

Hammond v C, T, N and Y

Out of Court Settlement: 27/1/2013
Damages: £8,000
Dental Condition: Restorative Dentistry
Defendant Representatives: Dental Protection

The Claimant, a 19 year old woman, received £8,000 in respect of the Defendants failure to diagnose and treat decay at LL6 and also their failure to carry out satisfactory root canal treatments at UL6 and LL6.

The Claimant attended the First Defendant on 18/6/2007 for an examination.

The Claimant attended the First Defendant on 2/11/2007 when a restoration was placed at UR6.

The Claimant attended the Second Defendant on 2/6/2008 for an examination. The Claimant was complaining of pain emanating from the LL6 and a course of antibiotics was prescribed.

The Claimant attended the First Defendant on 5/6/2008 when root canal treatment was commenced at LL6

The Claimant attended the First Defendant on 4/7/2008 when root canal treatment was completed at LL6.

The Claimant attended the First Defendant on 10/10/2008 for a review appointment. A periapical radiograph was taken which demonstrates that the RCT at LL6 was poor with associated infections. Upon review of this radiograph, the First Defendant noted that the root filling at LL6 was "short".

The Claimant attended the First Defendant on 15/1/2009 when the LL6 was prepared prior to the provision of a crown.

The Claimant attended the First Defendant on 11/2/2009 when a crown was fitted at LL6.

The Claimant attended the Third Defendant on 26/1/2010 for an examination.

The Claimant attended the Defendant practice on 15/6/2010 for an examination. A bitewing radiograph was taken which demonstrates that undiagnosed caries was present at UL6.

Following complaints of pain, the Claimant attended the Fourth Defendant on 10/10/2011 when root canal treatment was commenced at UL6. An instrument fractured during this procedure and was retained within one of the root canals.

The Claimant subsequently sought a second opinion. It is apparent that repeat root canal treatment is needed at LL6 and that the UL6 requires extraction

Allegation of negligence: It was alleged that:

- The First Defendant provided a clinically unsatisfactory root canal treatment at LL6 in July 2008
- The First, Second and Third Defendants failed to diagnose and treat caries at UL6
- The Fourth Defendant failed to use reasonable skill and care in technical execution of root canal treatment at UL6 in October 2011. When the working length x-ray was taken, the Claimant bit down and the endodontic instrument fractured. The Fourth Defendant should have used a rubber dam to prevent this from happening

Injuries / Effects: It was alleged that, as a result of the Defendants negligence, the Claimant:

- Experienced intermittent sensitivity and discomfort emanating from the LL6 and UL6

- Underwent avoidable endodontic procedures at UL6 on 10/10/2011 and 8/2/2012.
- Sustained the avoidable loss of the UL6.
- Will have to undergo extensive avoidable remedial treatment in the future including repeat root canal treatment at LL6, the provision of a crown at LL6 and the fitment of an implant at UL6. The implant retained crown will also need to be replaced at regular intervals in the future.

Liability : Denied. Various arguments were raised including:

- There was a lack of evidence in support of repeat root canal treatment being required at LL6
- The Third Defendant only saw the Claimant for one emergency appointment and therefore cannot be criticised for failing to spot decay at UL6
- The fracture of a file during root canal treatment is a recognised non-negligent complication for which the Fourth Defendant cannot be criticised.

Out of Court Settlement: £8,000

The following breakdown was estimated by the Claimant's solicitor

General Damages: £3,000 for the pain, suffering and loss of amenity

Special Damages: £5,000 as a contribution for past and future treatment costs

The Dental Law Partnership representing the Claimant, Dental Protection for the Defendant

The case report submitted courtesy of Daniel Kinnear, Solicitor with Dental Law Partnership