

# Judicial Resolution of Cases in Small Scale Financial Claims: The Malaysian Experience

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## **Abstract**

*This paper presents the assessment of the Malaysian experience on the implementation of the Small Claims Procedures. This covers the magistrate courts of Kuala Lumpur, Shah Alam and Johor Bharu as the major cities of Malaysia. Small Claims Procedure plaintiff is an individual person who is not an agent or assignee of any debt of another person. (Order 93, Rules of Court 2012 r. 1.2). The money involved in cases without intervention of a solicitor or advocate is less than RM 5,000.00 (USD 1,168.91). Order 93, Rules of Court 2012 refined the mechanism since 1980 when it was first adopted. The major challenge found was on information dissemination. The Malaysian's Small Claim Procedures implements warrant of arrest and imprisons the defendant for failure to comply with the court order. The beneficiaries are individual persons instead of lending corporations.*

*Keywords: Small Claim cases, Access to justice, civil case in Small Claims*

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## **1.0 Introduction**

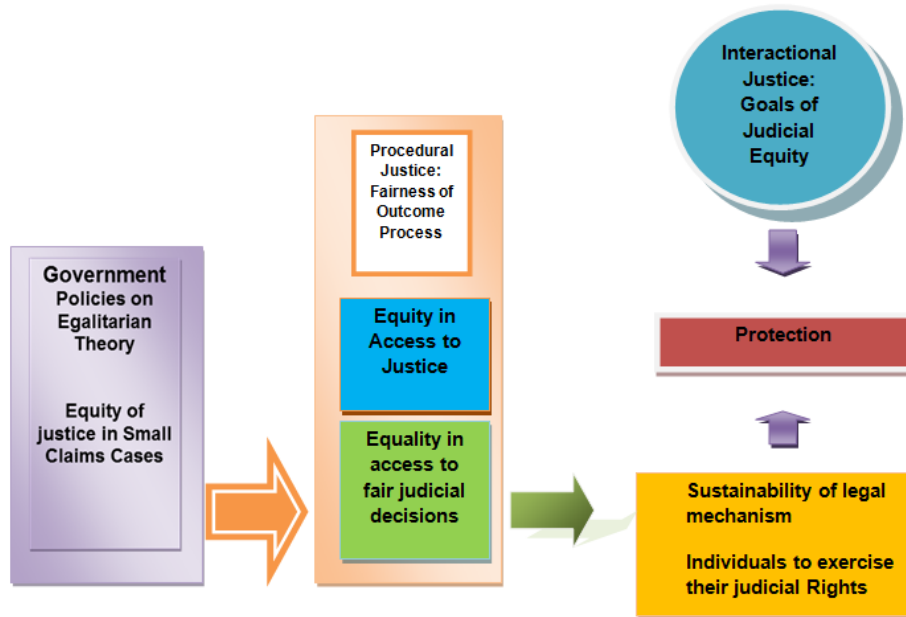
Malaysia is among the countries in Southeast Asia which implemented the Small Claims Procedure in 1980. This was amended in 1987 and subsequently, in the Rules of Court, 2012, Order 93. Its purpose is to enable individuals to institute proceedings on their own to claim for money amounting to less than RM 5,000.00 without the need for a solicitor or advocate (Order 93.7.2, Rules of Court 2012 Malaysian Court Practice).

The methodologies used in this study are a combined quantitative and qualitative approaches. The qualitative data was derived from a face to face interview with presiding magistrates, court personnel and litigants. The quantitative data was derived from records of Kuala Lumpur, Shah Alam and Johor Bharu, Malaysia's Magistrate Court Cause Book Print. These

enabled the researcher to evaluate the efficiency and effectiveness of the Small Claims Procedures.

The three instruments used were (a) Assessment guide in the evaluation of the clarity, equity, and fairness in disposition of cases; (b) Ten (10) Guide Questions for the implementers; (c) Ten (10) Guide Questions for plaintiff and defendants of each state and selection of respondents are non-probabilistic and purposive.

The Egalitarian theory (Rawls) was adopted in the assessment of government policies in equity of justice in Small Claims Cases, its procedural, equality and interaction justice. It evaluates the protection afforded through people's empowerment to exercise their legal rights against any injury/injustice. It assesses the sustainability of legal mechanism in achieving the goal of judicial equity as interactional justice.



**Figure 1.** Conceptual Framework

## 2.0 Results and Discussion

The Malaysia Judiciary is a British molded system (Tew, 2011). The Small Claims Procedure was the initiative of a progressive judicial system to ensure equity justice to the less advantaged and marginalized in the society. Its Small Claims Procedures are under the jurisdiction of the Magistrate Court. Cases are restricted to aggrieved individual, not an agent or assignee of any debt of another person. The claim covers not more than RM 5,000.00 (US\$ 1,168.91) on transaction for payment of defective goods, unpaid wages/salaries, commissions; services rendered; facilities supplied, or repairs undertaken. The Small Claims Procedures were adopted to increase access of justice to the marginalized without the cost of counsel; ready forms are available and understandable in local language. The trial is fast and covers money claims (civil cases).

The procedure was commended for its simplified mechanism, as well as fast and low cost litigation of cases. The magistrate is a mediator adopting inquisition and ensures fairness for parties. It allows parties to secure evidences needed, facilitate to express and defend themselves in court in local dialect in court proceedings and accommodate to clarify questions.

The ready forms in court are intended to simplify Small Claims of the proceedings and are available in local dialects such as Bahasa Malay and Mandarin without need of counsel to execute in their behalf.

First form 198 is for filing complaint, second Form 199 is defendant's response, and third Form 200 is counterclaim of plaintiff. In court judgments Form 201 is for default judgment, form 202 is for plaintiff judgment, and form 203 is for judgment in behalf of defendant.

Court fills Form 204 is for entry of judgment in court records, and Form 205 is to set aside judgment. Form 206 is for settlement of compromise of parties, Form 207 is for the court to decide on the merits of the case and Form 208 is upon failure of debtor to comply judgment.

The Small Claims Procedures court litigation commences upon the filling by plaintiff of form 198 in four copies to the Registry and payment of the prescribed fee. It takes effect when the registered post addressed to the defendant is received. The defendant, upon receipt of Form 198, responds using Form 199 filed in four copies within fourteen days after getting the claim. The defense form contains the reason for the defendant's dispute of the claim. He can file a counterclaim which states the amount of the debt and particulars duly signed or thumb printed. The service form 199 takes effect upon receipt of the registered post addressed to the plaintiff. The plaintiff may dispute Form 199 of the defendant, file a defense to the counterclaim in Form 200, a copy of which is required to be served to the defendant (Order 93.6.1-5, Rules of Court 2012 Malaysian Court Practice).

Where the defendant fails to file his defense in Form 199 within 14 days after the receipt of the claim, the plaintiff can request for judgment in default of the defence on the hearing date. The court may enter the default judgment in Form 201 to the plaintiff after the 14 - day period that the defendant has been duly served with the plaintiff's claim and failed to file his defence within the period. However, the defendant may apply for an adjournment of the hearing date before the expiration of the 14 day period to file his defence due to short notice of the claim or for some other reasons. The court exercises its discretion to grant an adjournment in the interest of justice and

fairness to the defendant to enter his defense will be executed to set aside (Order 93.8.1-3, Rules of Court 2012 Malaysian Court Practice).

The court gives judgment to the plaintiff in Form 202 upon failure of the defendant to attend the hearing. In case of plaintiff's absence the court is empowered to declare judgment in behalf of the defendant noted in Form 203. Upon defendant's admission of the response in the statement of defense, the judgment enters noted in Form 204 (Order 93.9.2, Rules of Court 2012 Malaysian Court Practice).

In the absence of the aggrieved party to appear in court Form 205 will be executed to sets aside the claim. This rule is applicable within 21 days from the service of the judgment or order. The aggrieved party can apply for an extension if he filed out of time, which the court grants at its discretion. Court's order shall be served to the person to whom it was addressed by registered post by the court. This is to give the defendant the option to apply in setting aside judgment or order; or for the party to proceed for execution of decision to whom the judgement or order was served fail to comply (Order 93.10.3, Rules of Court 2012 Malaysian Court Practice).

The Court assists the parties to settle the case by consent and executed in Form 206. Otherwise, the Court proceeds to hear the case and gives a decision in Form 207 (Order 93.13.1-3, Rules of Court 2012 Malaysian Court Practice).

The Court has the power to seek other evidence necessary in making a decision. The court has the discretion to award not exceeding one hundred ringgit (RM 100) to the aggrieved party. The legal fees of an advocator shall not be allowed in the Small Claims procedure (Order 93.15.1-2, Rules of Court 2012 Malaysian Court Practice).

The creditor needs to file Form 208 upon the failure of the debtor to comply with the judgment. The notice shall state the date fixed in the notice and indicate why an order for the enforcement of the judgment or order should not be made against him (Order 93.16.1-3, Rules of Court 2012 Malaysian Court Practice).

The creditor is required to serve notice either personally or through prepaid registered post addressed to the debtor's last known address. In the notice, there are instructions to the debtor to deposit in court the sum in cash or a money order in the name of the creditor within ten days of the receipt of the notice. If the debtor complies with the instructions, it would not be necessary for him to attend court hearings as he has satisfied the judgment or complied with the order. However, if the debtor fails to settle the debt within the ten-day period, he is required to appear in court on the date stated in the notice; and failure to do so will result in the warrant for arrest. He will be brought to court to determine the judgment or order enforcement with the following courses: (1) order a writ of seizure and sale to be issued in Form 84; (2) allow him time to settle the debt; (3) allow him to pay the debt by installments; or (4) order him to be committed to prison and shall be released thereof upon full payment of the judgment order (Order 93.11.1-2, Rules of Court 2012 Malaysian Court Practice).

The judicial proceeding prohibits representation of a solicitor to appear in court unless granted by authority. The cases are heard fast at low cost, and resolved through informal proceedings and without appeal.

It ensures strict adherence to court order and failure to do so as in defendant default to pay the plaintiff will be subject to writ of seizure or arrest,

and subsequent imprisonment until full payment of the obligation is made. This sanction is relatively stern in comparison to the Small Claims Cases covering civil cases among other countries.

The sanction system is in line with the Islamic teaching of the full responsibility of a person to render full payment of debt to others (Yahya, 2008). It is viewed as beneficial in favor of the plaintiff as the state protects and secures payment to the defendant to fulfill the obligation of the debt as per court order. The arrest and imprisonment mechanism in a civil case creates a serious impact on the Malaysians. This provision presents a decisive factor for parties to comply with the court judgment. It empowers the aggrieved parties to enforce their right to claim even a meager amount from civil disputes to augment most income and provide sustenance.

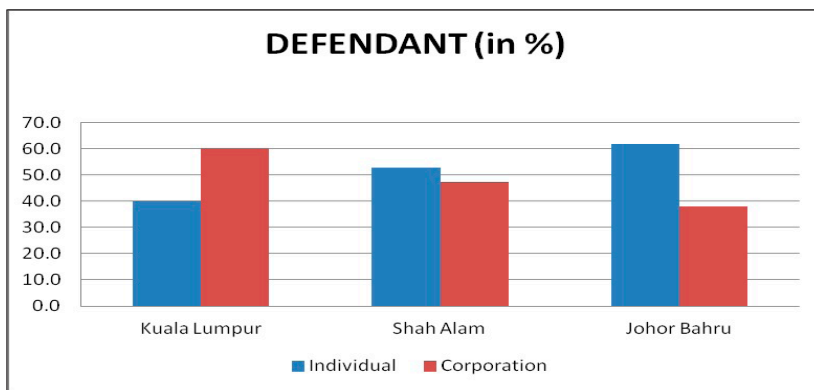
The Small Claims Cases in countries like United States, Australia, Philippines, Singapore and Indonesia, unlike Malaysia, do not provide imprisonment upon default to comply court order. Instead, the plaintiff files the writ of execution in court to enforce payment or garnishment of personal property to settle the obligations of the defendant. While in Indonesia plaintiff files regular civil courts proceedings to enforce payment of defendant.

The Small Claims Procedures is under the jurisdiction of the Magistrate known as the Subordinate Court (Pheng, 2005). The magistrate judges and court personnel of Kuala Lumpur, Shah Alam and Johor Baru claimed that awareness level of the public on Small Claim Procedures is still limited to those who are party litigants referred by lawyers and acquaintances of the court personnel. There is a need to intensify information dissemination through television, and radio which would be

beneficial to the public as this eventually informs Malaysian citizens in the Peninsula especially those in remote areas. The Shah Alam magistrate recommended that the claim of RM 5,000.00 (US \$ 1,168.91) be increased to RM 10,000.00 – 20,000 (US\$ 2,337.81 - \$4,675.63) to cover the rise of the standard of living in Malaysia. It was pointed out that separate specialized Small Claims Court would increase efficiency in addressing the debt

servicing. It requires more time for the magistrate instead of merging the criminal and civil cases that are complicated and delicate.

The plaintiff is an individual person who is not an agent or assignee of any debt of another person (Order 93, Rules of Court 2012 r. 1.2). In this regard, plaintiff are filed 100% by individual person in Kuala Lumpur, Shah Alam and Johor Bahru.



**Figure 2.** Comparison of Party Defendants of Small Claims Causes in Kuala Lumpur, Shah Alam and Johor Bharu (Source: Magistrate Court Cause Book Print, Kuala Lumpur, Shah Alam and Johor Bahru 2014-2015)

Figure 2 above shows that defendants of Small Claims Cases in Kuala Lumpur puts individual person at 39.8%; Corporation at 60.2% , Shah Alam individual person is at 52.7%; Corporation at 47.3% and Johor Bharu individual person is at 61.9% and Corporation at 38.1%. In the average,

corporation defendant is at 48.5% and individual defendant is at 51.4% in Malaysia individual person benefits most in the Small Claims Procedures both as plaintiff and defendant which is commendable. The procedure attained its purpose of enabling the individual person to sue without cost.

**Table 1.** Court Resolution on Small Claims in Three Selected States in Malaysia (Source: Magistrate Court Cause Book Print, Kuala Lumpur, Shah Alam and Johor Bahru 2014-2015)

Magistrate Courts	Compromise %	Judgment Default %	Decision on Merits %	Total %
Malaysia	19.5	44.3	36.2	100
Kuala Lumpur	6.39	42.11	51.50	100
Shah Alam	45.45	40.45	14.55	100
Johor Bharu	25.71	54.29	20.00	100

Table 1 shows the percentage of court resolution by outcome of Malaysia on Small Claims Procedure from three Magistrate Courts of Kuala Lumpur, Shah Alam. and Johor Bahru.

In Johor Bahru, more than half (54.29%) of cases were resolved by judgment default. In Kuala Lumpur, decision on merits consolidated more than half of the decision (51.50%) and in Shah Alam (45.45%) of cases was resolved through compromise default.

It is commendable that cases resolved through compromise agreement is placed at a high of 45.45% as this is attributed to Shah Alam magistrate's extensive time allocated to facilitate conciliatory atmosphere of influencing the parties. The negotiation is the efficient means to resolve differences and willingness of parties to agree in affordable and acceptable conditions which are essential for amicable settlement. This shortens time for the parties to attend court hearings. In an interview with the magistrate, the writ of execution in Shah Alam is at zero percent (0%). This fact is attributed to the following: the defendant was given by the court 15 days to comply, adopts instalment mechanism based on the necessities and payment is facilitated by the court.

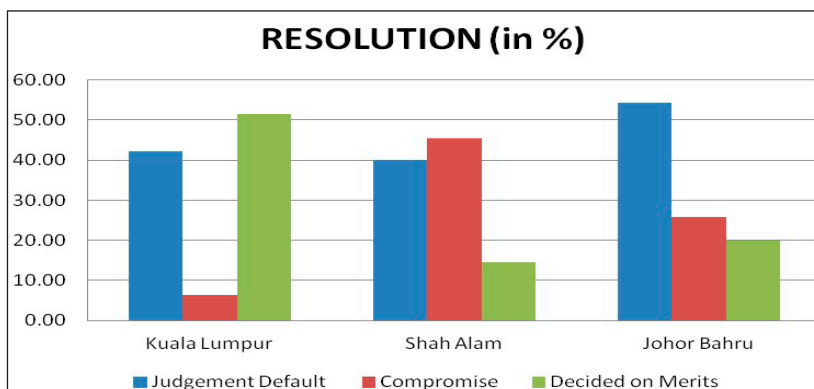
In Kuala Lumpur, most cases are resolved through decision on merits. The high volume of case load restrains the magistrate to facilitate parties to enter into compromise agreement which the plaintiff outright resists. The magistrate has no sufficient time in convincing parties into settlement since the Small Claims Cases are calendared with other Civil Cases. Most corporation defendants are represented by lawyers the authorized

representatives defined by statute. It is also remarkable that writ of execution is evident in cases resolved based on the merits.

The Johor Bahru magistrate's highest case resolution is judgment default. The court staff learned that the defendants failed to attend hearings because the court is far from the metropolis, and going there entails transportation expense, and this is compounded by public apprehension of coming to court. This is the limited information accessibility of the parties and the unaccustomed to litigation process. This hinders the defendant to be informed of the advantages of appearing in court hearings.

The parties in Small Claims Procedure's primary concern is to receive monetary remuneration for their claims without regard of the mechanism process either by compromise agreement, judgment default or decision based on the merits. The parties perceived the court as a collection agency to enforce their claims. The has public limited knowledge of the intention of the procedure that needs to be addressed by the state for efficient and effective use of the mechanism tool of the public.

In this regard, court resolutions are circumstantial wherein parties enter into the easiest and the fastest compromise the willingness to settle an acceptable condition. In cases resolved on judgment default the plaintiff waits for the prescribed time permissible in court which is the major factor for delays. Whereas, in decisions based on merits, the court grants resolution based on the circumstances, equity rights of parties defined by law, upon failure of parties to enter into compromise agreement.



**Figure 3.** Comparison of Court Resolution of Kuala Lumpur, Shah Alam and Johor Bahru (Source: Magistrate Court Cause Book Print, Kuala Lumpur, Shah Alam and Johor Bahru 2014-2015)

Figure 3 shows the percentages of court resolution in Kuala Lumpur, Shah Alam and Johor Bahru, 2014-2015. In Johor Bahru, more than half, placed at 54.29% percent of cases in judgment

default and in Shah Alam 45.45% percent of cases in compromise. In Kuala Lumpur, placed at 51.50% percent of cases in decided on merits.

**Table 2.** Types of Resolutions for Sum of Money in Kuala Lumpur (Source: Magistrate Court Cause Book Print Kuala Lumpur, 2014-2015)

Individual Defendant %			Corporation Defendant %		
Compromise	Judgment Default	Decision on Merits	Compromise	Judgment Default	Decision on Merits
10	47	43	7	39	54

Table 2 shows the comparison of resolutions with only 10% percent; and 47% percent, judgment default where the magistrate resolved cases in the absence of the plaintiff or defendant despite written notice. The magistrate resolves 43% percent of cases based on merits.

In an interview with the Magistrate Court of Kuala Lumpur, compromise agreement is the least mentioned among parties primarily due to the pre-conceived opinions of plaintiff that court litigation is to get even with the defendants, on the frustration and treatment experienced with them.

Among individual and corporation defendants, it is the former that is difficult to convince to compromise compared with lawyers who are authorized representatives of the corporations. These litigation proceedings are resolved at an average of 60 days from the filing of the case and the shortest time of resolving cases is 21 days and the longest is 378 days.

In corporations as defendants, most are represented by authorized advocates whose knowledge of litigation is an advantage against an individual plaintiff who relied solely on magistrate's

interventions to receive favorable judgment. The Magistrate Court of Kuala Lumpur is strategically located at the business district and accessible to public transportation, thus, favourable in attending

court sessions. The Shah Alam, and Johor Bahru Magistrate courts on the other hand are remote from public transportation and identified as hindrance to public court accessibility.

**Table 3.** *Types of Defendants in Resolution for Sum of Money in Sha Alam Percentage (%)*  
 (Source: Magistrate Court Cause Book Print Kuala Lumpur, 2014-2015)

Individual Defendant (%)			Corporation Defendant (%)		
Compromise	Judgment Default	Decision on Merits	Compromise	Judgment Default	Decision on Merits
7	48	45	6	38	56

Table 3 shows that 48% individual defendant submit to judgment in default with the plaintiff, where the magistrate resolve cases in case plaintiff or defendant failed to appear despite written notice. Forty-five percent of the court resolution for individual defendant are based on the merits of the case, 7% on compromise.

The Magistrate Court of Shah Alam data shows that the individual defendant mostly submits to compromise agreement. This is a commendable effort of the magistrate who has extensive time to accommodate parties, patiently explaining

the importance of preserving relationships since mostly of individual parties are family members and has seen settling conflicts amicably.

The Federal Republic of Germany claimed that Small Claims mediation may create a more permanent solution to the conflict (Rohl, 1990).

The magistrate emphasizes that the litigation sessions demand cost of time and finances for both parties. However, judgment default is high, caused by the low information dissemination to the public. Thus, decision on the merits of the magistrate is the least that individual parties submit.

**Table 4.** *Types of Defendant in Resolutions for Sum of Money Cases in Johor Bharu Percentage (%)*  
 (Source: Magistrate Court Cause Book Print Kuala Lumpur, 2014-2015)

Individual Defendant (%)			Corporation Defendant (%)		
Compromise	Judgment Default	Decision on Merits	Compromise	Judgment Default	Decision on Merits
22	63	15	33	40	28

Table 4 shows 22 % percent of individual defendants submit to compromise with the plaintiff and 63 % percent on judgment default

where the magistrate resolves cases in case plaintiff or defendant failed to appear despite of written notice. Whereas, 15% percent of the court



resolution for individual defendant is on decision based on the merits of the case.

The Magistrate Court of Johor Bharu data shows that default judgment is highest both for individual and corporation defendants who failed to appear in court despite that notice has been served. This factor is attributed to the low information dissemination to the public. The magistrate's feedback to most defendants do not read summons because they cannot understand it on their own and usually seek the assistance of the court's explanation to be able understand the content of the summons. Parties are seeking the courts explanation what to do, and how to do the procedures of Small Claims Cases.

There is a need to develop practical steps in information dissemination to the public regarding the procedures and clarify the difference of the warrant of arrest in civil cases against the criminal cases to correct people's misconception and misunderstanding of the magistrate as fearful and harsh. Instead, the magistrate promotes considerate settlement among parties to arrange payment of civil obligations. The execution of warrant of arrest for failure to obey court order for cases is the last resort of the court after ample considerations where extended and exerted by the

court with the defendants.

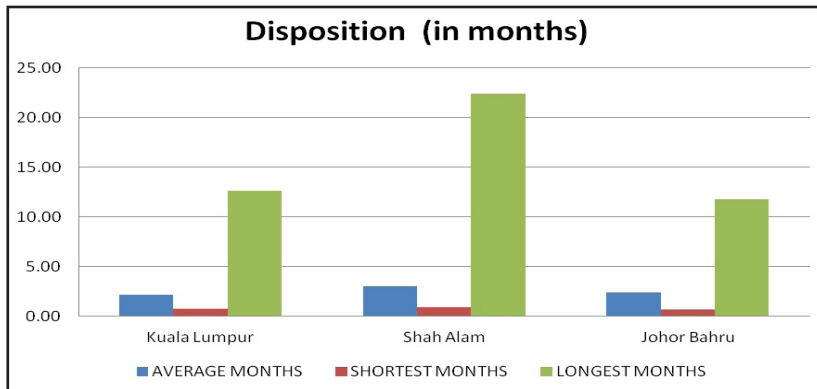
The Small Claims Cases are submitted for court resolution based on the merits is the least used. In the magistrate hearing, observed and attended irreconcilable issues between parties exist on the assignment of fault and civil obligations. When there are delays exceeding three months brought about by conflicting schedules of parties, hearings would often be reset. Thus, in the said litigation, the Magistrate would rule that Small Claims cases are based on the merits of the case. In an interview conducted with a Chinese plaintiff, the language barrier to express himself in court was identified as a factor in. The magistrate explained in the hearing proceedings that the court provides interpreter and to be requested in writing addressed to the court by the party needing it two weeks before the scheduled hearing. Thus, in the said litigation witnessed, the magistrate ruled that Small Claims based on the contract entered by the parties on the issue of damages. These issues are attributed to the party's unaware of implications of the contract signed and its implications to the Malaysian laws. The inexperience of the plaintiff in the details of court procedural remedies in this case it is meritorious to corporation represented by the advocate.

**Table 5.** Average Resolution Days of Small Claims Procedure in Malaysia  
(Source: Magistrate Court Cause Book Print Kuala Lumpur, 2014-2015)

<b>Magistrate Court</b>	<b>Average Days</b>	<b>Longest Period of Days</b>	<b>Shortest Period of Days</b>
Kuala Lumpur	64	378	23
Shah Alam	89	671	28
Johor Bharu	71	353	20
Malaysia	71	671	23

Table 5 shows the cases filed for sum of money and its average resolution period from the registration of the complaint to the resolution. Kuala Lumpur’s disposition period was 378 days and the shortest period is 23 days with an average

of 64 days. Sha Alam’s longest resolution period is 671 days and the shortest period was 28 days with the average of 89 days; while Johor Bharu longest disposal period is 353 days and the shortest is 20 days with the average of 71 days.



**Figure 4.** Comparative Graph of Disposal Days in Small Claims Procedure in Kuala Lumpur, Shah Alam and Johor Bahru  
(Source: Magistrate Court Cause Book Print Kuala Lumpur, Shah Alam, and Johor Bahru 2014-2015)

The comparative disposition rates are as follows: Shah Alam Magistrate Court is at the average rate of 89 days (2.97 months), Johor Bahru Magistrate Court at 71 days (2.36 months), and Kuala Lumpur Magistrate Court at the average rate of 64 days (2.13 months). To sum up, the three magistrate courts have the average disposal period of 71 days (2.37 months). This led to the assumption that justice is achieved when, according to Chief Justice Zakaria (Mohamed, 2015), it does not take too long nor too expensive for the people to resort to it.

Kuala Lumpur is commendable for having the shortest speed of disposal rate which is attributed to attendance of the parties in court sessions and outright decision on the merits rendered by the magistrate. This speeds up court resolution in disposition of cases faster in 23 days but there is a high percentage among the plaintiffs seeking for

the writ of execution on cases decided on merits.

The longest average speed disposal rate that also registered the highest case resolution rate in Shah Alam is compromise where the magistrate facilitated parties to have amicable settlement that lasts from two to three sessions. Parties are convinced in reducing the cost and inconvenience of parties in attending hearings. Shah Alam is commendable for having a 0% percent for parties filing a writ of execution. In the opinion of the presiding magistrate, parties give high regard to court resolution when conditions are rational and humane. Respect for the court is visible when party litigants no longer return to court. This affirms that adversarial system also provides no real incentives for opposing parties to strive for a quick resolution of a case, if this is not in the best interests of both parties (Siva, 2008).

In Johor Bharu, cases resolved via default

judgment are attributed to the absences of parties. The magistrate extends time in re-setting of the hearing to give ample chances and time for the defendants to appear in court and eventually resolve the cases in judgment default. However, it delays the litigation duration period both in Shah Alam and Johor Bharu ranging from 3 to 2.3 months respectively the shortest day for the former is 28 days and 20 days for the latter.

The Small Claims Procedures which is on its 30 years of implementation and having an average disposition rate of 2.39 months, posts a challenge to enhance the speed of disposal of cases involving a meager amount of RM 5,000.00. This will quantify whether the mechanism is efficient and effective. The highest default judgement is at 40.8% in Malaysia. This is attributed to the persistent absence of the defendants that derailed the court proceedings, and would be relative to the information awareness of the intention of Small Claim Procedures to the people. Information dissemination is needed for the effectiveness of the program. The procedure is sequentially organized and magistrates are efficient. However, the disparities are high, and their absences in court sessions result to judgment default. The Malaysian Small Claims Procedures amendments are commendable for the precise forms in every stage of the mechanism. However, low public information awareness results to spoilage of the good mechanism. The public failed to use the good mechanism due to the failure on the part of the government or the judiciary to transmit the information that the judicial system is a structure without legal cost. Giving the best mechanism without information dissemination is tantamount to having nothing.

The Malaysian Small Claim Procedure amendment under the Rules of Court was made in 2012. In this regard, Malaysia has more lessons to teach that would be beneficial for the other

Southeast Asian countries, like Indonesia and Philippines, which adopted the program more recently.

Malaysia has achieved the zero backlog of its court dockets after the computerization and advancement of the Judicial technological and modernization of the system. This is an exceptional success in the Judicial Reform initiatives (World Bank, 2011).

Malaysian Judiciary's achievement is challenged to let those who never knew what is e-filing, e-court and the like to have easy access to free legal assistance. This modernization then will become real that would be inclusive of every Malaysian citizen specifically the unschooled and the marginalized. The information dissemination reforms the image of the judiciary in the pursuit of equity rather than punitive justice. Malaysian reforms need to be practical lead to clear and tangible improvements in the civil justice system (Siva, 2008).

The essential duty of the state is to revitalize the information dissemination of Small Claim Procedures to an ordinary laborer, rank and file employee, market vendor, consumer, and the like. This affirms that government secures and protects them through information. It would be life-changing for every person who will be empowered to assert his rights. No matter how grandiose is the purpose, but without the knowledge of the people for whom it was created, the effort will just be tantamount to nothing.

The dissemination of Small Claims Procedure will achieve its aims to enable the ordinary people to assert and institute by themselves legal mechanism to secure and protect their rights.

The information dissemination needs to adopt simplified means, language and terminologies understandable to the public - the what, when and how to do process.

The public is re-oriented of the court as

humane rather than frightening can enhance trust of Malaysian people on the judicial system through the Small Claims Procedures. The effectiveness and efficiency of the program will require both legal and psychological skills training of the magistrate. This will eventually reduce the filling of the writ of executions in highly urbanized like Kuala Lumpur.

To quote Chief Justice Hewart "justice

*should not only be done, but should manifestly and undoubtedly be seen to be done*". The real test of likelihood of bias existed is determined by the reasonability left on the minds of the aggrieved party or the public at large (Metropolitan vs. Lannon, 1969). The evaluation mechanism of the program is necessary to verify the effectiveness and efficiency of Small Claims Procedure mechanism to the end user.

**Table 6.** Comparison of the Feasibility, Viability and Effectiveness of Small Claims Procedure Mechanism in Kuala Lumpur, Shah Alam and Johor Bharu

(Source: Magistrate Court Cause Book Print Kuala Lumpur, Shah Alam, and Johor Bahru 2014-2015)

District Magistrate	Public Accessibility	Average Days Case Resolution	Resolution of Cases Highest Percentage	Resolution of Cases Lowest Percentage
Kuala Lumpur	Accessible to Public Transportation Bus/ LRT/ Taxi/Car	64 (2.13 months)	Decision on Merits 51.50%	Compromise 6.39 %
Shah Alam	Accessible by Taxi/ or Car	89 (2.97 months)	Compromise 45.45%	Decision on Merits 14.5%
Johor Bharu	Accessible by Taxi/ Car	71 (2.36 months)	Judgment Default 54.29 %	Decision on Merits 20.0%

Table 6 shows that Kuala Lumpur, Shah Alam and Johor Bahru Magistrate location accessibility to public transportation relatively has effect to the resolution of cases.

The court is strategically located near the public transportation which is 6.8 km from Kuala Lumpur Sentral station, making it accessible to the public. The highest court resolution is decision on the merits of the cases with the lowest average days of 2.13 months.

Shah Alam Magistrate is situated at the city and the state capital of Selangor, Malaysia and situated within the Petaling District. It is 6.9 km distance from the Bus Station to the Magistrate Court and requires taxi or private vehicle for the

public to transact business. This factor contributes to the public inaccessibility in attending court session and eventually this led to having compromise as highest. The longest average days of 2.97 months, and the lowest on decision is based on merits.

Johor Bahru is located at the capital of the Malaysian state of Johor, sits at the southern tip of the Malay Peninsula. It is 7.2 km distance from Larkin Sentral Bus Station to the Magistrate Court and taxi or private vehicle is needed to appear in court hearing. The judgment in default which garner the highest in the court resolution and the lowest the decision on merits that requires parties to return in court every scheduled hearing set by

the court is attributed to expensive transportation.

In an interview with the court staff, brochures are limited in the level of public awareness. A court staffs needed to give extensive explanations to the parties' queries in the office in the absence of posters for the public information.

The diagram of the steps is necessary to address the non-reader public of the rules instead of paragraph form. This addresses and lessens the burden of the staff to answer same questions all the parties inquiring in the court. The sketch will be helpful to ensure that mechanism and procedures are visualized by the public through illustrations.

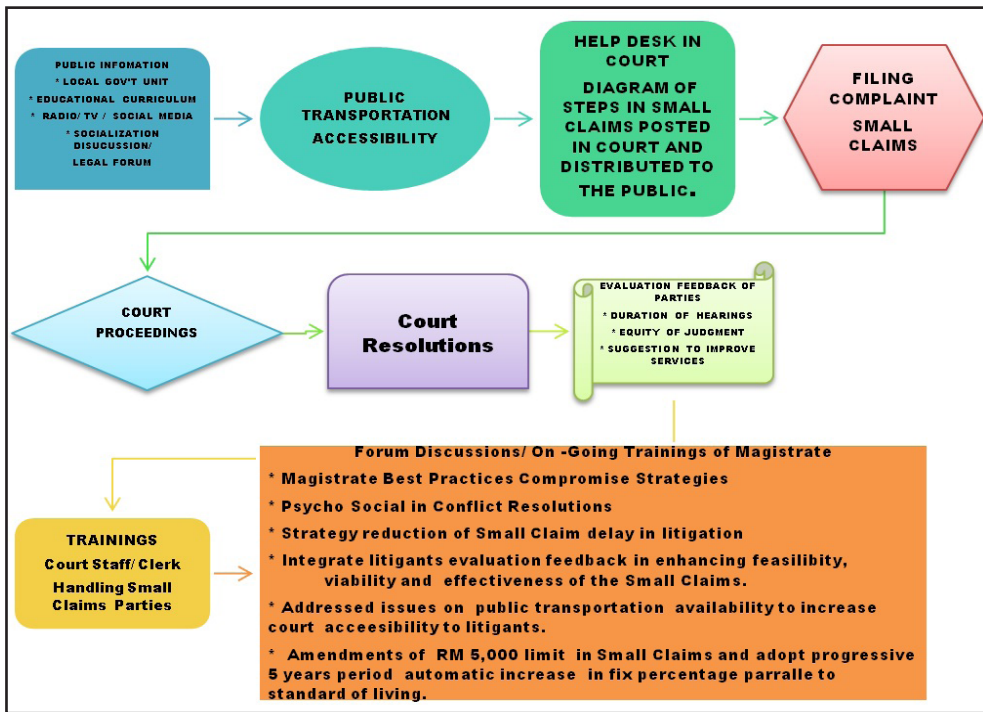


Figure 5. The Model of Small Claims End-User Friendly

The model "User-Friendly Small Claims-Malaysia" tackles simple terms and precise language that are helpful and understandable by laymen. The information dissemination needs to be dynamic in the local government unit, radio, television, social media, integrated in the education curriculum of Malaysian Politics and governance, socialization employer and employee, business sectors and other legal forums. The public transportation route is needed

as alternative in areas far from light railway transit (LRT) which makes feasible public access to court in Shah Alam and Johor Bahru. The help desk and printed diagram posters of the steps in filing cases in Small Claims is necessary to assist the non-reader public in the language understandable and enabling the lay man who do not know what to do and how to do when pursuing their rights without assistance of advocate. The rule in the filing court proceeding and case resolutions are commendable

for its simplicity.

There is a need to adopt feedback mechanism of Small Claims litigants to receive unwritten and unspoken opinions of the public as the best source of information to evaluate the efficiency and effectiveness of the mechanism to end-users. Simultaneously, psycho social training of staff and clerk responsive to the needs of the unschooled and marginalized in public a great help influence parties in settling conflicts through compromise strategies to reduce delay in cases of parties' absences are helpful to ensure efficiencies in handling the individual plaintiff unassisted by advocates

The Small Claims amount needs to be amended to adopt a progressive scheme every 5 years responsive to the economic feasibility of the public. In the opinion of the magistrate the increase of amount RM 5,000 it will also increase access of court by the public as it can cover higher claim without cost of hiring a legal counsel. This would be consistent that Small Claims procedure is designed to enable "the man in the street" to take his case to court and, if successful, to obtain a court award (Whelan, 1990).

The model of User Friendly Small Claims-Malaysia was crafted based on inputs from litigants, court personnel and magistrates' observations and interviews gathered in the conduct of this research suggestions intends to enhance effectiveness of the Small Claims of Malaysia. It affirms and enhances the best practices but tailored approaches to our own needs (Deril, 2015).

### 3.0 Conclusion

The results of the study enable the courts to assess their performance in terms of disposition of cases and address the issues related to the needs

of the litigants, litigation procedure, and emerging problems which will be the basis of modification of procedures for satisfactory case management. This validates the primary duty and responsibility of the judiciary to help peacefully resolve controversies involving citizens and the government using the tools and powers of a judicial nature (Wang, 2000).

The Malaysian experience confirms that Small Claims Procedure benefited by the individual person were mostly referred by court personnel, acquaintances and legal counsel that serves the purpose of the statute disqualifying corporation to file as plaintiff. The court resolution based on the merits of the case grants zero percent interest based on the principal claim of the plaintiff. These are commendable in upholding equity and equality of rights of parties. The legal mechanism is sustainable and increases access of the public to the court. The goal of judicial equity has achieved an Interactional Justice and becomes tangible to the public in addressing the challenges of information dissemination awareness of Small Claims.

In this regard, the state secures people's transferred rights to the government is stable. This brought them comfortable lives as they enjoy and exercise their liberty. Their property is protected by laws in the society. The government exists by the consent of the people in order to protect the rights of the people (Armitage, 2004).

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