



THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA

**MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL**

From: The Registrar, Supreme Court of Appeal

Date: 26 May 2011

Status: Immediate

*Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal*

**NEIL HARVEY & ASSOCIATES (PTY) LTD v MEDSCHEME HOLDINGS (PTY) LTD  
& OTHERS**

1. Neil Harvey & Associates (Pty) Ltd (NHA) is involved in arbitration proceedings against Medscheme Holdings (Pty) Ltd and certain of its employees.
2. NHA subpoenaed witnesses to produce documents relevant to the arbitration and entered into an agreement with the witnesses to facilitate this. The agreement provided for arbitration in front of the same arbitrator hearing the Medscheme arbitration, in the event of a dispute.
3. A dispute arose and the meeting between NHA and the witnesses took place before the arbitrator in the absence of Medscheme. Medscheme sought the removal of the arbitrator.
4. The SCA, overruling the court below, held that whilst Medscheme should have been present at the meeting between NHA and the witnesses, there was no reasonable possibility that the rights of Medscheme were affected because of what had happened at the meeting. Medscheme's application to remove the arbitrator on the basis of a gross irregularity, and on the basis of reasonably perceived bias on the part of the arbitrator, was dismissed, with costs.

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