

# INSIDE ARBITRATION: SPOTLIGHT ON BANGKOK: CHINNAWAT THONGPAKDEE AND WARATHORON WONGSAWANGSIRI

28 February 2020 | Bangkok  
Legal Briefings

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Herbert Smith Freehills' Bangkok office was established in 1998. Since then, it has become one of Thailand's premier commercial litigation and arbitration practices, offering both Thai and international disputes and regulatory advice. Bangkok is an important pillar of our Southeast Asia international law practice, which extends to Singapore, Jakarta and – most recently – Kuala Lumpur. We caught up with partners Chinnawat Thongpakdee and Warathorn Wongsawangsi to learn more about the office, the practice, and their predictions for arbitration in Southeast Asia.

## **Warathorn, you have recently joined the firm. What prompted your move?**

I worked at Weerawong, Chinnawat & Partners, a leading Thai firm, for almost 15 years, and was promoted to partner there in January 2016. Weerawong C&P was the Bangkok office of White & Case, until spinning off to be a standalone Thai law firm around 2010. My practice included both domestic and international arbitration. I was attracted to Herbert Smith Freehills by the quality of the arbitration practice, and by the firm's network, which is second to none. Instead of selecting new co-counsel (or lead counsel) every time my clients have a cross-border dispute, I can now call on a fully Herbert Smith Freehills team almost anywhere in the world. That really enhances my ability to serve my clients. I left Weerawong C&P last summer, and joined Herbert Smith Freehills in September.

## **Chinnawat, you joined us from the same firm as Warathorn, but your career has spanned both public and private practice. Can you tell us more?**

I joined from Weerawong C&P in 2012. But I started my legal career in the public sector, as a prosecutor in the white collar crime division of the Thai Attorney General's office. I did that for thirteen years, but found myself looking for a change of direction, so I moved into private practice at Baker McKenzie.

My old boss wooed me back to the Attorney General's office in 2004; this time in the legal counsel department, where I advised and assisted the Thai government and also Thailand's state-owned enterprises. It was a great role, but I ultimately concluded that I preferred private practice. Joining Herbert Smith Freehills in 2012 was a new challenge, and a great opportunity to join a small office with a big reputation, both locally and globally.

### **What is the focus of the Bangkok disputes practice?**

**Chinnawat:** we are lucky enough to have a broad range of work, encompassing arbitration, regulatory and compliance work, and litigation in the Thai courts. Arbitration - both domestic and international - is a significant focus, and we are very proud of our capabilities in this area. Thai litigation is our other main focus. Thai parties typically prefer litigation in their home courts, but in cross-border deals we generally see the other side proposing arbitration instead; we and our clients are very familiar with both.

We do a lot of cross-office work; the ability to draw on a global team is one of the things that distinguishes this firm from its competitors in Thailand. We also work closely with Kyle Wombolt and his team across Asia on corporate crime and investigations matters, and with the firm's powerhouse financial services and regulatory practice.

**Warathorn:** We work in a number of industries and sectors as well; everything from energy and infrastructure to TMT, construction, hotel and real estate, employment and insurance. Class actions are another area of expertise.

### **What trends are you seeing in the Thai arbitration market?**

**Warathorn:** Thai parties are getting more and more familiar with arbitration, both domestic and international. This is a result of both growing inbound investment in Thailand, and of Thai entities investing outside the country and transacting with non-Thai parties. In all these deals, arbitration is the mechanism of choice, and it is definitely increasing in popularity here.

**Chinnawat:** I agree; arbitration or litigation are by far the most common ways of resolving disputes involving Thai parties. We don't see a lot of ADR (alternative dispute resolution) in the Thai market.

In terms of trends, they tend to fluctuate with the economic cycle. A few years ago, we were seeing a lot of projects and construction work. More recently, our work is more focused on financing: unpaid loans, disputed debts, etc. We typically act for financial institutions

## What can Thailand offer as an arbitral seat, compared to Asia's more established seats Hong Kong and Singapore?

**Chinnawat:** Bangkok holds its own as a seat, and is making great strides in its development. Thailand has active arbitral institutions, including the Thai Arbitration Institution and the Thailand Arbitration Center, which are working hard to promote Bangkok. Thailand is a New York Convention signatory and a Model Law jurisdiction. The Thai courts are generally supportive of arbitration, and now have a strong enforcement record – they have come a long way in that regard. Notably, we have seen a number of significant cases recently where the Thai courts have enforced arbitral awards against the Thai government. I put this down, at least in part, to a strong programme of judicial enforcement and a new generation of judges with more international backgrounds than their predecessors.

Bangkok is still not at the same level as Hong Kong or Singapore, but it is steadily improving.

**Warathorn:** Bangkok is an ideal seat for an arbitration involving a Thai party, or where the disputed contract is governed by Thai law. We are looking forward to watching it grow and develop over the next several years.

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## KEY CONTACTS

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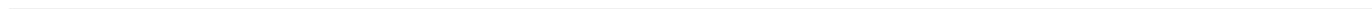
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