

# SMC Ordered to Pay Costs

## JUSTICE SERVED?

Text by Dr Mona Tan

The recent judgement of the Court of Appeal where the Singapore Medical Council (SMC) was ordered to pay a plastic surgeon's legal fees evoked a sense of conflict within me. On the one hand, I rejoiced with my colleague's triumph that the Court had upheld the Disciplinary Tribunal's (DT) decision against the patient. At the same time, I felt dismayed that SMC is now required to pay the costs of the surgeon's legal fees. Eventually, that cost would be transferred to me as a registered doctor. When divided among all the medical professionals registered with SMC, it would probably be a small quantum for this episode, but if more of such instances were to come, it could add up to a significant amount. This would inevitably lead to an increase in our SMC registration fees which have been rising steadily over the years.

I note that the DT found this patient to be a "sophisticated, capable and highly educated professional" whose complaints were "vexatious and baseless", her allegations false and that she had lied in other areas. This is startlingly similar to what Lord Bannatyne said of Nadine Montgomery in her suit against the Lanarkshire Health Board. He assessed her to be a highly intelligent person, who appeared to be "rewriting history in the light of the outcome", with a "pattern of overstatement and exaggeration".<sup>1</sup> This is also consistent with studies which show that 48% of patients imagine or

misconstrue what was said to them during a medical consultation,<sup>2</sup> an occurrence not uncommon in my experience.

Unfortunately, the Scottish Supreme Court overruled Lord Bannatyne's judgement without re-examining Mrs Montgomery as a witness and awarded her £5.25 million in damages. Sadly, this case formed the basis for the standard of informed consent.

It is evident that, as a consequence of the Montgomery case, more patients are emboldened to submit complaints to SMC when unfavourable treatment outcomes occur, disputing the validity of their documented consent. It is troubling that the SMC Complaints Committee sought to escalate this case and convene a DT. It is distressing that an "innocent party" like me would now be called upon indirectly to pay for SMC's legal fees. The complainant in this case was found to have lied and is therefore possibly guilty of perjury. Has justice truly been served if she is exempted from paying costs arising from her baseless complaint? ♦

Dr Tan is a breast surgeon in private practice, who enthuses professionally about breast conservation treatment and personally about organising trips which allow time away from work. However, since the second requires resources from the first, she reluctantly continues with her career to provide funding for her breaks.

### References

1. *Nadine Montgomery v Lanarkshire Health Board*. [2010] CSOH 104.
2. *McGuire LC. Remembering what the doctor said: organization and adults' memory for medical information. Exp Aging Res 1996; 22(4):403-28.*