

INDEPENDENT STUDY TOPIC	LEGAL PROBLEMS IN CONSUMER PROTECTION LAWSUITS
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## ABSTRACT

Nowadays, when the economic growth and the promotion of business entrepreneurs to compete with each other in the supply of goods and services are beneficial to the consumers in that the consumers will have more varieties of choices. It is undeniable, however, that the goods and services on the market these days are immixed with good and bad quality ones. The fairness for the consumers in the consumption of the goods and services to ensure that they are of good quality and safe is therefore paramount. The most efficacious means to protect the consumers is to utilize the preventive measures. However, given the current circumstances, quite a few consumers have suffered the losses arising from the consumption of the goods and services, which is the living proof that the prevailing preventive measures are still inadequate. Thus, efficient remedial measures are also needed in order to effectively protect the consumers. The remedial measures applicable prior to the entry into force of this Act was under the Civil Procedure Code and was designed for the legal proceedings where both parties to the dispute were on equal footings, regardless of their differences both in the economic and educational levels or bargaining powers. Whereas things are different in the consumers protection lawsuit, where the suppliers are normally in the better position than the consumers in regard of the technical know-

how and economic levels. Hence, their superior bargaining power, which is the *raison d'être* of the Consumer Protection Procedure Act, B.E. 2551, which was designed to reorganize the consumer protection procedure, with the view to ensuring the expeditious, economic, fair and efficient remedies for the consumers who file the lawsuits in Court.

Hence, the objective of this IS to study and analyze the restrictions of the Thai laws relating to the consumers protection, the primarily relevant and applicable ones of which are the Civil and Commercial Code and the Consumer Protection Procedure Act, B.E. 2551, basing on the secondary data on the websites, the stipulations of the relevant laws, the jurisprudence of the Court, articles and various reviews, as well as other scientific reviews.

This IS therefore studies and singles out the problems arising from the restrictions of the relevant laws, and recommends their amendments to better protect the consumers against the business entrepreneurs under the prevailing economic circumstances as follows:

1. Recommends an adaptation of the consumer protection procedure in line with the Japanese misdemeanour offences procedure in regard of the recall of the goods, reimbursement of the house rental cautions, the non-payment of the O/T, and the claims for the damages in the reparations of the cars in the traffic accident cases.

2. Recommends that, since the law is not so clear as to explicitly stipulate that the procedural system is an examination one, Section 34, in effect, uses the word examination, without ruling out the possibility of applying the witnesses examination under Section 117 of the Civil Procedure Code, the Consumer Protection Procedure Act, B.E. 2551, is, in effect, ambiguous in permitting the use of the mixed procedure between examination and accusation systems, and should thus be rectified.

To expedite the legal proceedings and to have the State play an active role in the protection of the consumers, so that the consumer protection process would be more rigorous, examination procedure should be adopted and more *expressis verbis* provisions should be stipulated in the law than in the current procedural law.

3. Recommends that in order to ensure the fairness, the Consumer Protection Procedure Act, B.E. 2551, Section 29 should stipulate that the persons practicing the professional careers that require an expertise in specialized fields, such as medical doctors or advocates have the *onus* of proof too in regard of the factual account relating to process and method in their supply of the services or any operations in case of their malpractice to optimize an equity both for the consumers and the suppliers.