Medical Litigation: When Bad Things Happen To Good People

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What we will cover...

- What sort of a case could your patient bring against you?
- Introduction to medical litigation.
- Elements of medical negligence / breach of a “medical” contract
- Standard areas of attack?
- In practice: What happens when someone sues you.
- What to do when someone sues you.
- Useful information about your opponent.
- Developments in the law:
  - Informed Consent: Responsible doctor or reasonable patient?
  - Causation: A New (Old) Approach?
  - Quantification of Damages
  - Misrepresentation & Fraud
Medical Litigation

What sort of a case could your patient bring against you?

- Breach of contract
- Professional negligence
- Professional misconduct

Medical Litigation

Introduction to Medical Litigation

- Civil vs criminal actions (cf. disciplinary proceedings)
- Civil: Negligence and Breach of Contract
- General considerations:
  - Proof, Chances of Success, Reward, Risk
  - Proof: Do I have the proper evidence to prove my case?
  - Chances of success: Applying the law to the facts, will I win?
  - “Balance of probabilities” vs. “Beyond reasonable doubt”
  - Reward: How much will I win? Does it justify the risk?
  - Risk: What if I lose? Will I recover my investment?
  - Cost-benefit analysis
Medical Litigation

**Breach of Contract**

- **Elements:**
  - Contract (can be oral or written or partly both)
  - Breach of a term of the contract
    - Implied duty of care of care & skill
    - “Reasonable care and skill” = *Bolam* standard
  - Remedy:
    - To place the innocent party in a position as if the contract had not been breached.
    - Can sue doctor and/or hospital – depends on situation.

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**Medical Litigation**

**Medical) Negligence**

- **Elements:**
  - Duty of care owed by defendant to plaintiff
  - Breach of the duty of care
    - Falling below the standard of care required of the defendant in the circumstances of the case.
    - *Bolam* test / *Bolitho* decision
  - Damage
    - Loss and/or injury (cf. “Damages”)
    - Caused by the breach (“Causation”)
    - Must not be too remote (“Remoteness”)
(Medical) Negligence

Remedy:
- To place the innocent party in a position as if the tort had never been committed.
- Restorative damages vs. damages for the loss of a bargain.

Who can be liable?
- The guilty party himself (tortfeasor)
- Principals or employers (through vicarious liability)

Duty of Care

Lord Hewart CJ in *R. v Bateman [1925] 94 LBKB 79*:

“If a person holds himself out as possessing special skill and knowledge and he is consulted, as possessing such skill and knowledge by or on behalf of a patient, he owes a duty to the patient to use due caution in undertaking the treatment and the patient submits to his direction and treatment accordingly, he owes a duty to the patient to use diligence, care, knowledge, skill and caution in administering the treatment. No contractual relation is necessary, nor is it necessary that the service be rendered for reward.”


**Standard of Care**

- *Bolam v Friern Hospital Management Committee [1957] 1 WLR 582*
  - Patient suffering from mental illness
  - Advised to undergo ECT – electro convulsive therapy
  - Patient signed consent form but not warned of risk of fracture
  - Patient claimed hospital was negligent
    - for not using relaxant drugs or manual control
    - for not warning him of risks
  - McNair J. directed the jury as follows:

  - **Medical Litigation**

  - The test is the standard of the ordinary skilled man exercising and professing to have that special skill; … it is sufficient if he exercises the ordinary skill of an ordinary competent man exercising that particular art. …

  - A doctor is not guilty of negligence if he has acted in accordance with a practice accepted as proper by a responsible body of medical men skilled in that particular art … Putting it the other way round, a doctor is not negligent, if he is acting in accordance with such a practice, merely because there is a body of opinion that takes a contrary view."
**Medical Litigation**

### Standard of Care

- **Bolitho v City and Hackney Health Authority** [1998] AC 232
  - 2 year old child suffering from respiratory difficulties
  - Suffered cardiac arrest & severe brain damage
  - Sued for damages for negligence – failing to attend and intubate child
  - Hospital admitted breach of duty – doctor failed to attend on time
  - Hospital argued even if doctor attended, he would not have intubated boy, thus no causal connection (i.e. no ‘causation’)
  - House of Lords agreed – no “causation”
  - Bolam test applied to “breach” but not “causation”
  - Made observations on the *Bolam* test.

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**Medical Litigation**

### Standard of Care


  “[A] defendant doctor cannot escape liability for negligent treatment or diagnosis simply because he leads evidence from a number of medical experts who are genuinely of the opinion that the defendant’s treatment or diagnosis accorded with sound medical practice because what is required is that the practice must be accepted as proper by responsible, reasonable, and respectable professionals and the court must be satisfied that the exponents of the body of opinion relied upon can demonstrate that such an opinion has a logical basis”
Standard of Care

- *Bolitho* did not change the law in *Bolam*.
- *Bolitho* guides us as to how to apply the *Bolam* test.
- *Bolitho* shows us what you need to be satisfied of, when you call someone a “responsible and competent” doctor.
- His conduct must have a logical basis e.g. his views are evidence-based.
- See also – the *Gunapathy* case

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Standard of Care

- *Dr James Khoo v Gunapathy* [2002] 2 SLR 414
  - Neurosurgeon & radiation oncologist sued for conducting XKnife surgery on patient
  - Growth removed from patient's brain by conventional surgery
  - Patient then underwent radiation therapy
  - “Nodule” discovered in patient's brain
  - Patient advised to undergo XKnife procedure
  - Part of patient's brain underwent radionecrosis
  - At trial: 400 page decision: Negligent!
  - On appeal: No substandard medical care in advice or surgery. Both doctors *not* negligent.
Standard of Care

Yong Pung How CJ:

... In determining whether a doctor has breached the duty of care owed to his patient, a judge will not find him negligent as long as there is a respectable body of medical opinion, logically held, that supports his actions. Beyond this time-honoured test of liability, neither this court nor any other should have any business vindicating or vilifying the acts of medical practitioners. It would be pure humbug for a judge, in the rarified atmosphere of the courtroom and with the benefit of hindsight, to substitute his opinion for that of the doctor in the consultation room or operating chamber. We often enough tell doctors not to play god; it seems only fair that, similarly, judges and lawyers should not play at being doctors.”

SUMMARY:

Bolam test (read with Bolitho’s case) determines standard of care required of doctors and hospitals.

- Diagnosis, consent, treatment, post-treatment.
- Compare Australia, Malaysia: Bolam test does not apply to consent procedures.
- Bolam test requires a medical expert opinion on whether the standard of care expected of the doctor was met or breached.
- Lawyers should not play at being medical experts.
Standard Areas of Attack

- Diagnosis
- Advice / Obtaining consent for treatment
- Treatment / Surgery
- Post-treatment / post-surgical care

Negligence in diagnosis

- Arriving at a diagnosis that “no reasonable and competent doctor” could arrive at in the circumstances.
- Not doing examinations or tests that any “reasonable and competent doctor” would do.
- Doing examinations or tests that “no reasonable and competent doctor” would do.
Negligence in obtaining consent

- What if a doctor does not obtain consent?
  - E.g. He does not tell his patient “in broad terms” what he is going to do.
  - No consent = “battery”.

- What if a doctor does not obtain consent properly?
  - E.g. He does not give the patient enough information such that the patient’s consent is not good enough?

- Insufficient consent = “negligence”

Under Singapore law, a patient gives sufficient consent to a procedure if he does so after his doctor has advised him of the nature and risks of that procedure, to the extent that “any responsible and competent” doctor in the same shoes would have advised that patient.

Many loosely call this “informed consent” esp. doctors.

In Singapore, we do not really look for “informed consent”, we actually look for “properly obtained consent” or “sufficient consent”.
Negligence in obtaining consent

- In Australian law (and recently – Malaysian law), “informed consent” means giving the patient information that a reasonable patient would need to have to make a decision.
- In Singapore, you do not consider what a reasonable patient would want to know.
- You need only tell the patient what “any reasonable and competent doctor” would tell the patient. (Cf. medical ethics)
- In Singapore and England, the focus is on what a doctor needs to tell the patient; not what the patient needs to hear. *(Note: The two may be very different.)*

Negligence in treatment / surgery

- Giving treatment below the standard of care expected of “any responsible and competent” doctor.
- Classic example 1: Cutting something you shouldn’t or needn’t have.
- Classic example 2: Writing 100ml instead of 10ml.
- Practical point: Hard to prove unless you have something recorded (e.g. video or writing).
Negligence in post-treatment care

- Failure to follow up.
- Easy to get caught here.
- Not responding to patient's condition and complaints as "any responsible and competent" doctor would.

The Litigation Process

**PRELIMINARY STAGE**
- Retrieval of Medical Records
- Expert's Report
- Legal Opinion on Proper Party
- Legal Opinion on Liability
- Legal Opinion on Damages
- Cost-Benefit Analysis

**DEMAND STAGE**
- Letter of demand issued
- Response from doctor / hospital

**INTERLOCUTORY STAGE**
- Writ of Summons Issued
- Memorandum of Appearance
- Statement of Claim
- Defence
- Reply
- Discovery (Disclosure) of documents
- Affidavits of Factual Witnesses
- Affidavits of Expert Witnesses
- Setting-Down
- FINAL TRIAL PREPARATION

**TRIAL**
- The First Day of Trial
- The Plaintiff's Case
- The Defendant's Case
- Closing Submissions
- JUDGMENT
- (Assessment of Damages)
Warning signs

- Patient calls frequently.
- Patient brings family, or worse still, the “friend” to see you.
- Patient asks (very specific) questions and writes / tapes down answers.
- Patient asks for second opinion, after the procedure is done.
- Patient asks for medical records.
- Patient writes to you / your hospital, asking questions / an explanation.
- Patient’s lawyer writes to you. (THE ULTIMATE SIGN)

What to do when there are signs ...

- Notify
- Record
- Organize
- Review

- Superiors
- Staff
- Defence Organisation
What to do when there are signs ...

**Notify**

**Record**
- All conversations
- All correspondence

**Organize**
- Patient’s medical records
- Your thoughts / recollection of the case

**Review**
What to do when there are signs ...

- Notify
- Record
- Organize
- Review
  - Was what you did correct?
  - Who will your experts be?

What NOT to do ...

- Panic
- Embellish / Re-construct
- Hide / Destroy evidence
- Ignore (hoping it will all go away)
USEFUL INFORMATION ABOUT YOUR OPPONENT

TOP SECRET

Inside the plaintiff-patient’s mind

- Physical & emotional pain & suffering
- Distrust
- Anger
- Financial pressure
- Greed (for some)
Inside the plaintiff’s lawyer’s mind

- Can this person afford my fees?
- Does this person have a good case?
- How long and hard will I have to fight?
- How much will the person win?
- Hard to win ≠ hard to sue.

The economics of medico-legal litigation

- Contingency fees are illegal in Singapore.
- Litigation always involves irrecoverable costs.
- Litigation is cheap at first, expensive in the middle and cheap at the end.
- Don’t forget the disbursements.
**Irrecoverable Costs in Litigation**

A's lawyer  
(y₁)

(y₂)

B's lawyer

A sues B and wins

y₁ ≥ y₂

• damages
• interest
• legal costs (x)

x : y ≈ 2 : 3

**Costs In Litigation**

**Scenario A**

A sues B and wins $50,000 in damages + $20,000 in legal costs. He pays $30,000 to his lawyer. **Nett gain = $40,000**

**Scenario B**

A sues B and wins $10,000 in damages + $40,000 in legal costs. He pays $60,000 to his lawyer. **Nett loss = $10,000**

*And we aren't even factoring-in experts' fees yet!*
Medical Litigation

The Litigation Process

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- Affidavits of Expert Witnesses
- Setting-Down

**TRIAL**
- The First Day of Trial
- The Plaintiff's Case
- The Defendant's Case
- Closing Submissions

**JUDGMENT**
- (Assessment of Damages)

**FINAL TRIAL PREPARATION**

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Medical Litigation

Cheap --- Expensive --- Cheap

$$$

Pleadings

Discovery & AEIC

Trial

time

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37

38
**Best times for resolution**

- Before the patient sees a lawyer.
- Before the Writ of Summons is issued.
- Before the Defence is filed.
- After discovery, before the Affidavits of EIC are due.

**Worst times for resolution**

- After the lawyer sends a formal demand.
- After the Affidavits of EIC are due.
- First day of the trial.
- Mid-way through the trial.
Choosing a Defendant

- Generally, sue the hospital (if available).
- Let the hospital bring in the doctor as 3rd party.
- When to sue both doctor and hospital?
- Tough call. May have serious costs consequences.
- *See Denis Harte* case.

**Denis Harte v Dr Tan HH & Gleneagles**

- Patient succeeded against doctor for post-operative negligence.
- Patient failed against hospital.
  - Surgery not proved to be negligent.
  - In any event, hospital was not vicariously liable for doctor’s negligence.
- Patient got legal costs from doctor, but had to pay legal costs to hospital.
Expert witnesses: Critical to the plaintiff!

“[A] defendant doctor cannot escape liability for negligent treatment or diagnosis simply because he leads evidence from a number of medical experts who are genuinely of the opinion that the defendant’s treatment or diagnosis accorded with sound medical practice because what is required is that the practice must be accepted as proper by responsible, reasonable, and respectable professionals and the court must be satisfied that the exponents of the body of opinion relied upon can demonstrate that such an opinion has a logical basis”


Expert witnesses

- Critical to medico-legal litigation right from the start.
- Bona fide belief in the claim.
- Stay / Striking out of proceedings for want of an expert opinion confirming substandard medical care.
Medical Litigation

**Expert witnesses - Foreign**

- Foreign experts often required.
- Generally, very difficult for patients to get local experts.
- Need to look to UK, Australia, HK.
- Foreign experts - Very expensive.
- BUT: Foreign experts often more experienced in Court
- BUT: Foreign experts often more articulate than local experts.
- BUT: Foreign expert may even be able to assist counsel with cross-examination.

**Expert witnesses - Local**

- Local experts more prepared to side with defendant-doctors.
- Cheaper compared with foreign counterparts
- BUT: Have little or no Court experience.
- ALSO: Level of English fluency different from Caucasian experts.
- Expert’s reports often drafted by lawyers instead of the experts.
- Generally come across as being evasive on weak points and overly bullish on strong points.
- May treat their time in the witness box like a joust with the lawyer.
Expert witnesses

**IT IS NOT ENOUGH TO HAVE “AN EXPERT”.**
YOU MUST HAVE AN EXPERT WHO IS CREDIBLE IN THE EYES OF THE COURT!

Summary

- Ability to resolve medico-legal disputes at an early stage of proceedings by taking into account
  - Financial, physical & emotional position of parties
  - Litigation pressure
  - Opportunity to apportion blame so as to deflect eventual liability – “pass the buck”.
- Possible to kill a lawsuit for want of a good expert’s report.
NEW LAW, NEW RISKS

The Informed Consent Dispute

- Reasonable patient or responsible doctor?
- Different approaches in England, Singapore vs Australia, US, Malaysia.

- *Foo Fio Na v Dr Soo Fook Mun* Rayuan Sivil No: 02-20-2001(W) (29 Dec 2006)
Foo Fio Na

- F was involved in a car crash.
- Dislocated cervical vertebrae – placed on traction by Dr S (orthopaedic surgeon).
- Failed to reduce. Then tried manipulation 3x. Failed again.
- Open surgery then done. Failed again.
- F paralysed. Caused by wire loop in surgery pressurising spinal cord.
- Argument: Failure to obtain F’s consent.
- Two consent forms signed. First did not mention surgery. Second had a thumbprint.
- Federal Court: Bolam test DOES NOT apply to consent!!!
“Reasonable patient” rejected

Tong Seok May Joanne v Yau Hok Man Gordon [2012] SGHC 252

per Andrew Ang J:

63 There were three aspects to Tay J’s analysis [in D’Conceicao Jeanie Doris (administratrix of the estate of Milakov Steven, deceased) v Tong Ming Chuan [2011] SGHC 193], all of which I am in full agreement with. First, Tay J found that the authorities from other jurisdictions advocating the “reasonable patient” test (see [59] above) had already been considered and expressly rejected by the Singapore High Court in Surender Singh s/o Jagdish Singh and another (administrators of the estate of Narindar Kaur d/o Sarwan Singh, deceased) v Li Man Kay [2010] 1 SLR 428 (“Surender”) on the basis that it was bound by the Court of Appeal in Gunapathy (Surender at [152]–[153]). I am also bound by Gunapathy.

“Reasonable patient” rejected

... I note Hri Kumar and Terry Kaan Sheung-Hung’s observations on Gunapathy in “Developments in Singapore Law between 2001 and 2005” (Singapore Academy of Law, 2006) at p 702:

[Gunapathy] reaffirms and re-establishes beyond doubt that the Bolam principle applies in full force to diagnosis, treatment and advice – and not just the first two – which are the three aspects of the single global duty of care of the physician as defined by the majority in Sidaway. [emphasis added in bold italics]
The Standard of Care in Singapore

SUMMARY:
- Bolam test (read with Bolitho’s case) determines standard of care required of doctors and hospitals
- Diagnosis, consent, treatment, post-treatment
- Compare Australia, Malaysia: Bolam test does not apply to consent procedures
- Bolam test requires a medical expert opinion on whether the standard of care expected of the doctor was met or breached.
- Lawyers should not play at being medical experts.

Causation – a new (old) approach

Surender Singh s/o Jagdish Singh And Another (administrators of the estate of Narindar Kaur d/o Sarwan Singh) v Li Man Kay and Others

[2009] SGHC 168
**Surender Singh**

- N died hours after removal of left kidney for donation to husband.
- Procedure done by Prof Li, Dr Consigliere at NUH.
- Procedure involved used of Hem-o-lok clips.
- No problem with post-operative care in recovery room.
- N transferred to ward 43 at 1430. Ordered to be monitored hourly.
- Monitoring not done? Gap in evidence as to monitoring from 1430 to 1600-1615.
- N's sister in law said that at 1600, N was in distress.
- Resuscitation failed. N died at 1717.

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**Surender Singh (contd...)**

- Forensic pathologist found that the Hem-o-lok clips had slipped.
- Cause of death: Acute intra-abdominal haemorrhage due to a failure of haemostasis.
- One year after N died, manufacturer of clips issued a contraindication on clips being used in laparoscopic donor nephrectomy.
- Plaintiff alleged NUH did not monitor N properly in the ward.
- Plaintiff relied on section 108, Evidence Act to shift burden to NUH to show that it had monitored N properly.
- Plaintiff successfully established *prima facie* case that NUH did not do so. So section 108 came into play.
Surender Singh (contd...)

- Section 108, Evidence Act:
  
  *When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.*

- NUH could not show that it monitored properly.

- Court found that NUH’s failure to properly monitor the Deceased in Ward 43 from after 1430 hours *materially increased* the risk of injury to the Deceased.

- Assessment of damages ordered.

- NUH did not pursue their appeal.

- Claim against the manufacturer of the clips?

“Material contribution” – NOT a new concept

“It would seem obvious in principle that a pursuer or plaintiff must prove not only ... [a] breach of duty but also that such fault caused or materially contributed to his injury, and there is ample authority for that proposition both in Scotland and in England.

... [he must] prove his case by the ordinary standard of proof in civil actions: he must make it appear at least that on a balance of probabilities the breach of duty caused or materially contributed to his injury.”

_Bonnington Castings v Wardlaw_ [1956] 1 All ER 615 at 618, _per_ Lord Reid
Quantification of Damages

*Ho Wah Nam v Tan Kim Siang Luke* [2012] SGHCR 17:

- **Plaintiff**: retiree, suffers a hearing ailment.
- On or about 4 June 2008, the Plaintiff consulted the 1st Defendant, a Ear Nose and Throat Consultant, in respect of the hearing ailment. The 1st Defendant examined the Plaintiff and advised him to undergo a stapedectomy ("the procedure").
- Plaintiff agreed to undergo the procedure and the procedure was scheduled for 5 August 2008 at the 3rd Defendant’s hospital. The 2nd Defendant was the anaesthetist who assisted in the procedure.
- Plaintiff went into cardiac arrest during the procedure and the procedure was aborted.
- Plaintiff was resuscitated and was discharged from the 3rd Defendant’s hospital on 14 August 2008.

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Quantification of Damages

*Ho Wah Nam v Tan Kim Siang Luke* [2012] SGHCR 17:

- Assessment of Damages was held pursuant to an Order of Court dated 1 December 2010, ordering that
  
  "[the] amount of damages to be awarded to the Plaintiff against any or all of the Defendants in this action at trial, be determined at trial before a Registrar pursuant to Order 36 Rule 1 of the Rules of Court without any finding of liability against any or all of the Defendants”.

- Role of the court limited to the determination of the amount of damages to be awarded to the Plaintiff against any or all of the Defendants.
- Not the role of this court to make any determination on the issue of liability.
Quantification of Damages

**Ho Wah Nam v Tan Kim Siang Luke** [2012] SGHCR 17:

9 It is trite law that the burden of proof lies with the Plaintiff to provide evidence that will support his claim for damages.

10 In *Cheong Ghim Fah and another v Murugian s/o Rangasamy* [2004] 1 SLR(R) 628 (“Cheong Ghim Fah”) at [30], V K Rajah JC (as he was then) said:

> It is axiomatic that in negligence cases, as in all other civil cases, the burden of proof lies on the plaintiff to establish facts that will precipitate a decision in his favour. Our courts deal with facts and do not base their decisions on considerations of sympathy.

Quantification of Damages

**Ho Wah Nam v Tan Kim Siang Luke** [2012] SGHCR 17 (cont’d …):

11 The only witness called to give evidence on behalf of the Plaintiff was the Plaintiff himself. None of the doctors who examined the Plaintiff were called to give evidence on the Plaintiff’s behalf, though their medical reports were included in the agreed bundle of documents.

12 In *Jet Holdings Ltd and others v Cooper Cameron (Singapore) Pte Ltd and another and other appeals* [2006] 3 SLR(R) 769 (“Jet Holdings”) it was held by the Court of Appeal at [44] :

> ...However, it must be emphasised that whilst formal proof of the document concerned is dispensed with by an agreed bundle of documents, the truth of their contents will still have to be proved in the absence of any agreement or admission to the contrary... [emphasis in the original]
Quantification of Damages

*Ho Wah Nam v Tan Kim Siang Luke* [2012] SGHCR 17 (cont’d ...):

13 The Court of Appeal in *Jet Holdings* went on to observe at [51] that:

...if these documents are in fact marked and admitted into evidence without that party in fact satisfying the requirements in the Evidence Act and where there has been no objection taken by the other party at that particular point in time, then that other party cannot object to the admission of the said documents later...[emphasis in the original]

14 It was clearly established during the hearing of the assessment of damages that there was no agreement between parties to dispense with the attendance of Plaintiff’s doctors. The solicitors for the 1st and 2nd Defendants clearly stated that the medical reports of the doctors that had examined the Plaintiff had been agreed to only in respect of authenticity. There was no agreement as to the content of the medical reports. This point was brought to the attention of the Plaintiff’s solicitor during the hearing:

Quantification of Damages

*Ho Wah Nam v Tan Kim Siang Luke* [2012] SGHCR 17 (cont’d ...):

15 Since the Defendants had raised an objection at the time the documents were marked and admitted into evidence, it is clear that the truth of the contents of the medical reports will have to be proved by the Plaintiff. However, the Defendants have accepted that, insofar as their expert, Dr Lim Yean Teng, had relied on parts of the medical records and reports of the other doctors, in forming his expert opinion, and any other medical records and reports relied on by the Defendants in their submission, there was no dispute on the contents, and there was no need for the Plaintiff to prove its contents, subject to the Plaintiff accepting Dr Lim Yean Teng’s reading of the report and the conclusions drawn by Dr Lim Yean Teng and the submissions made by the Defendants.
Quantification of Damages

Ho Wah Nam v Tan Kim Siang Luke [2012] SGHCR 17 (cont’d …):

16 At the close of the Plaintiff’s case, the Defendants withdrew the Affidavits of Evidence-in-Chief of the 1st and 2nd Defendants as well as Dr Cheok Cheng Soon Christopher, Senior Consultant Psychiatrist and Head of Department for Psychological Medicine at Khoo Teck Puat Hospital. The only witnesses that gave evidence on behalf of the Defendants were:

(a) Dr Lim Yean Teng, Senior Consultant in Cardiology Associates Pte Ltd and a Visiting Consultant to National University Hospital; and

(b) Mr Tan Keng Chew, a private investigator.

Quantification of Damages

Ho Wah Nam v Tan Kim Siang Luke [2012] SGHCR 17 (cont’d …):

54 In conclusion, the amount awarded is as follows:

(a) General Damages - $4,000.

(b) Special Damages - $2,708.55.

(c) Interest at half of 5.33% on special damages from the date of service of the writ to the date of judgment and interest at 5.33% on general damages for pain and suffering from the date of the service of the writ to the date of judgment.

(d) Costs on the Magistrates’ Court scale to be agreed or taxed.

(e) The usual consequential orders to apply.
Medical Litigation

Misrepresentation & Fraud

- Overselling a procedure, treatment or medication.
- Overselling one’s credentials.
- Pushing patients to unnecessary surgeries.
- Goes towards the “consent” issue, yet again!

Summary

- We can foresee more legal battles over “consent”.
- More impetus for defensive charting, note-taking.
- More time consumed per patient; less patients seen, possible rise in healthcare costs.
- More time taken by patients to decide. Slower turnarounds.
- Added costs: Information sheets & videos.
Thank you. Any questions?

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Curriculum vitae available in PDF format at http://www.braddellbrothers.com/pdfs/ekcv.pdf

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