

QUEEN'S BENCH DIVISION

B E T W E E N:

SNH 3 Plaintiff

-and-

HAMPSTEAD HEALTH AUTHORITY First Defendant

-and-

NORTH EAST THAMES REGIONAL HEALTH AUTHORITY

Second Defendant

-and-

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

-and-

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

-and-

THE DEPARTMENT OF HEALTH Fifth Defendant

-and-

NORTH WEST THAMES REGIONAL HEALTH AUTHORITY
Sixth Defendant

-and-

CENTRAL BLOOD LABORATORIES AUTHORITY
Seventh Defendant

DEFENCE OF FIRST AND SECOND DEFENDANTS

1. Paragraphs 1 to 3 of the Statement of Claim are admitted.

2. The Plaintiff's date of birth is admitted. It is

admitted that he is in categories b (i) and b (ii).

3. It is admitted that the Plaintiff suffers from severe haemophilia of type A which was diagnosed in or about 1960 and that he was treated with blood products as shown in Appendix I to the Statement of Claim, but it is not admitted that the said Appendix is a complete record of such treatment. The Plaintiff further suffers from circulating inhibitors to Factor VIII, which renders him refractory to normal treatment.

4. Paragraphs 8 and 9 of the Statement of Claim are admitted. The sample taken on 27th April 1985 was borderline positive. The First and Second Defendants will contend that the Plaintiff seroconverted between 11th January 1985 and 5th July 1985. Save as aforesaid, paragraphs 10 and 11 of the Statement of Claim are admitted.

5. As to paragraph 14.1 of the Statement of Claim, these Defendants adopt in their entirety Parts I and II of the Health Authorities' Defence to the Re-Amended Main Statement of Claim. With regard to Part III ("Duties of Care and Breaches of Duty of Care"), they deny that they were negligent or have otherwise acted wrongfully or unreasonably as alleged in paragraphs 92 and 92A of the Re-Amended Main Statement of Claim, which are the only paragraphs in which

allegations are made against them. With regard to the Particulars under paragraph 92 thereof, so far as adopted by this Plaintiff, these Defendants' Defence is as follows.

6. With regard to sub-paragraphs (a) to (af), i.e. the allegations under heads 1 to 6, these are mainly of a "generic" character, and these Defendants adopt the pleading to them in paragraphs 63 to 94 of the Health Authorities' Defence to the Re-Amended Main Statement of Claim. Insofar as some of the allegations pleaded in these sub-paragraphs are individual rather than generic in character, these Defendants deny that they were negligent in their management and treatment of the Plaintiff whether as alleged or at all and deny that his seroconversion and any loss or damage he may prove to have suffered would or could have been prevented by any different management or treatment at any material time.

7. It is in any event denied that the damage suffered by the Plaintiff, namely infection with the HIV virus, was foreseeable or was in any event of a kind which these Defendants or their staff were under a duty to prevent.

8. No admissions are made as to paragraphs 15 and 16 of and Appendix 2 to the Statement of Claim, nor as to the causation of such injury, loss or damage as the Plaintiff may prove to

have suffered.

9. No admissions are made as to paragraph 17 of and Appendix 3 to the Statement of Claim.

10. It is not admitted that this is an appropriate case for an order for provisional damages.

11. The Plaintiff's cause of action accrued, and he had the requisite knowledge under Section 11 (4) (b) of the Limitation Act 1980, more than three years before the issue of the Writ herein, and accordingly this claim is statute-barred.

JOHN GRACE

Served this 17 day of July 1990 by Beachcroft Stanleys of
20 Funnival Street, London EC4A 1BN.

Solicitors for the First and Second Defendants.