

On 29 October 2010, she attended her GP again with a suspected smell and taste disorder, and was referred back to the hospital to a consultant oral and maxillofacial surgeon. An examination revealed nothing untoward, although it was stated it would be unusual for lingual nerve injury to have occurred following removal of that tooth.

The claimant however, continued to complain, of numbness affecting the lower gum area, and intermittent alteration in taste, which while not permanent, was associated with certain food types. She instructed solicitors to look at the standard of care provided.

Pre-action investigations

A medical report was commissioned from a consultant maxillofacial surgeon. It was noted that the nerve roots of LL8 had been asymptomatic and were incredibly close to the inferior dental nerve which would, or indeed, should have been obvious from the radiograph which had been taken. It was indicated that consideration should have been given to this, and the claimant should have been warned accordingly. The consent form which the claimant signed simply referred to 'bleeding, pain, discomfort, swelling, bruising and infection'. Nerve damage was not mentioned.

The expert was therefore critical of the standard of care provided, with the claimant not given enough information to provide informed consent.

On 2 October 2012, a letter of claim was put forward to the defendants setting out allegations as follows:

1. That when considering whether to perform an extraction to LL8 root, there was a negligent failure to take into account that the roots were asymptomatic at the time of consultation and located close to the inferior dental nerve.
2. That there was a negligent failure to inform the claimant of the risks associated with the extraction, particularly the increased risk of damage, and that consequently she was not provided with sufficient information to provide informed consent.

The Trust responded indicating that the decision to remove the asymptomatic root was entirely defensible, and in respect of informed consent, while the notes and records did not record any written explanation, it would have been the clinician's practice, 'as an experienced doctor', to warn of nerve damage associated with this type of procedure.

It was indicated to the defendants that while the case was of limited value, in light of their failure to respond and concede liability, further costs would be incurred.

Following settlement attempts and the issuing of proceedings, the matter settled for £10,250 on 21 January 2014, sealed by the Court on 6 February 2014.

John De Bono, Serjeants' Inn Chambers, London, instructed by Mark Havenhand of MPH Solicitors, Manchester, for the claimant.

Victoria Robinson, Capsticks Solicitors, instructed for the defendant.

Case report submitted by Mark Havenhand, MPH Solicitors

VM (Administrator Of The Estate Of LM) v Dr Elzbieta Kubiszewska

Quantum: clinical negligence; delayed diagnosis of lung cancer leading to delayed access to palliative care

Settlement: 16 December 2013

VM, the executors of the estate of LM, received £11,000 for the failure to correctly interpret an MRI scan which delayed the diagnosis of what

was and always would have been a terminal lung cancer. As a result, LM suffered five months of increased pain, and the uncertainty of not knowing what was wrong with him.

Solicitors for the claimant: Janice Gardner, Russell-Cooke LLP

Solicitors for the defendant: Harriet Humphrey, Brachers LLP

Pearce v Miles

Liability: Road traffic accident; motorcyclist; nerve damage; complex regional pain syndrome; causation; alleged psychiatric overlay.

Settlement on 20 September 2013 for £1.9 million (£1.4 million net of liability). This was the largest ever award for complex regional pain syndrome (CRPS) in England and Wales.

On 23 October 2008, when the claimant was 27, she was involved in a collision while motorcycling, whereby the defendant's motor car struck her left side. C sustained:

- (a) An injury to the left lateral tibial plateau involving the common peroneal nerve
- (b) A posterior dislocation of the right shoulder
- (c) Injury to the right ulnar nerve
- (d) A whiplash-type injury to the cervical spine

C was an in-patient for two weeks, and was discharged with her left leg in a plaster cast, in which she remained non-weight-bearing for eight weeks, and then non-weight-bearing for a further three weeks out of the cast. She was unable to use



