

Thesis Title : Alternative Dispute Resolution: A Study on Community Mediation by
Court Mediator before Bringing Case to Court of Justice

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ABSTRACT

The Voluntary Dispute Resolution in Community before bringing cases to the Court of Justice is a system that connects legal mechanism to people lifestyle and develop a shared vision of a fair society. The process offers a benefit of getting issue resolved quicker and giving quite equitable solutions. It also gives citizen opportunity to access public channel of justice and to connect with procedural Justice System.

The study of the Dispute Resolution in Community before bringing cases to court in Thailand revealed that the Thai voluntary mediator has no authority, duty and public sanction after mediation process of the voluntary mediator in the community to decide the case or resolve disputes on behalf of the Court of Justice. Even the types of disputes that require mediation before bringing a case to court and other related issues have never been considered. Since a mediator's role is not to be a decision maker, unlike the judge who is bound to make a decision on legal evidence and rules. Moreover, Thailand has no specific law or regulation supported Voluntary Mediators in Community, for example, types of disputes before bringing a case to the court, the duty of the voluntary mediator in the community to resolve disputes on behalf of the Court of Justice including lack of public sanction after mediation process.

The Court of Justice should regulate laws about voluntary dispute resolution in the community. There should be more regulations on types of disputes that require mediation before

bringing the case to court, the authority and duty of the voluntary mediator in a community to decide a case or resolve disputes on behalf of the Court of Justice, public sanction after mediation process and any other related matters. The Court of Justice should allow the adjustment in the Court of Justice Regulations Pertaining to Mediation of B.E. 2544 (2001) and the adjustment in the Court of Justice Regulations Pertaining to Mediation of B.E. 2547 (2004) about Voluntary Mediators in Community on behalf of the Court of Justice. Considering that a judge will later affirm the decision of a voluntary mediator in a community after the dispute is resolved. When the mediation result is reached, the parties may execute a compromise agreement out of court that will then be submitted to the court for approval. If there is a breach of contract, such case shall be filed in the court. However, the judgment will be rendered in accordance with such compromise agreement only. This process undoubtedly will bring less case before Court of Justice, develop the efficiency of justice and make progress towards fair society.

