

IN THE HIGH COURT OF JUSTICE

1990 L No. 419

QUEEN'S BENCH DIVISION

B E T W E E N:

LPN 160

Plaintiff

-and-

NORTH EAST THAMES REGIONAL HEALTH AUTHORITY

First Defendant

-and-

HAMPSTEAD HEALTH AUTHORITY Second Defendant

-and-

THE DEPARTMENT OF HEALTH Third Defendant

-and-

THE ATTORNEY GENERAL
(on behalf of the Committee on Safety of
Medicines)

Fourth Defendant

-and-

THE ATTORNEY GENERAL
(on behalf of the Licensing Authority
under the Medicines Act 1968)

Fifth Defendant

-and-

CENTRAL BLOOD LABORATORIES AUTHORITY

Sixth Defendant

-and-

NORTH WEST THAMES REGIONAL HEALTH AUTHORITY

Seventh Defendant

-and-

PETER BERNARD ALLEN KERNOFF

Eighth Defendant

FIRST AND SECOND DEFENDANTS' REQUEST FOR FURTHER
AND BETTER PARTICULARS OF THE STATEMENT OF CLAIM

Under Paragraph 92 of the Re-Amended Main Statement of Claim,
Particulars, Sections 7 and 8

Of " (ag) Treated the Plaintiff with home-produced Factor VIII concentrate, when another form of treatment might have been used",

1. Stating:

- (i) the date of each treatment as listed in Schedule 1 to the Statement of Claim alleged to have been negligently given by these Defendants under this subparagraph;
- (ii) separately for each such treatment, what "other form of treatment" it is alleged "might have been used";
- (iii) separately for each such treatment when such other form of treatment could or should have been used;
- (iv) separately for each such treatment, why (by reference to averments in the Re-Amended Main Statement of Claim or otherwise) it is said that it was negligent to use home-produced Factor VIII concentrate in preference to that other form of treatment.

Of " (ah) Treated the Plaintiff with commercial Factor VIII concentrate, when another form of treatment might have been used",

2. Stating:

- (i) the date of each treatment as listed in Schedule 1 to the Statement of Claim alleged to have been negligently given by these Defendants under this subparagraph;
- (ii) separately for each such treatment, what "other form of treatment" it is alleged "might have been used";
- (iii) separately for each such treatment, when such other form of treatment could or should have been used;
- (iv) separately for each such treatment why (by reference to averments in the Re-Amended Main Statement of Claim or otherwise) it is said that it was negligent to use commercial Factor VIII

concentrate in preference to the other form of treatment.

Of " (ai) Treated the Plaintiff with commercial Factor VIII concentrate instead of home-produced Factor VIII concentrate",

3. Please confirm that this sub-paragraph is concerned only with non-heat-treated concentrate.

4. Stating:

(i) the date of each treatment as listed in Schedule 1 to the Statement of Claim alleged to have been negligently given by these Defendants under this sub-paragraph;

(ii) separately for each such treatment (by reference to averments in the Re-Amended Main Statement of Claim or otherwise) why it is said that it was negligent to treat the Plaintiff with commercial Factor VIII concentrate instead of home-produced concentrate.

Of " (aj) Treated the Plaintiff with non-heated-treated Factor VIII concentrate instead of heat-treated Factor VIII concentrate",

5. Stating:

- (i) the date of each treatment as listed in Schedule 1 to the Statement of Claim alleged to have been negligently given by these Defendants under this subparagraph;
- (ii) separately for each such treatment (by reference to averments in the Re-Amended Main Statement of Claim or otherwise) why it is said to have been negligent to treat the Plaintiff with non-heat-treated Factor VIII concentrate;
- (iii) the identity of the manufacturer or producer from whom heat-treated Factor VIII concentrate was obtainable at the date of each such treatment.

Of " (ak) Failed to inform the Plaintiff of the risk of being infected with HIV and/or AIDS if treated with Factor VIII concentrate",

6. Stating:

- (i) when it is said that the Plaintiff should have been informed of the said risk;
- (ii) the terms in which it is said that he should have been so informed (including whether the information should have been accompanied by any advice, and if so in what terms);
- (iii) what it is said he would have done if he had been so informed and/or so advised.

Of "(bt) Particulars (ak)(bp) are repeated in the case of infant Plaintiffs as particulars of failure to inform, advise and counsel the Plaintiff's parents and/or guardians and/or the person having the care of the Plaintiff",

7. Stating :

- (i) the identity of the person or persons who ought to have been informed, advised or counselled as

alleged;

(ii) precisely what information, advice and counselling ought to have been given, and in what terms;

(iii) when such information, advice and counselling ought to have been given;

(iv) what it is alleged the outcome would have been if such information, advice and counselling had been given.

Under Paragraph 15

Stating the basis upon which it is said these Defendants may be liable for any negligence or breach of duty whilst the Plaintiff was being treated privately and not by or on behalf of these Defendants as a National Health Service patient.

JOHN GRACE

Served this 30th day of July 1990 by Beachcroft Stanleys
of 20 Fumival Street, London EC4A 1BN.

Solicitors for the First and Second Defendants.