



**Personal  
injury claims:  
Withdrawals of  
admission and the  
Court of Appeal**

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**Defendants in personal injury claims have long been encouraged to make admissions at an early stage to reduce the time and costs spent on investigations and to create certainty.**

## In the recently reported case of **Wood v Days Healthcare UK Limited and others 2017**, Days applied to withdraw an admission made some two years earlier, before court proceedings were issued.

This was a product liability case in which claims were made under contract, and in tort, against five potential defendants. Days' loss adjuster asked for, and received confirmation, that the claimant's solicitors believed it to be a fast track case worth up to £25,000 and an admission was made in 2010. (The case pre-dated the use of the Portal for claims up to £25,000).

After the claimant underwent surgery, further medical evidence was obtained and proceedings were issued in 2012 stating a value exceeding £300,000, plus costs. At this stage, Days made the application.

Several applications were dealt with at one hearing in 2016, after further evidence had been disclosed. The claimant obtained a summary judgment against one of the other defendants at that hearing. However, the judge refused the defendant's application to withdraw the admission and the appeal was heard in November 2017.

### The appeal process

The appeal judge held that "highly material new evidence had come to light." An increase in value of a few thousand pounds may be acceptable and foreseeable but a ten-fold increase "is surely another thing altogether".

The judge also pointed out that the claimant's solicitors had confirmed the low valuation in 2010. They later admitted that "our client's claim has changed entirely in character and amount" so the high value was not expected by the claimant's solicitors at the outset.

Days had no real reason to re-evaluate the case or their admission until the new medical evidence was obtained and they made the application promptly after proceedings were issued.

The appeal judge held that the change of character and amount in this case would have been sufficient grounds to grant the application but that this conclusion was "reinforced" by the summary judgment against one of the other defendants, which gave certainty to the claimant, particularly as the other defendant had the means to pay.

It is clear that the appeal court placed some weight on the early discussion of value between the parties, and the prompt actions of the defendant when making the application in the light of the new evidence, when deciding to grant the application.



### Summary

The relevant part of the Civil Procedure Rules applies to pre-action admissions in personal injury, disease and illness claims. Any admission can be relied upon by a claimant unless they consent to it being withdrawn or a court approves its withdrawal.

When the Defendant is facing a significantly increased claim, the courts are prepared to consider an application to withdraw an admission and carefully consider the prejudice each party might suffer. This case shows that the courts will not always favour a seriously injured claimant.

**For further help and guidance with personal injury claims, please get in touch with Sarah Pether, an associate in our Litigation and Dispute Resolution department, by emailing [sarah.pether@andrewjackson.co.uk](mailto:sarah.pether@andrewjackson.co.uk) or speak to one of the team today by calling 01482 325242**

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