

Mediation before Filing Case in Court

Effective from 7th November 2020, a party to a dispute can file a petition with the Court for a Court order of a pre-case filing mediation. This is made possible by Section 20 ter of the Civil Procedure Code as latest amended by the Act on Amendment of Civil Procedure Code (No. 32) B.E. 2563 (A.D.2020).

The major principles under Section 20 ter of the Civil Procedure Code are summarized as follows:-

1. Prior to filing a civil case, a person who will be a party to the case can file a petition to the Court of jurisdiction for the Court to appoint a mediator to mediate the dispute.
2. The petition must contain the name and address of the other party and the details of the dispute.
3. If Court grants the petition, the Court will ask the other party whether or not he wants to enter the mediation and, if he agrees to enter the mediation, the Court will appoint a mediator to mediate the dispute between the parties with or without lawyer of the parties.
4. If the mediation is settled under a settlement agreement, the mediator will submit the settlement agreement to the Court and the Court will consider whether it is fair, made in good faith and in accordance with the law and the intent of parties. If the Court finds the settlement agreement appropriate, the Court will allow the parties sign it.
5. The parties can also request the Court to issue a judgment to confirm the settlement agreement. The request must contain necessary reasons for the judgment. If the Court is satisfied with the reasons, the Court will issue a settlement judgment.
6. The mediation is not subject to any court fee. The court's order is final.
7. If the mediation fails and the statutory limitation of the ground of the dispute already expired after the petition filing date or will expire within 60 days from the date on which the mediation fails, the statutory limitation will be extended for 60 days from the mediation termination date.



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