

Zurek v H

Out of Court Settlement:	11/9/2014
Damages:	£7,250
Dental Condition:	Oral Surgery
Defendant Representatives:	Dental Protection and BLM

The Claimant, a 43 year old man, received £7,250 in respect of the Defendant's use reasonable skill and care during the extraction of UL7.

The Defendant, a General Dental Practitioner, extracted the Claimant's upper left second molar (UL7) on 9/6/2010. The tuberosity fractured and an oro-antral fistula was created during the extraction procedure. The Claimant subsequently underwent an unsuccessful procedure to close the oro-antral fistula at Claredon Dental Spa on 15/7/2010. It was eventually repaired during an operation under general anaesthetic at Leeds General Infirmary on 27/9/2010.

Allegation of negligence: The Claimant's claim against the Defendant arises from the circumstances surrounding the extraction of UL7 on 9/6/2010. It is the Claimant's case that:

- The Defendant should have changed techniques (from a forceps to a transalveolar approach) as soon as unexpected resistance to the extraction of UL7 was felt.
- The Defendant inappropriately used excessive force when extracting UL7.
- The Defendant failed to abort the extraction and refer the Claimant to the maxillofacial unit of the local hospital as soon as the tuberosity fracture occurred
- Following the extraction, the Defendant's attempt to repair the bony and soft tissue defect was wholly unsatisfactory

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

- Experienced pain and suffering following the extraction of UL7 on 9/6/2010 until such time as he had fully recovered from the final repair operation which was carried out on 27/9/2010. For instance, the Claimant suffered pain, bruising, swelling and persistent bouts of sinusitis during this period.
- Has had to undergo two corrective procedures including one which was performed under general anaesthetic
- Has been left facing various long term problems. For instance, UL7 cannot be prosthetically replaced and the Claimant continues to experience difficulties chewing on the left side of his mouth. Furthermore, the prognosis of the adjacent upper left first molar (UL6) has been reduced to such an extent that it will require extraction and replacement with an implant when the Claimant is 73 years old.

Liability : Liability was firmly denied by the Defendant and settlement was not achieved until after the joint meeting had taken place

Out of Court Settlement: £7,250 (£6,750 in damages and £500 in interest)

The following breakdown has been estimated by the Claimant's Solicitors

General Damages: £4,750 for the pain, suffering and loss of amenity

Special Damages: £2,000 as a contribution for past and future treatment costs

The Dental Law Partnership representing the Claimant and Dental Protection / BLM for the Defendant

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

