

Court writs explained

A court writ is an order issued in writing by a court commanding the person to whom it is directed to perform or refrain from performing an act. The Thai word for court writ is *maai saan*. Upon receipt of a court writ, many people panic as they believe themselves to be in trouble with the law. Although that may certainly be the case as writs can be issued to inform a person that a claim has been filed against them, writs can also be issued to provide notice to a person that they are required to testify in court or provide documents for a court case. There are many types of writs in Thai civil and criminal proceedings. This article discusses only those most important for civil cases:

Evidence subpoena: An evidence subpoena (*subpoena duces tucum*) requires the served party to produce specific papers, documents, and other tangibles that are suspected evidence in a case. The subpoena specifies what kind of evidence is to be presented and the deadline by which the evidence must be submitted to the court.

A person who violates a subpoena is subject to punishment of imprisonment not exceeding six months or a fine not exceeding one thousand baht, or both, pursuant to Section 170 of the Penal Code. However, there are legitimate reasons for not being able to meet the specified terms of the subpoena such as if the request for evidence is too broad or too onerous, or if the request requires the divulgence of trade secrets or confidential information, or simply if the person served with the subpoena does not possess the required evidence. In such cases, the recipient of the subpoena should immediately contact the court to explain the inability to meet the subpoena's request.

Witness subpoena: The witness subpoena (*ad testificandum subpoena*) is a type of writ ordering a witness to appear at a certain time to provide oral testimony. A person who violates this subpoena is also subject to punishment under Section 170 of the Penal Code. If the recipient is unavailable at the specified time, a letter should be sent to the court explaining why and providing alternative dates and times.

Originating summons: An originating summons provides notification of the commencement of a civil proceeding in court. The summons is issued together with a copy of the plaintiff's complaint.

The named defendant in the complaint must file an answer and/or counterclaim within 15 days after having been served with the summons. The law allows an additional 15 days for service of the summons before the 15-day answer period begins if the Officer of the Court posts the summons at the defendant's dwelling or place of business. An Officer of the Court may "post" the summons in cases where (1) he/she does not meet the defendant or any person over 20 years of age who is living or working at the dwelling or place of business of the defendant, or (2) the defendant refuses to accept the summons.

Inevitably, a recipient of an originating summons should contact an attorney as soon as possible. If an answer is not filed within the deadline, the named defendant will be in default and lose the right to defend the case.

Decree: A decree is a writ issued by the court commanding a losing party, or judgment debtor, to comply with a judgment. If the judgment debtor was not present at court, the court will order an Officer of the Court to serve the decree on the losing party.

Typically, a decree allows the judgment debtor seven to 30 days to comply, commencing from the day the decree was served. If the judgment debtor fails to comply with the decree within the specified amount of time, the judgment creditor (the winning party) may request the court to issue a writ of execution to appoint an execution officer to levy property owned by the judgment debtor. Generally, the execution officer will confiscate money from the judgment debtor's bank account, or seize and sell the judgment debtor's property in an auction in order to satisfy the judgment.

The above is a brief overview of Thai courts' civil writs. In order to protect one's interests when served with a writ, one must read the contents carefully to understand one's rights and obligations. It is also recommended to call the issuing court to confirm the authenticity of the writ. However, if you are uncertain how to handle a writ, consult a lawyer.

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