

Lewendon v M

Out of Court Settlement:	26.11.15
Damages:	£3,600
Dental Condition:	Endodontics
Defendant Representatives:	The DDU

The Claimant, a 36 year old woman, received £3,600 in respect of endodontic treatment carried out at LL7.

The Claimant attended the Defendant, a General Dental Practitioner, on **13.10.14**. A periapical radiograph was taken and the Defendant noted “radioluc detected LL6 distal root. Widened PDL. Diag-periapical periodontitis due to perio endo lesion”.

Our observations in relation to this x-ray are as follows:

- LL7 was pathology free
- No bone loss was evident at LL6
- An area of periapical radiolucency was present at LL7.

The Claimant attended the Defendant on **15.10.14**. Root canal treatment should have been provided at LL6. However the Defendant provided root canal treatment at LL7 in error.

The Defendant recorded that she placed a rubber dam and accessed LL7. The Defendant took a periapical x-ray with diagnostic files in situ. A Ledermix dressing was placed.

The Defendant recorded that the Claimant telephoned the practice later that day to advise that the wrong tooth had been treated.

The Defendant recorded that she “made an error and placed rubber dam on wrong tooth”. The Defendant noted that she was “very regretful”. The Defendant “offered a sincere apology” to the Claimant.

The Claimant attended the Defendant on **17.10.14** for first stage root canal treatment at LL6. A periapical x-ray was taken which shows diagnostic files in situ. A Ledermix dressing was placed at LL6.

The Claimant attended the Defendant on **30.10.14** for second stage root canal treatment at LL7. The Defendant recorded that LL7 was root filled with gutta-percha and tubliseal. The Defendant recorded “GP short of canal apex – this explained to PT. Advised will keep tooth under watch, may have to repeat rct LL7 to get closer to apex”.

A post-operative x-ray was taken which demonstrates:

- The root filling at LL7 was deficient
- The root filling material was 5mm short of the apex of the mesial canal at LL7
- The root filling material extruded through the apex of the distal canal at LL7 by 2mm.

The Claimant attended Dr B, a specialist Endodontist, for a consultation on **22.11.14**.

Dr A noted that “the LL7 was not tender to percussion and periapical healing seems to be progressing well”.

The LL7 was healthy before the Defendant commenced root canal treatment at the tooth and therefore there was no infection present to “heal”.

Allegations of negligence: It was alleged that the Defendant:

1. Failed to use reasonable skill and care in the assessment, diagnosis and treatment planning of root canal treatment in the lower left quadrant on 15.10.14 in that she:
 - (a) Failed to review the previous entry of 13.10.14 which noted that root canal treatment was required at LL6.
 - (b) Failed to review or analyse the radiograph dated 13.10.14 which showed periapical infection at LL6 and an absence of pathology at LL7.
 - (c) Failed to perform vitality testing to LL6 and LL7 to establish the presence or absence of irreversible pulpal pathology.
 - (d) Failed to consider that irreversible pulpal pathology was present at LL6 and that LL6 required root canal treatment.
 - (e) Failed to consider that there was an absence of pathology at LL7 and there was therefore no indication to perform root canal treatment at this tooth.
 - (f) Has already accepted (as evidenced by the Claimant’s clinical notes) that she inappropriately intervened at LL7 and this amounts to an admission of liability.
 - (g) Failed to obtain the Claimant’s valid consent to root canal treatment at LL7 on 15.10.14. The Claimant believed that she was having root canal treatment at LL6 and cannot, by definition, have provided valid consent to the inappropriate intervention at LL7.
2. Failed to use reasonable skill and care in the technical execution of root canal treatment at LL7 on 15.10.14 and 30.10.14 in that she:
 - (a) Failed to clean, shape and obturate to an appropriate clinical standard. The radiograph dated 30.10.14 shows that the root filling material terminated 2mm beyond the apex within the distal canal and 5mm short of the apex in the mesial canals.
 - (b) Failed to remedy the defects of the root canal treatment.

Liability: Denied

Injuries: The Claimant underwent avoidable and unnecessary root canal treatment at LL7.

Effects: The Claimant underwent an unnecessary and inappropriate endodontic procedure at LL7 on 15/10/14. The Claimant sustained severe damage to LL7 as per the JC Guidelines. The Claimant has suffered intermittent pain and discomfort emanating from LL7. The Claimant will undergo extensive remedial treatment at LL7 in the future including repeat root canal treatment and crown provision. The crown at LL7 will require replacement every 12 years for the rest of the Claimant's life.

Out of Court Settlement: £3,600

Breakdown of General Damages: The DDU valued general damages at £1,500.

Background to Special Damages: The DDU provided £2,100 for special damages to include repeat root canal treatment, crown placement, replacement crown cycles and travel expenses.

The Dental Law Partnership representing the Claimant, The DDU for the Defendant.

This case report was provided courtesy of Christine Salter, Solicitor with The Dental Law Partnership.