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SETTLEMENTS BY SOLICITORS AND COUNSEL.

The extent of the authority of a solicitor or counsel to bind his client by a compromise entered into on the client's behalf is a subject which is not without practical importance, and, under the earlier cases, was free from doubt. Some aspects of the question have, however, been thrown into uncertainty by the more recent decisions, and the principle, which apparently ought to govern, seems in danger of becoming obscured by the mists of those potent cloud-gatherers, "hardship" and "injustice." Under these circumstances, it may not be unprofitable briefly to draw attention again to this principle, and to see how far the apparent invasions of it have really extended.

It is well settled that a solicitor has authority, as such, in the absence of express instructions to the contrary, to bind his client by the settlement of an action which he has been retained to conduct. The latest statement on the point seems to be that of Farwell, J., in *Re Newen* (1903), 1 Ch. 812 at p. 818.

But this authority extends only to the real subject-matter of an action actually pending. It does not cover matters collateral to the action, and does not exist at all unless a writ has been issued: *Macauley v. Polley* (1897), 2 Q.B. 122.

The difficulty arises when a settlement, otherwise within the authority of the solicitor, is made in the face of the client's express prohibition; and it should be noted that an authority to settle on defined terms is equivalent to a prohibition against settling on any other terms: per Lord Halsbury, L.C., *Neale v. Lady Gordon-Lennox* (1902), A.C. at p. 469.

In such a case, if the prohibition be known to the person with whom the solicitor is dealing, of course the client will not be bound.