from a debt collection unit of the vendor. If it yields no satisfactory result, a legal professional may be engaged to serve a demand notice to the customer. Eventually, if it still fails, the vendor will have to take a legal action to recover the unpaid debt. The vendor will file either a lawsuit to a court or a claim to an arbitration body. Arbitration must be used insofar as the parties agree to resolve a dispute by arbitration. Usually, the customer may have some sort of defense, i.e. the vendor delivers the goods or services out of specifications, delay in delivery, etc.

The same course of actions also applies to the case of business loan. Once a borrower defaults on any payment, and the lawyer's demand notice fails to secure the payment, the lender will have to go on the offensive and sue the borrower in the court or file a claim to the arbitration body.



What We Do

- Serving lawyer's demand notice
- Drawing up a settlement agreement
- Filing a lawsuit to the court to recover the outstanding debt from a counterparty
- Filing a claim to the arbitration body
- Filing a motion to the court to enforce an arbitral award

After the completion of court or arbitral process, we can assist the client on debt recovery as follows:

- Asset search
- Asset recovery
- Enforcement of judgment or arbitral award

Shareholder Disputes



Business partners often decide to do a business together by forming either a JV company or a partnership. But things are not always working out for various reasons, such as mismanagement of authorities and responsibilities, discrepancy over company direction, conflict of interests, questionable related transactions, poor personal relationship, unequal profit sharing, etc.

A dispute between shareholders, directors or business partners should be resolved swiftly and as efficiently as possible to avoid further business disruption. The best approach is to have in place a good negotiation mechanism, even lengthy, that can yield a satisfactory settlement to both parties, thus saving money, time and energy from not going to the court.

We have the skills and experience to help our clients go through this process, from advising on clients' legal position, assisting in negotiation, to taking a stronger proceeding, including filing a lawsuit to revoke certain corporate actions or filing a criminal charge against the counterparty.

What We Do

- Acting for the client (either majority or minority shareholder/partner) in relation to dispute resolution, and advising on client's leverage and counterparty's leverage
- Assisting in negotiation and settlement with a counterparty
- Revising company's articles of association, shareholder agreement and/or employment agreement in light with the settlement
- Pursuing legal actions to revoke certain corporate actions
- Filing a criminal charge against a counterparty on client's behalf
- Defending the client if a counterparty pursues legal actions to revoke certain corporate actions and/or files a criminal charge against the client
- Acting for the client in dispute arising from the corporate fraud
- Handling claims in the context of investment fraud and finance



Breach of Contract/Misrepresentation

The breach of contract is the situation where one contractual party fails to perform its obligations under the contract for another contractual party. Typically, a non-default party has two options, either to enforce the default party to perform the obligations and claim for any damage for a delay of performance, or to exercise the right to terminate the contract and claim for any damage. The non-default party may request the court to impose an injunction on the default party, requiring the default party to do or refrain from doing certain things.

Misrepresentation and wrongful inducement are the situation where one party misleads another party into making a contract with the first party. Upon knowing all the facts, the misrepresented party may choose to revoke the contract and claim for any damage from the other party.



What We Do

- Serving lawyer's demand notice
- Assisting in negotiation and settlement with a counterparty
- Drawing up a settlement agreement
- Filing a request to the court to issue an injunction on a counterparty
- Filing a lawsuit to the court to seek remedies (monetary damages and specific performance) from a counterparty
- Filing a claim to the arbitration body to seek remedies (monetary damages and specific performance) from a counterparty
- Defending the client when a lawsuit or a claim without merit is filed by a counterparty to the court or the arbitration body
- Filing a motion to the court to enforce an arbitral award



A creditor must act within the applicable deadline otherwise a claim for repayment of debt will be invalidated by virtue of the bankruptcy law.

Bankruptcy & Business Reorganization

The prolonged economic crisis coupled with financial distress can put the company with heavy debt burdens and defaults are seemingly inevitable. When the business is under threat of bankruptcy, the company must be ready to face all kind of legal actions from its creditors and liquidators. We can advise the company going through a bankruptcy or a business reorganization process. Our team will review all possible options and outline a rescue strategy that can help the company overcome its debt challenges and get back on its feet as soon as possible.

We also act for creditors in bankruptcy proceedings to seek debt repayment. In the bankruptcy case, time is essential. Whenever a court issues an order to put a company under an absolute receivership or a business reorganization, the creditor must file a claim for repayment of debt within the deadline, otherwise its right for the repayment will no longer exist. This requirement applies even if the creditor already has the winning judgment, or is still on trial.

What We Do

- Providing the client with precautionary advice when dealing with an almost bankrupt counterparty
- Filing a claim for repayment of debt on behalf of the creditor to preserve creditor's right if a counterparty is bankrupt or initiating a business reorganization process
- Filing a bankruptcy lawsuit on behalf of the creditor against a counterparty
- Defending a bankruptcy lawsuit on behalf of a debtor
- Advising the debtor on the business reorganization

Labor Disputes

As the business expands, the legal sides of the employer-employee relationship become increasingly more complicated. It gets crucial especially when a dispute surfaces between the employer and the employee. Typically, the labor disputes arise in the following circumstances:

- Employee's fraud and misappropriation of employer's assets
- Employee's unauthorized use of employer's assets, information and trade secret (misappropriation and trade secret infringement)
- Termination, layoff, restructure (downsizing), severance pay and notice payment
- Lawful termination and unfair termination

We have acquired considerable experiences of handling all types of labor disputes, no matter what size or how demanding the case is. Our priority is to provide pro-active counseling, negotiation skill and litigation knowhow to resolve the disputes quickly, efficiently, and effectively.



What We Do

- Representing the employer on termination, layoff, restructure (downsizing), severance pay, notice payment, lawful termination and unfair termination
- Drawing up a settlement agreement and termination notice
- Filing a lawsuit on behalf of the employer to seek remedies (monetary damages and specific performance) and an injunction (court order freezing) for employee's unauthorized use of employer's assets, information and trade secret
- Filing criminal charges on ground of employee's unauthorized use of employer's assets, information and trade secret
- Filing a lawsuit on behalf of the employee to recover the unpaid wage, severance pay, notice payment and unfair termination compensation



Construction & Real Estate Disputes

We act for owners, contractors, developers, engineers, landlords, tenants, investors, as well as high net worth individuals in connection with their planning, ownership and construction disputes. Most common disputes are over delays, defects, contract price and payment, final delivery, professional negligence, soaring costs and change of scope of work. We advise on the whole range of construction and real estate disputes, from the large, complex constructions to smaller projects.

What We Do

- Advising on client's existing legal standing (strengths and weaknesses), merit of claim and the best ways to seek remedies
- Assisting in negotiation and settlement with a counterparty
- Serving lawyer's demand notice
- Drawing up a settlement agreement
- Filing a lawsuit to the court or a claim to the arbitration body to recover the unpaid construction price and to seek remedies from the owner
- Acting for the owner to seek remedies for contractor's breach of contract
- Filing a motion to the court to enforce an arbitral award
- Defending the client when a lawsuit or a claim without merit is filed by a counterparty to the court or the arbitration body

Tax Disputes

If your tax return is challenged by the assessment official, then you have two options to deal with (and survive) the scrutiny. The first is to agree with the official's interpretation of law or facts, and voluntarily pay the back tax and surcharge (interest) without the need to pay for the penalty. Secondly, if you disagree with the interpretation, then let the official make a tax assessment on your company. You can file an appeal to the appellate body to object the official's tax assessment. The filing of appeal must be done carefully with a great attention to details when presenting your arguments, the applicable tax law and other supporting documents. Once the appellate body issues its ruling and if you are still unhappy with its decision, then you need to bring the case to the court.

If you have any trouble with a tax authority, we can advise and initiate a proceeding. We represent clients on tax disputes at an assessment officer's level, an appellate body's level or a court's level. While we are open to a possibility of negotiation with the tax authority, which may lead to the satisfactory settlement, we can also take the legal action to an appellate body and a court, depending largely on the merit of the case.

*To assert your stance
in the tax courtroom,
it is very important
to present your case
with strong arguments
supported by relevant
Supreme Court decisions
and taxation theories.*



What We Do

- Making representations on behalf of the client to a relevant tax authority at the pre-assessment stage
- Providing advice concerning the legality of the tax assessment made by a relevant tax authority
- Preparation of notice of objection to the tax assessment and request for re-determination to the tax appellate body
- Filing a lawsuit to the court to revoke the tax assessment

Other Business Disputes

Our advice is also sought in connection with the broad range of other business disputes our clients are likely to encounter:

- unfair business practice
- business tort claim
- trade secret
- intellectual property
- cross border disputes
- derivative disputes
- product liability
- insurance disputes
- family law

What We Do

- Reviewing the client's existing policy and internal procedure to establish the client's legal position
- Assisting in negotiation
- Drafting the necessary notices and agreements
- Filing a lawsuit to the court or a claim to the arbitration body to seek remedies (monetary damages and specific performance) from a counterparty
- Defending the client when a lawsuit or a claim without merit is filed by a counterparty to the court or the arbitration body



We act for a broad spectrum of clients, domestic and International, who trust us to resolve their disputes because of our level of expertise and communication.

Selected Experiences

Defending a Thai subsidiary of NYSE listed international courier on a claim for the damage arising from missing packages filed by an insurer of its shippers in the Central Intellectual Property and International Trade Court.

Representing a German owned online retailer in Thailand on an unauthorized use (infringement) of its trade name as part of its competitor's website, which eventually led to the competitor's shutting down of the infringing website.

Filing a motion on behalf of a Chinese dairy products supplier to enforce an arbitral award for an unpaid sale price of Baht 35 Mil against a Thai milk manufacturer to the Central Intellectual Property and International Trade Court.

Advising a Finland based supplier of elevators and escalators on the dispute pertaining to pending projects worth Baht 130 Mil with a Thai listed property developer, which resulted in a successful completion of settlement agreement.

Filing lawsuit on behalf of a Thai subsidiary of a German based MNC against a Korean MNC to claim for an unpaid sale price. The case was successfully completed with an in-court settlement agreement, which was beneficial to our client.

Representing a Thai shareholder of the Thai-German JV co. on shareholder dispute with the European shareholder, a manufacturer of high quality medical products in the areas of homecare, emergency and diagnostics.

Advising a German based construction company specializing in industrial flooring listed on the Frankfurt Stock Exchange on the construction dispute in Thailand relating to one of the biggest shopping centers in Asia, with a Malaysian company.

Representing Japanese minority shareholders of a JV company specialized in metal product forming, on a Baht 40 Mil claim on misappropriation against the Japanese majority shareholder.

Representing a Swiss owned system supplier of carton packaging and filling machines for beverages and food on the manufacturing dispute with Thailand's dairy and beverage manufacturer.

Representing a Thai subsidiary of the world's leading shipping, logistics and marine company based in Europe on the debt collection in the Central Intellectual Property and International Trade Court.

Advising the Japanese shareholders and management of the JV company specializing in heat surface treatment, on shareholder dispute between the company's Thai shareholders.

Representing a Korean manufacturer of fabricated non-ferrous metal products, a Korea Exchange listed company, on the collection of overdue debts and taking on collateral from its customer in Thailand.

Contact Us

For further information about our work, services and fees, please contact us at the below:

Office Address: 65/31 Chamnan Phenjati Business Center
2nd Floor, Rama IX Road,
Huay Khwang, Huay Khwang,
Bangkok 10310, THAILAND

Tel: +66 86 785 0793

+66 2248 2872

Fax: +66 2248 2873

Email: enquiry@naritlaw.com

Website: www.naritlaw.com

© Copyright NARIT & Associates. All rights reserved.

For permission to reproduce a publication, please contact us at enquiry@naritlaw.com