

6/153

Ms R McEwen SOLB4

Ref: McEw294

From: Dr A Rejman CA-OPU2

Date: 29 April 1996

Copy: Dr Metters DCMO\*  
The Solicitor\*  
Mr Milledge SOLC2\*  
Mr Pudlo CA-OPU2\*

\* Minute only

GRO-A v DEPARTMENT OF HEALTH

1. Thank you for your minute of 19 April. Do you have a deadline for discovery?
2. As I mentioned to you on the telephone the other day, I would suggest that we use the discovery list which we prepared for the HIV haemophilia litigation. I enclose a copy of the latest list that I have, but with the proviso that it may not in fact be the final list that was submitted in that litigation. The number of documents involved is 3,861 on the general list and approximately 200 which were considered for PII (labelled category 10 on an earlier list, also enclosed).
3. Since the claim is made that the plaintiff became infected in or about 1979, I would suggest that the list be restricted up to the end of 1979. In this respect I note on reading through the statement of claim that there are references made to dates after 1979. I would assume that such dates are not relevant for the purposes of this specific litigation as opposed to any other. The advantage of limiting the discovery to 31/12/79 is that this means that the main discovery is only 801 documents and there is only 1 document in the sensitive group. The reasons why I am against a thorough fishing expedition of all our files are firstly that in 1989-1990 3-4 individuals were involved in spending 9 months doing the discovery. Two of these did nothing else at all other than discovery. It is highly unlikely that we will not have discovered papers during that previous discovery which will now be available to us, 6 years later.
4. I am far from convinced that there is any benefit in going through all the previous discovery to check which items do not specifically mention hepatitis. This would require a specialist, presumably myself, to go through each document in detail. When we did the discovery earlier we glanced quickly at individual documents and decided whether or not they were likely to be relevant. This was not a detailed and painstaking reading through each document, the length of which varied from half a page of A4 through to 80 pages.
5. For information I am sending you a copy of the first schedule, relevant to the central defendants, stating the main subjects to be covered by the discovery in the HIV haemophilia litigation. We decided at an very stage that there was no point in trying to sort through the documents according to this schedule.

6. I am not sure whether the plaintiffs still have copies of all the papers incorporated in the discovery, the full 44 ring binders. I myself do not have a set, but I believe administrative colleagues do and also at least 1 set went back to SOL. To try to change the listing in the discovery from the earlier discovery will only confuse matters. If the plaintiffs feel that there are additional items, to which reference is made in the discovery but which themselves are not included in the discovery, they obviously are at liberty to ask us whether we have such documents.
7. In respect of the documents for which we sought PII, I have summaries of the original court judgement together with the result of the appeal. I am not sure whether this is enough to identify for which documents we finally obtained PII. This information may be available on the administrative files, or it may be that we will have to go back to SOL or to Counsel, to get this precise information.
8. I would confirm that I do not believe that the delay in testing for hepatitis C is at all relevant to this case. I would also suggest that there is no point at the present time in preparing a list of documents relevant to blood transfusion. Many of these will already be included in the HIV haemophilia litigation, and to suggest that we do discovery from July 1986 through to September 1991 at the present time would seem to be inappropriate.
9. In summary, I would suggest that it would be a total misuse of staff time and resources to start doing a new discovery. I would suggest that the HIV haemophilia discovery be used, but limited to 31/12/79, since this is the relevant time period.

Dr A Rejman  
Room 420 Ext GRO-C  
EH