



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

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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.

Medi-Clinic v Vermeulen (504/13) [2014] ZASCA 150 (26 September 2014)

The Supreme Court of Appeal (SCA) today upheld an appeal against an order of the North Gauteng High Court, Pretoria finding the appellant, Medi-Clinic to have negligently caused the pressure sores the respondent sustained during his treatment and admission to the appellant's hospital in Nelspruit.

The issues before the SCA were whether the pressure sores could have been avoided by the implementation of a pressure sore regimen of sufficient frequency and adequacy to allow, remove or relieve pressure from the respondent's sacrum, heels and nerves and whether despite the respondent's critical illness with malaria and the presence of factors predisposing him to pressure sores, it was eminently possible to implement such a pressure care regimen. The views of the expert witnesses on these issues were diametrically opposed.

The respondent's claim arose in the following circumstances:

The respondent was admitted on 17 May 2007 at Medi-Clinic Nelspruit Hospital for cerebral malaria he contracted while on holiday in Mozambique during April 2007. As he was gravely ill on his admission on 17 May 2007 he was treated in the Intensive Care Unit (ICU) where he remained until 24 July 2007. Thereafter he was transferred to the general ward for further treatment until his discharge on 21 October 2007. Shortly after his admission and while he was still in the ICU, the respondent developed a pressure sore to the sacral area and heels of his feet. As a result of the sacral bedsore he suffered bilateral sciatic nerve injury with severe impediment to his mobility. The respondent became paralysed and is now wheelchair-bound.

The respondent sued the appellant for damages in the North Gauteng High Court contending that the injuries he sustained were caused by the negligence of the appellant's hospital staff. He alleged that the defendant's nursing

staff had failed to take sufficient preventative measures to avoid the onset of the pressure sores. Various expert witnesses testified on whether the pressure sores were avoidable or not. The high court accepted the evidence of the experts called on behalf of the respondent who testified that the pressure sores could have been avoided had a proper pressure sore strategy been implemented. It rejected the evidence of the experts called by the appellant to the effect that the pressure sore preventative measures could not be implemented without compromising the respondent's safety during the period when the respondent was seriously ill. It accordingly found that the appellant's nursing staff were negligent in their treatment of the respondent.

The SCA held that the high court erred in rejecting the opinion of the appellant's expert witnesses in circumstances where it had not been shown that it was not based on logical reasoning. The SCA further held that, having regard to the views of the appellant's expert witnesses, it could not be said that the appellant's nursing staff had been negligent in their treatment of the respondent.