

Introduction  
Consumers who feel they have not been provided quality goods or services or have been cheated by dishonest and unethical traders have various ways of seeking justice. Consumers prefer the settlement system as it is easy, cheap and fast.

**1 Civil courts**  
The civil courts are part of the legal system of this country. A civil litigation means legal action between two private parties seeking monetary compensation or damages by the plaintiff who has suffered loss by reason of the wrongful conduct of the defendant. A judgment is imposed to compensate one person for the harm that has been caused by the other. Debt collection, damages for personal injuries, property damage or business disagreements and defamation action are examples of civil cases where the result is an award of money to be paid by one party to the other. (See Part 1, Section 1.5: The Malaysian Court System)  
Cases brought to these courts need to be handled by lawyers and will take a long time to settle besides being expensive because of the lawyer's fees and court charges. This avenue is not popular with consumers whose claims are small. A plaintiff who starts the lawsuit will file a written complaint or petition with the court. Then, there is the other party called the defendant. The defendant responds and the case proceeds to trial and is resolved at trial or motion.  
The process involves the consumer (plaintiff) consulting a lawyer. The lawyer will review the case and his fee is agreed based on a Schedule of Lawyers' Fees. A letter of demand is drawn up by the lawyer and sent to the other party (defendant). If there is no response or offer of settlement from the defendant, the lawyer proceeds to obtain summons from the court and sends it to the defendant. If the defendant shows his intention to fight the case, the lawyer will then get a date for the case to be heard. Depending on the work load of the court, it may take between 1-2 years to settle the case.  
In Malaysia, civil action is initiated in a magistrate's court which has civil jurisdiction to try claims not exceeding RM\$25000. The Sessions Court has the civil jurisdiction to try claims above RM\$25000 but not exceeding RM\$250000.

**2 Small Claims Court**  
Small claims procedure are referred to the small claims court and was set up in the magistrate's court to help consumers settle their claims in an affordable and easy manner. Each claim is limited to RM5000 in value and lawyers may not represent the plaintiff or the defendant. The filing fee is RM10. A magistrate will hear the plaintiff and defendant present their cases without strictly following the rules of evidence. Based on the evidence presented by each side, the magistrate will make a decision on whose claim is more probable and make an award. For a case to be heard may take between 3-6 months to a settlement.  
Although the small claims court made it easy for consumers to file their claims, it was not popular among consumers. This was because, cases were still heard by magistrates in the normal courts which did not appear friendly to the consumer. The forms to be filled to make a claim were not easily understood and the general court atmosphere discouraged consumers from using this avenue apart from the lengthy process and stress involved.

**3 Financial Mediation Bureau**  
The Financial Mediation Bureau (FMB) is an independent body set up to help settle disputes between consumers and the financial service providers who are its members.  
The FMB provides a free, fast, convenient and an efficient avenue to refer disputes for resolution as an alternative to the courts. These disputes may be Banking/Financial related as well as on Insurance and Takaful.  
The FMB handles disputes relating to the following: (i = Islamic)

- Banking/Financial related
- Personal Loans or Personal Financing
- Housing Loans or Home Financing
- Automated Teller Machine (ATM)
- Cash deposit machine
- Credit/Charge Card or Credit/Charge Card-i

</li> <li>Hire Purchase or Hire Purchase-i </li> <li>Savings Account or Savings Account-i </li> <li>Current Account or Current Account-i Fixed Deposit </li> <li>General/Special/Specific investment account-i </li> <li>Remittances </li> <li>Electronic Banking </li> <li>Internet Banking </li> <li>Insurance/Takaful related </li> </ul> <p><br />In addition, with respect to insurance and takaful related disputes, FMB can help with all disputes between policyholders/certificate holders/claimants and their own or third party insurers/takaful operators.<br /><br />For complaints, disputes or claims involving a financial loss, the amount claimed should not exceed the following:<br /><br />Banking / finance related: RM100000 (except for fraud cases involving payment instruments, credit cards, charge cards, ATM cards and cheques for which the limit is not more than RM25,000)<br /><br />Insurance / takaful related: RM200000 (Motor and fire insurance / takaful) <br />RM100000 (Others) / RM5000 (3rd party property damage)<br />Award or decision of the FMB is binding on the institutions but not the complainant</p> <p>◆</p> <p><br /><strong>4◆◆◆ Consumer Claims Tribunal</strong><br /><br />The Consumer Claims Tribunal (CCT) was established under the Consumer Protection Act 1999 to provide consumers with a cheap, speedy and easy means of resolving their disputes with sellers. The CCT was designed to overcome the problems faced in the civil courts and the small claims court. Each claim must be filed within 3 years it from the date the claim arose.<br /><br />The filing procedure is very simple. The filing fee in total is RM5 and the period to resolve the dispute is fixed at 60 days from the date of filing. To file a complaint, consumers have to go to the CCT office which is open during office hours and is located in the main towns at present. Complaints can be filed anywhere and will be heard at the nearest Tribunal Office. No lawyers are allowed on either side, although the organisation may be represented by a full time employee who happens to be a lawyer. <br /><br />The Tribunal President may allow the consumer to have a lawyer represent him if the subject of the dispute is such that the consumer will be disadvantaged if on his own. Handicapped persons may have another person or guardian accompany them. Hearings are open to the public.<br /><br />The consumer writes out his particulars and that of the trader, the nature of the complains and the amount claimed on Form 1 in three copies. These are then stamped by the Tribunal office and 2 forms returned to the consumer. The consumer is then required to be handed to the seller 1 copy or send it to his last known address by AR Registered Post. The seller has 14 days to file his defence. He can make a counter claim by using Form 2 and paying RM5. The consumer is required to file in his defence in Form 3 and no further payment is charged. Each claim is limited to RM25000<br /><br />The Tribunal Office will fix a date for the hearing. Before the hearing, the Tribunal will help the parties to come to a negotiated settlement. If this fails, the hearing will be held. The Tribunal President will make his decision based on the evidence presented and the facts of the case. The Tribunal Award must be complied within 14 days. There is no appeal allowed against the decision of the Tribunal.</p> <p>◆</p> <p><strong>5◆◆◆ Tribunal for Homebuyer Claims</strong></p> <p>The Tribunal for Homebuyer Claims (THBC) was set up in 2002 by the Ministry of Housing and Local Government as an amendment to the Housing Development Act 1966. The THBC is based on the structure of the Consumer Claims Tribunal. The procedures are therefore similar. The THBC has the power to hear claims from home buyers of housing projects built in Peninsular Malaysia. Housing projects in Sabah and Sarawak are outside the jurisdiction of the THBC.<br /><br />Consumers are allowed to make two types of claims. The first is a technical claim regarding defects and poor workmanship and non-compliance with specifications in the Sale and Purchase Agreement. The second is a non-technical claim such as late delivery of vacant possession by the developer. The claims are

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Written by

Monday, 04 October 2010 23:57 -

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only applicable to completed housing projects and not abandoned projects. Each claim is limited to RM25000.♦ All claims are at the moment heard at the Kuala Lumpur Office.<br /><br /></p>