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## **Ontario Trial Adjournment: Personal Injury > \$50,000 Costs Thrown Away**

This case involves a last minute adjournment motion by the defendant (insurer) based on a medical report served by the plaintiff about 2 weeks before Trial, involving a claim for [personal injury suffered in this Ontario lawsuit](#).

The defendant served an updated medical report about 3 weeks before Trial; it is unclear whether this was based upon a concurrent defence medical examination or whether it was an updated report based on a paper review: **Quan v. Staar Surgical Company, 2014 ONSC 27 (CanLII)**.

The plaintiff served a further medical report a few days later, presumably to respond to that new defence medical.

The defendant then requested an adjournment, which was denied and led to a contested motion on the first day of Trial. The adjournment request was granted but in costs thrown away, in favour of the plaintiff, were allowed.

The plaintiff's solicitor indicated approximately \$100,000 in fees / disbursements were spent preparing for Trial, of which the plaintiff claimed \$80,000 in fees which were lost or wasted and could not be used / saved in preparing for the new Trial date.

It may be of some interest to non-litigators that the plaintiff solicitors advised that two counsel spent more than 450 hours, in two months, preparing for this Trial. Put into context, that's about 5 ½ weeks per counsel (using a 40 hr/wk reference) in the 8 week period leading up to Trial – plus having to handle the rest of their case load.

Mr. Justice McNamara allowed \$50,000 in costs thrown away for legal fees, plus disbursements, to be paid by the defendant immediately. The issue of the plaintiff's law clerk time spent on the preparation of the file was left to be decided by the Trial Judge.

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