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## Witnesses

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## WITNESSES

*MacCuish v. United States*, 844 F.2d 733

Appellants MacCuish appeal the district court's denial of their motion for a new trial in this medical malpractice suit. Affirmed.

MacCuish's minor son, Damien, received a circumcision shortly after his birth and due to subsequent complications, was subjected to a corrective surgical procedure known as the Cecil procedure. As a result, Damien's penis is permanently deformed. Finding no negligence on the part of the U.S. Army Hospital, the court entered judgement in their favor. MacCuish appeals the denial for a new trial on three bases: (1) the district court erred in permitting the testimony of a government expert in violation of the pre-trial order; (2) MacCuish's trial attorney failed to accept a \$50,000 settlement offer; and (3) her attorney's conduct at trial amounted to ineffective assistance of counsel.

The district court's decision is affirmed on the basis that the district court did not abuse its discretion in permitting the expert testimony since MacCuish suffered no prejudice or surprise as a result of such testimony. The right to counsel in a civil matter is not a constitutional right under the sixth amendment. Therefore, the only appropriate remedy for allegedly incompetent representation is a malpractice suit against the attorney.

