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via email

Mrs A M James SOLB4

Ref: James12

From: Dr A Rejman CA-OPU2

Date: 1 February 1996

Copy: Dr Metters DCMO
The Solicitor
Mr Guinness CA-OPU
Mr Pudlo CA-OPU2

GRO-A v DEPARTMENT OF HEALTH

1. Thank you for your minute of 26 January together with the statement of claim.
2. If I may briefly refer to your point 3 first of all, since blood products were treated with viral inactivation procedures from 1985 onwards, then the period 1989-91 is not relevant to this or any other case relating to Factor VIII.
3. Turning to the main statement of claim itself, this has obviously been taken from the reamended main statement of claim of the HIV haemophilia litigation. You should have a copy of this in your files, if not I can ask my secretary to copy you the relevant papers. Unfortunately the reamended main statement of claim in that litigation stretches to 117 pages, because it gives all the details relating not only to the Department of Health, incorporating the Licensing Authority and the CSM, but also the Regional Health Authorities, District Health Authorities and Special Health Authorities.
4. For ease of reference I will now give details of the appropriate section of this statement of claim and how they match with the reamended main statement of claim for the HIV haemophilia litigation.

Current MSC

**HIV Haem
MSC**

Para

1	3 - excluding subpara (h)
2	13
3	14
4	15
5	16(b) - excluding reference to BPL and Oxford
6	18
7	19 - omitting the last sentence
8	20 - excluding reference to other viral infections
9	21 - excluding reference to other viral infections
10(a)	22 (a)

10(b)	22(b)
10(c)	22(c)
10(d)	22(d)
11, (a), (b), (c)	22A (a), (b), (c)
12 & 13	23
14	24
15	25
16	26
17	-
18	39
19	40
20	42
21	43 - abbreviated
22 (a), (b), (c)	82 (a), (aa), (b)

Particulars

(I) (a), (b), (c), (d)	83 (a), (b), (c)
(I) (e)	83 (g) - with amendments
(I) (f)	83 (i) - with amendments
(I) (g)	- general concept covered in rest of para 83
(ii) (h)	83(n) - with amendments
(ii) (i)	83(o)
(ii) (j)	83(p)
III (k)	83(r) - excluding HIV reference
III (l)	83(s)
(III) (m)	83 (u) - modified
(III) (n)	83 (v) - first half of para only
(IV) (o)	83 (ae), (i), (ii)
(IV) (p)	83 (ae), (iii)
(IV) (q)	83 (af) - omitting a paragraph referring to use of cryoprecipitate, DDAVP etc.

5. Appendix One is a photocopy of Appendix One of the reamended MSC for the HIV haemophilia litigation, hence the difference in typeface. This was pages 118-132.
6. Appendix 2 is a retype of Appendix 2 from the HIV litigation.
7. Appendix 3 is a photocopy of Appendix 3 of the HIV litigation with the addition of paragraph (r).
8. You should have in your files copies of the requests for further and better particulars in response to the HIV haemophilia litigation as well as the defence that was presented by the first central defendants in respect of the hepatitis part of the HIV haemophilia MSC.
9. In respect of the report from Dr Hawkins, I have the following comments.

10. One must question whether the assumption that Mr. GRO-A became infected in 1978 is correct. It is well known that individuals infected with hepatitis C may have normal liver function tests and these characteristically change over time, varying between normal and abnormal. It is quite possible that if he required multiple treatments, he may already have become infected with fresh frozen plasma and cryoprecipitate. This is because although hepatitis C is less common in the UK volunteer blood donor population, once an individual requires frequent treatment, he becomes infected.
11. We do not know what the incidence of hepatitis C in UK blood donors was in the late 60's and early 70's, but it may well have been not much different from that found in 1991, when hepatitis C testing was first introduced into the UK Blood Transfusion Service. It is likely that excluding individuals at risk of HIV would also have excluded the majority of those infected with hepatitis C. The incidence in 1991 was 1 in 2000, and so any UK Factor VIII available prior to 1985 would almost certainly have had hepatitis C in it.
12. It is quite obvious that Dr Hawkins is not an expert in blood or blood products, and it is unfortunate that he is making statements on such risks.
13. In Summary, I am not sure how you wish to play this. We have already put in a lot of effort in the HIV haemophilia litigation, much of it devoted to hepatitis. I would need to be advised by yourself and copy recipients as to how much more work I should devote to this at the present time. It may be that resurrecting our previous request for further and better particulars followed by our original defence may put a stop to this fishing expedition by Graham Ross.
14. I would suggest that you make enquiries as to whether this particular case is being funded by legal aid or any other public money. If it is being funded by legal aid, I would assume that you would inform the Legal Aid Board that the vast majority of the work in preparation of this case is a simple transfer of work already done, and paid for in the HIV haemophilia litigation. The Legal Aid Board also ought to be advised that expert witnesses provided statements both to the plaintiffs and to the defendant on hepatitis as well as HIV. It would be an inappropriate use of public money if further expert evidence were called.
15. Happy to discuss.

Dr A Rejman
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EH