

**PERTIMBANGAN PUTUSAN HAKIM TERKAIT GANTI KERUGIAN  
MATERIIL DAN IMMATERIIL SERTA PENENTUAN BESARAN  
GANTI KERUGIAN TERHADAP TERGUGAT DALAM KASUS  
MALPRAKTEK PELAYANAN MEDIS (Studi Putusan  
Mahkamah Agung Nomor 1001 K/PDT/2017)**

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**INTISARI**

Penelitian ini bertujuan untuk menganalisis pertimbangan putusan hakim terkait ganti kerugian materiil dan immateriil serta pertimbangan hakim dalam menentukan besaran ganti kerugian terhadap tergugat dalam kasus malpraktek pelayanan medis (Studi Putusan Nomor 1001 K/PDT/2017).

Jenis penelitian ini adalah penelitian yuridis normatif dengan melalui studi kepustakaan dari data sekunder berupa bahan hukum primer, sekunder, dan tersier dan dengan melakukan wawancara kepada narasumber yang memiliki pemahaman mengenai permasalahan dalam penelitian ini. Data yang diperoleh dianalisis secara kualitatif dan disajikan secara deskriptif analitis.

Hasil penelitian dan pembahasan menunjuk pada bahwa Pertimbangan putusan hakim dalam mengabulkan ganti kerugian immateriil tanpa mengabulkan ganti kerugian materiil tercantum dalam pasal 1370,1371,1372 KUHPerdara yang pada intinya menyatakan bahwa ganti kerugian immateriil hanya dapat diberikan dalam hal-hal tertentu seperti perkara kematian, luka berat, dan penghinaan. Sementara itu mengenai besaran kerugian immateriil ditentukan oleh subjektivitas hakim dengan menggunakan prinsip *ex aequo et bono*.

**Kata Kunci:** Pertimbangan Hakim, Ganti Rugi, Tanggung Renteng, Malpraktek, Pelayanan Medis.

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**CONSIDERATION OF THE JUDGE'S RULING REGARDING  
COMPENSATION MATERIAL AND IMMATERIAL AND  
DETERMINATION OF QUANTITIES COMPENSATION  
FOR DAMAGES AGAINST THE DEFENDANT IN THE  
CASE MEDICAL SERVICE MALPRACTICES  
(Decision Study Supreme Court Number  
1001 K/PDT/2017)**

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**ABSTRACT**

This research aims to analyze the judge's decision considerations regarding material and immaterial compensation as well as the judge's considerations in determining the amount of compensation for the defendant in a medical service malpractice case (Decision Study Number 1001 K/PDT/2017).

This type of research is normative juridical research through literature study of secondary data in the form of primary, secondary and tertiary legal materials and by conducting interviews with sources who have an understanding of the problems in this research. The data obtained was analyzed qualitatively and presented descriptively analytically.

The results of the research and discussion show that the consideration of the judge's decision in granting immaterial compensation without granting material compensation is stated in articles 1370, 1371, 1372 of the Civil Code which essentially states that immaterial compensation can only be given in certain cases such as cases of death, injury severity, and humiliation. Meanwhile, the amount of immaterial losses is determined by the judge's subjectivity using principles *out of fairness and goodness*.

**Keywords:** Judge's Consideration, Compensation, Joint Liability, Malpractice, Medical Services.

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