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YOUR REFERENCE

IN REPLY PLEASE QUOTE

DATE

CCO/C1486/046

8 October 1990

STRICTLY PRIVATE AND CONFIDENTIAL

Dr R S Lane
Director
Bio Products Laboratory
Dagger Lane
Elstree
Hertfordshire WD6 3BX

BY HAND

Dear Dr Lane,

HIV Haemophilia Litigation

As previously warned (and no doubt long anticipated!), I am forwarding to you your Proof of Evidence (draft no. 4) together with supporting documentation. The complete bundle of documents with this letter, in the accompanying four boxes, is as follows:-

- (i) "Bundle G": Proof of Evidence (467 pages), together with index;
- (ii) "Bundle H": Appendices to your Proof of Evidence, with index;
- (iii) "Bundle I": Documents referred to in your Proof of Evidence (nine volumes), with document index at the front of each file;
- (iv) "Bundle J": Glossary and List of Definitions;
- (v) "Bundle K": Master Chronology and Dramatis Personae prepared by Raoul Downey; and
- (vi) "Bundle L": Chronologies and Summaries taken from your Proof of Evidence, with index.

1. I understand that Angela Robertson has arranged through Anne Hastings for you to attend our offices on 23rd and 24th October, with a view to reviewing your Proof of Evidence in its current form. It would also provide a useful opportunity to seek your input on the other documents prepared in conjunction with your Proof.

2. A duplicate set of the documentation sent to you with this letter was forwarded to Richard Southwell Q.C. and Richard Price on Friday. We have had an informal meeting with CBLA's Counsel to discuss the timetable over the next few weeks. Counsel have it in mind to complete their preliminary read-through of your Proof and supporting documentation by the end of October/beginning of

November. Counsel have been asked in particular to advise on the form and content of your Proof at the start of November. By then, I hope we will be able to provide them with your own comments and further input.

Proof of Evidence and Appendices

3. Your Proof in its current form spans some 467 pages, excluding Appendices. The Proof is divided by subject matter, to reflect, so far as possible, the general headings in the Re-Amended Main Statement of Claim ("MSC") under which the allegations against the CBLA are pleaded. A large proportion of the Proof is devoted to the allegations relating to self-sufficiency in Factor VIII. I mentioned in my letter to you of 26th September that I thought it appropriate to write to the Plaintiffs inviting them to consider whether they should abandon the claims relating to self-sufficiency, pointing out the material weaknesses behind the claim. I have since written to Pannone Napier along these lines. To date, we have received no formal response to our letter, merely an oral indication that it is being considered. It is envisaged that the Plaintiffs will be reviewing the MSC over the coming weeks, so I do not anticipate an early response.

4. I am conscious that there are a number of areas of duplication in the Proof. It is sometimes not practical to compartmentalise the matters relating to, say, AIDS and those relating to heat treatment. In a document of this size, it is sometimes not a bad idea to repeat key passages taken from the documents, in order that their significance is not lost in the Proof.

5. Draft number 4 incorporates the preliminary comments and amendments discussed with Angela during the period you spent at these offices reviewing our initial draft. I am afraid that a number of areas still require further clarification from you. We have indicated with the use of bold type and square brackets where further information or documentation is sought from you. To assist further, we have prepared a separate schedule of "prompts", (attached) to identify the relevant paragraph numbers and the nature of enquiry. Each prompt has been allocated a number, for ease of reference. I am hopeful that the schedule will assist you in identifying those areas where other personnel at BPL/PFL may assist in the compilation of missing information or facts.

6. Bundle H, comprising one lever arch file, contains the Appendices to your Proof. The information in the Appendices has been compiled from the documentation forming the CBLA's discovery.

7. Appendix 2, entitled "Composition and structure of Committee 1973 to 1990" sets out the membership and terms of reference for the various Committees and Working Groups/Parties operating throughout this period, so far as the information is contained in the CBLA's documents. A number of the Committees referred to are not specifically relevant to this litigation but are included at this stage for the benefit of Counsel.

8. Appendix 4 contains the figures and estimates for capacity, production and demand for Factors VIII and IX for 1973 to 1990. The information in this Appendix is very detailed, illustrating the considerable difficulties which appear to exist in the 1970's in producing and agreeing reliable statistics and figures. We are seeking Counsel's advice as to the use and presentation of these figures (arguably the figures for Factor IX are not helpful, as self-sufficiency in Factor IX is not in issue).

9. Appendix 5 sets out the terms used for measuring/estimating production and consumption. Angela discussed these definitions with you, but I would

welcome your further thoughts and in particular, attention to any omissions. I would envisage incorporating these terms in the glossary, which I refer to below.

10. Appendix 8 set out the history of HIV antibody screening at BPL (tests on the finished product only). This has been copied directly from a note you handed to us and I would be grateful if you could confirm its source. It would be useful to have a similar chronology of testing on the start pools and on intermediate product.

11. The Appendices dealing with documents containing information/advice to clinicians and/or haemophiliacs and with pool sizes for Factors VIII and IX, are summaries of the documents relevant to those issues.

12. I discussed with you when we last met, the question of documentation forming the CBLA's discovery. As you are aware, we have arranged the CBLA's documents in chronological order for ease of reference. At a later stage, I anticipate providing you with a full set of these documents. Meanwhile, I have sent to you the nine lever arch files containing the documents specifically referred to in your Proof. These are the documents in "Bundle I", identified by their respective document number in the CBLA's generic List of Documents dated 11 June 1990. The documents have been arranged by subject matter to reflect the order in which they appear in the Proof. It is anticipated that these documents will form the basis of a core bundle which is to be made available (by mutual agreement) to the other Defendants on or around 15th October (except those documents which may be the subject of the Central Defendants' claim for public interest immunity and those documents falling within the restricted scientific and technical category).

13. Leading Counsel has requested that we supply him with a further set of these documents arranged not by subject matter, but in chronological order. Again, it may be useful for you to have a chronological set at a later stage.

14. There are some documents (for example annual returns for the BPL/PFL), which have not been referred to specifically in your Proof. Raoul Downey will be reviewing the documents, with a view to compiling a composite core bundle.

North West Thames Regional Health Authority

15. I am writing to you separately on the subject of North West Thames' request to be provided with a copy of your proof.

Glossary and List of Definitions

16. The Glossary contains a brief description of the scientific and medical terms which arise in your Proof. Although you have provided Angela with some of the definitions, recourse has been made to the medical dictionary for others! I anticipate that the Glossary will expand considerably in the period up to trial. At this stage it is particularly useful for Counsel to assist with their understanding of the documentation. However, I am hopeful that the Glossary will be in a form suitable to hand up to the Judge at trial to assist him in his understanding of the terms.

17. May I suggest that (bearing in mind your own commitments) you ask someone at BPL/PFL to cast an eye through the Glossary. There remain some cases where we have not attempted to supply a definition and it would be useful to have some technical/scientific input in these areas.

Master Chronology and Dramatis Personae

18. The Master Chronology has been prepared by Raoul Downey, from the CBLA's discovery. Raoul has started to code the entries in the chronology by reference to the subject headings in the MSC, with further refinement where necessary. Over the next few weeks, this document will undergo further expansion as brief details of events/discussions at meetings are inserted.

19. The Dramatis Personae (prepared also by Raoul) refers to the individuals named in the documents (including clinicians, Haemophilia Centre Directors, personnel at BPL, members of the Department of Health and scientific and academic authors whose papers appear in the CBLA's discovery). Again, a considerable amount of work remains before this document is updated and complete.

Chronologies and Summaries taken from your Proof of Evidence

20. We have prepared chronologies by subject-matter for each section of your Proof dealing with allegations against the CBLA. These chronologies are designed to assist Counsel before embarking upon the relevant section of your Proof, to gain a preliminary understanding of the sequence of events.

21. With each chronology is a summary of the case put forward on behalf of the CBLA. The summaries set out in a number of short points the essence of the CBLA's case. I would be particularly grateful for your comments and input on these summaries, which will doubtless undergo a great deal of review. The object behind the summaries is to focus Leading Counsel's attention on the issues, from the CBLA's view.

I am sorry to land on you this somewhat daunting volume of paper. At the hearing for directions on Friday 5th October the Judge ordered that expert reports and proofs of witnesses of fact be exchanged on or before 11th January 1991. In view of the broad subject matter and period covered by your Proof, it is likely that a great deal of further work will need to be undertaken until we are happy that it is in final form. With this in mind, I would be grateful if you could set aside the time necessary to read the Proof and documents in order that we may take your comments on board when we meet later this month. It may be that the two days we have set aside will not be sufficient. If you feel that this is likely to be the case, perhaps we could arrange a further set of dates before the month is out.

If there are any further documents from the CBLA's discovery which we have not sent to you and which will assist in the task ahead, please contact Angela who will arrange to forward them to you.

With kind regards.

Yours sincerely

GRO-C

Christopher Osman