

SUMMARY

- A significant issue in this matter was the conduct of the MEC for Health, Gauteng (defendant), and instructing attorney in the conduct of the trial regarding quantum of damages for medical negligence.
- Surgery had been performed on the plaintiffs' 5-year-old child at Sebokeng Hospital for the removal of a growth on his neck, leaving his right arm lame.
- A claim for damages had been instituted on his behalf by plaintiffs against the MEC. As liability had been admitted, only quantum remained to be decided.
- Plaintiffs had amended their pleadings several months before the trial date stating that an amputation had become urgent and necessary and filed 18 expert reports in support thereof.
- The defendant filed none.
- When the trial commenced, after an application for postponement had been refused, the defendant refused to make any admissions regarding the correctness of the expert reports filed.
- Plaintiffs were thus required to call several expert witnesses to come and state that their reports were correct and that they confirmed the contents and conclusions therein.
- Counsel for the defendant was further given no instructions for cross-examination, leaving the expert reports of those witnesses who testified uncontradicted and unchallenged.
- *Held:* The defendant's uncooperative attitude, of refusing to make any admissions regarding the correctness of the expert reports filed by the plaintiffs, was perturbing and the court was extremely displeased with the manner in which the defendant and his instructing attorney had conducted the trial.
- Although the court could not force counsel for the defendant to make admissions regarding the contents of the plaintiffs' expert reports, the displeasure of the court would be shown in an appropriate costs order at the end of the trial.

- Further, a copy of the judgment was ordered to be transmitted to the defendant and head of the Department of Health, Gauteng.