

# PANNONE NAPIER SOLICITORS

David M. Adams  
John D. Ainsley  
Julie L. Atkinson  
Robert H. Brown  
Marilyn B. Caplan  
Grahame R. Codd  
J. Peter Crossland  
Howard E. Culley  
Kevin G. Cunningham  
J. David Cusworth  
John A. Davies  
Kevin J. Doherty

William A. Evans  
James E. Finnigan  
Geoffrey V. Fleming  
Charles R. E. Gillott  
Steven R. Grant  
Leslie Hyman  
Catherine E. Jones  
Hugh A. S. Jones  
Michael S. Jones  
Malcolm C. Keogh  
Joy M. Kingsley  
J. Neil Kinella

John M. Kitchingman  
Elliot M. Knopf  
Peter M. Lakin  
Graham Loukes  
Martin P. Lowley  
Steven R. Martin  
Geraldine M. McCool  
Mark Mildred  
T. Michael Napier  
Vincent B. O'Farrell  
G. R. W. Owen  
Rodger J. Pannone

Francis P. Patterson  
John Pickering  
David N. Prince  
Kevin J. Robinson  
Andrew G. Simpton  
Wrightson Simpson  
Patrick H. Somers  
James R. K. Taylor  
Andrew Tucker  
Barry J. Warner  
Adrian R. Warner  
Timothy Wells

Michael R. Whitworth  
Peter R. Wyld

Consultants  
Peter H. Jackson  
Alexander McKay  
James H. Ogden

123 Deansgate  
Manchester M3 2BY  
England

Telephone: 061-834 **GRO-C**  
Telex: 668172  
DX: **GRO-C**  
Fax (GP III): 061-834 **GRO-**

Our Ref: CJL.ACG.

Your Ref:

Date: 8th August 1990

Dear

## Haemophiliac Litigation

You will recall from my previous correspondence that at the end of July there was a further Court hearing. At this the Judge considered whether we were entitled to see the documents held by the Government and the fundamental question whether we could sue the Government for what they had done or had failed to do. If the Judge had ruled against us we would have to consider an appeal to the Court of Appeal or House of Lords.

In the event, the hearing went on for three days and as you will have probably seen from the press coverage, the Judge ruled partly in our favour and partly in the Governments'. Our arguments were two-fold. We argued we could sue the Government for the policy decisions they took ie. breach of the National Health Service Act and in negligence because they owed a duty of care to individual haemophiliacs. We lost on the first point and hence will not have access to some of the documents held by the Government which the Judge said were protected from disclosure by public interest immunity.

However, we succeeded on the second point. The Judge did not dismiss our argument that the Government owed a duty of care in these circumstances. We will therefore have access to some of the documents in due course.

We now have to decide whether to appeal against the Judge's findings. Certainly as a result, the scope for our succeeding has been limited and we have taken the first step of lodging our notice of intention to appeal. The Government has also decided to appeal against the Judge's finding and their appeal will be heard with ours by the Court of Appeal on the 10th September 1990.

LONDON OFFICE  
20/22 Bedford Row  
London WC1R 4EB  
Tel: 071-831 4166

SHEFFIELD OFFICE  
St Peters House  
Hartshead  
Sheffield S1 2EL  
Tel: 0742 755899

IN ASSOCIATION WITH:  
Pannone Blackburn  
123 Deansgate  
Manchester M3 2BU

and Irwin Mitchell  
St Peters House  
Hartshead  
Sheffield S1 2EL

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The hearings are preliminary to the main trial of the test cases but clearly fundamental to the case going ahead. At this stage, we are still working towards a trial date in 1991. We hope this will not be delayed by these applications.

You may have read in a number of the papers or heard on the national news of behind the scenes manoeuvring by Sir Donald Acheson, the Government's Chief Medical Officer who is allegedly pressing Kenneth Clark to offer an out of court settlement. I have to say that this is not something which has been officially reported to the Steering Committee and the government lawyers have maintained a rigorous defence to the claim, although a climb down would be welcomed.

Finally, in the course of preparing for trial, further information is needed on all of these cases and I enclose two questionnaires which you should complete and return to me as soon as possible. I know that these are rather thick and onerous documents. I would be happy to help you if you need assistance with answering any of the questions, unfortunately the gathering of this information is necessary.

I will keep you informed of developments concerning the appeal and look forward to hearing from you.

Yours sincerely,  
PANNONE NAPIER

**GRO-C**

Catherine J.B. Leech