

## Malaise v J

Out of Court Settlement: 04.05.2016  
Damages: £5,430.50  
Dental Condition: Endodontics and consent  
Defendant Representatives: DDU  
Reference: lawdent.com

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**The Claimant, a 26 year old woman, received £5,430.50 arising from inadequate treatment provided by the Defendant, resulting in the avoidable loss of UL6.**

The Claimant experienced toothache emanating from UL6 and, on 11<sup>th</sup> August 2014, the Defendant commenced root canal treatment, following which the Claimant continued to experience pain.

Root canal treatment was continued by the Defendant and it was recorded that the Defendant had experienced difficulties in locating both root canals. A radiograph was taken showing that the root canal treatment was defective, the root filling was short and the roots of UL6 were protruding into the maxillary sinus.

On 3<sup>rd</sup> September 2014, the Claimant reported ongoing pain associated with UL6. UL6 was extracted and it was recorded that the extraction procedure was difficult and that a fragment of root may have been retained.

Following the extraction procedure, the Claimant experienced liquid coming through her nose when she was drinking and was referred to hospital.

The Claimant attended hospital on 5<sup>th</sup> September 2014, when it was confirmed that a fractured root fragment remained at UL6 and an ora-antral fistula had been created. The Claimant was advised that she would require surgery to remove the retained root and to close the ora-antral communication.

On 23<sup>rd</sup> September 2014, the Claimant attended Dr B reporting ongoing problems with the socket at the extraction site of UL6. On 11<sup>th</sup> October 2014, the Claimant underwent a surgical procedure under sedation to remove the retained root at UL6 and close the ora-antral fistula.

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

1. Failed to use reasonable care and skill in the assessment, diagnosis and treatment planning in relation to UL6 between 17<sup>th</sup> July 2014 and 3<sup>rd</sup> September 2014, in that the Defendant failed to identify the alternative treatment options available for UL6.
2. Failed to obtain the Claimant's valid consent to the extraction of UL6 on 3<sup>rd</sup> September 2014 and specifically:
  - 2.1 Failed to advise the Claimant that UL6 would have had an excellent long-term prognosis had root canal treatment been undertaken by a specialist in endodontics.
  - 2.2 Failed to provide the Claimant with any advice regarding the possibility of an ora-antral communication being created during the extraction of UL6.
  - 2.3 Failed to advise the Claimant of the risks and complications associated with the extraction of UL6.
  - 2.4 Failed to advise the Claimant regarding the alternative treatment options for UL6.

**Liability:** Denied.

**Injuries:** The Claimant sustained the avoidable loss of UL6, suffered an ora-antral fistula and was required to undergo an avoidable surgical procedure under intravenous sedation.

**Effects:** The Claimant experienced significant pain and discomfort between 17.07.14 and 11.10.14, necessitating numerous painkillers. Following the attempted extraction of UL6, the Claimant suffered significant pain in her mouth and jaw and experienced liquid coming through her nose when she drank. It was extremely difficult for the Claimant to eat and drink during this period of time and the severe pain caused her to lose sleep. The Claimant requires an implant to replace UL6.

**Out of Court Settlement:** £5,430.50.

**Breakdown of General Damages:** The Defendant's representatives indicated that £2,500 was for pain, suffering and loss of amenity.

**Background to Special Damages:** The Defendant's representatives indicated that £60.50 was provided for past expenses and £2,870 for future financial losses, including bone graft and implant provision at UL6.

The Dental Law Partnership representing the Claimant, The Dental Defence Union for the Defendant.

This case report was provided courtesy of Sadie Cartwright, Solicitor with The Dental Law Partnership.

