

## **Whitworth v D**

Out of Court Settlement:	23.4.14
Damages:	£23,250
Dental Condition:	Failure to treat caries
Defendant Representatives:	Dental Protection
Reference:	lawdent.com

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**The Claimant, a 35 year old woman, received £23,250 in respect of the avoidable loss of the LR5 and LL7 and future loss of the LR6 and LL6**

### **LR5**

At the first attendance with the Defendant in February 2005, radiographs show gross decay at the LR5. The Defendant attempted to restore the tooth and eventually root treated it in November 2005. Subsequent radiographs show the root filling to be inadequate. Although the Defendant did place a crown on this tooth, it came away 4 months later and the Defendant decided not to re-cement the crown and the tooth was left unrestored.

When the Claimant went to the emergency dentist in Australia whilst on holiday, with regards to another tooth, the radiographs taken by the Australian dentist showed the retained root at LR5 with an inadequate root filling and apical infection. The LR5 was extracted by the Manchester Royal Infirmary in Feb 2012. The LR5 has been replaced with an implant by and restored with a crown.

### **LR6**

Radiographs taken in February 2005 by the Defendant show clear evidence of decay at the LR6. This was not diagnosed or treated at subsequent visits with the Defendant. In July 2007 the Defendant noted to watch the LR6 but no further investigations were provided. The Claimant attended in December 2007 with a chipped LR6. In November 2008 the Defendant noted that the LR6 filling required replacement. In Jan 2010 the Defendant commenced root canal treatment to the LR6 and this was completed in April 2010. Subsequent radiographs show the root filling to be inadequate. Furthermore, radiographs taken by the Australian dentist, whilst the Claimant was on holiday, show gross destruction of the coronal tissue of the LR6. The LR6 was re-root treated at the Manchester Dental Hospital.

This tooth has been given an estimated 20 year prognosis.

### **LL6**

Radiographs taken in February 2005 by the Defendant show decay at the LL6 which was not identified until 4 and a half years later. An OPG taken by the Australian dentist shows gross coronal destruction of the LL6. There is a clear failure to diagnose and treat decay and a poor root filling is present. The LL6 requires repeat root treatment but has been given a poor prognosis.

### **LL7**

This tooth was extracted whilst the Claimant was in Australia in Nov 2010. No treatment was provided by the Defendant throughout his period of care. However, when the Claimant attended the dentist in Australia, radiographs show gross extensive decay and the tooth was extracted.

**Allegations of negligence:** It was alleged that the Defendant:

1. Failed to use reasonable skill and care in the assessment, diagnosis and timely treatment of caries at the LR6 LL6 and LL7.
2. Failed to use reasonable skill and care in the technical execution of root canal treatment at the LR6 between the 14/1/10 and 23/4/10.
3. Failed to use reasonable skill and care in the technical execution of root treatment at the LL6 between 3/9/10 to 20/9/10.
4. Failed to use reasonable skill and care in the technical execution of root treatment at the LR5 between 9/11/05 to 23/11/05.
5. Failed to use reasonable skill and care in the technical execution of a post and crown at the LR5 on the 23/6/06.
6. Failed to use reasonable skill and care in the provision of an appropriate coronal seal at LR5 on 11/10/06. In particular he:

With regard to causation, had the Defendant adequately diagnosed and treated caries at the LL7, LL6 and LR6 then on the balance of probabilities the Claimant would have avoided the need for root canal treatment at the LR6 and LL6 and avoided the loss of the LL7.

Had the Defendant provided adequate root canal treatment at the LR6, LL6 and LR5 then on the balance of probabilities the Claimant would not now need the LR6 and LL6 re-root treatment and the LR5 root extracted. The prognosis of the LR6 and LL6 is now poor even if repeat root canal treatment is provided.

**Liability :** Neither admitted nor denied

**Injuries:** The Claimant has lost the LL7 and LR5, requires repeat root treatment to the LL6 and LR6 and will face losing these two teeth in the future

**Effects: Our client has endured the pain and suffering of the loss of the LL7 and LR5 and had to endure implant treatment. Further tooth loss and implant treatment will be required in the future**

**Out of Court Settlement:** £23,250

**Breakdown of General Damages:** Estimated £10,000

**Background to Special Damages:** Estimated £13,250

The Dental Law Partnership representing the Claimant, Dental Protection for the Defendant. This case report was provided courtesy of Kate Chadwick with The Dental Law Partnership.