

Mesham v (1) W, (2) M and (3) T

Out of Court Settlement:	19/12/2013
Damages:	£17,500
Dental Condition:	Periodontal Mismanagement
Defendant Representatives:	Dental Protection and BLM

The Claimant, a 46 year old man, received £17,500 in respect of the Defendants' failure to diagnose and treat periodontal disease.

The Claimant first attended the First Defendant on 14/3/1973 and continued under his care until 21/12/1988. From 17/12/2002, the Second Defendant was responsible for the Claimant's oral health and remained so until 30/10/2006. The Third Defendant assumed responsibility for the Claimant's dental care between 30/10/2006 and 30/7/2007. The Claimant was eventually referred to the University of Bristol Dental Hospital for a specialist opinion and a diagnosis of "*generalised mild to moderate periodontal disease*" was made by Dr Moran in December 2009.

Allegation of negligence: It was alleged that the First, Second and Third Defendants failed to diagnose and appropriately treat the Claimant's deteriorating periodontal condition between December 1990 and January 2007.

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

- Sustain the avoidable loss of the UR762, UL14578, LR21 and LL127 in the future.
- Require extensive restorative treatment to restore the resultant gaps in his dentition
- Require additional periodontal maintenance therapy for the rest of his life

Liability : Defences were served and the Defendants' position were as follows:

- Breach of duty was been denied by the First Defendant. The First Defendant contended that he promptly diagnosed periodontal disease and thereafter commenced appropriate treatment (as evidenced by the fact that a scale and polish was undertaken on 22/1/1991).
- Causation was been denied by the First Defendant. The First Defendant asserted that the deterioration in the Claimant's periodontal condition was largely attributable to his smoking habit and his sporadic attendance record.
- Breach of duty was largely been admitted by the Second Defendant. The Second Defendant accepted that she "*failed to take appropriate steps in terms of adequate assessment and treatment of the Claimant's periodontal condition during the period that she was treating the Claimant.*"
- Causation was denied by the Second Defendant. The Second Defendant asserted that the deterioration in the Claimant's periodontal condition was largely attributable to his smoking habit and his genetic susceptibility to the disease.
- Breach of duty was denied by the Third Defendant. The Third Defendant contended that he saw the Claimant on two occasions for emergency care only and as such, he cannot be criticised for failing to diagnose and treat periodontal disease.
- Causation was denied by the Third Defendant. The Third Defendant assured that a significant deterioration in his periodontal condition could not have occurred whilst

the Claimant was under his care due to the timescales involved and that its progression was largely attributable to his smoking habit as well as his genetic susceptibility to the disease.

Out of Court Settlement: £17,500.

Settlement was agreed on a compromised basis prior to the exchange of witness evidence and the Claimant's Solicitors estimated the following breakdown:

General Damages: £7,500 for the pain, suffering and loss of amenity

Special Damages: £10,000 as a contribution for future treatment costs

The Dental Law Partnership representing the Claimant, DDU / Ryans for the First Defendant and Dental Protection / BLM for the Second and Third Defendants

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