

IN CONFIDENCE

Mr Gutowski  
Mr Rees  
Mr S Cox

From Christine Bendall

26 June 1990.

#### HIV LITIGATION

I attended the further hearing for directions today. The summonses issued did not themselves contain much that would have concerned us unduly. I have at present a copy only of the Plaintiffs summons (copy enclosed). There were applications by the Health Authorities also.

The hearing was however, remarkable in one particular respect. The Judge commenced the hearing by stating that before he dealt with business, he had something to say about the " future of the Case " and that he had put his comments in writing. He handed copies out. A typed version is attached. You will see that the Judge freely acknowledged that his comments were more of a political than a legal nature. Although this is my interpretation, I think that it was generally understood that he was urging consideration of a compromise of the proceedings in all the circumstances which he said included:

1. the fact that there were problems in establishing liability given the question of the owing of a duty of care by the Department : the position of a body offering services to the public at large was different than that of a company manufacturer
2. the fact that these were Plaintiffs who, through no fault of their own were dead or dying or living under the shadow of the knowledge that they would die at some stage.

I leave you to read the comments for the full picture.

Clearly the Judge's comments will require consideration at Secretary of State level. For the immediate future, Counsel Andrew Collins has suggested a conference next week to consider fully the implications of the Judges statement and the attendance of a senior civil servant is envisaged. Counsel has offered also to meet with the Minister if this would be thought helpful. He has of course already advised upon the issue of compromise of the proceedings ( Jant Desai has a copy of this advice of 18th October 1989 and if you would like a copy I will ask Jant to supply one ).

I would be grateful if you would telephone me to discuss.

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