

IN THE HIGH COURT OF JUSTICE

1990 L No. 682

QUEEN'S BENCH DIVISION

B E T W E E N:

LPN 173

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

DEFENCE OF FIRST AND SECOND DEFENDANTS

1. Paragraph 1 of the Statement of Claim is admitted.
2. The Plaintiff's date of birth is admitted. It is admitted that he is in category b (i).
3. Paragraph 3 of the Statement of Claim is admitted.
4. It is admitted that the Plaintiff was treated with blood products as shown in Schedule I to the Statement of Claim, but it is not admitted that the said Schedule is a complete record of such treatment.
5. As to paragraphs 5 to 8 of the Statement of Claim, it is admitted and averred that the Plaintiff's last negative test sample was taken on 17th March 1982, that his first positive test sample was taken on 10th December 1982 , and accordingly that the Plaintiff seroconverted between the said dates. Save as aforesaid paragraphs 5 to 8 of the Statement of Claim are not admitted.
6. Paragraph 9 of the Statement of Claim is admitted.
7. As to paragraph 10 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 thereof, which are the only paragraphs in which allegations are made against them. With regard to the Particulars under paragraph 92, so far as adopted by this Plaintiff, these Defendants' Defence is as follows.

8. 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 pleadings 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, they appear all to be repeated in the sub-paragraphs under heads 7 and 8 and are pleaded to below. 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.

9. With regard to sub-paragraph (an):

- (i) it is admitted that the Plaintiff received prophylactic treatment with non-heat-treated Factor VIII concentrate on the occasions identified in the notes contained in Schedule 1 to the Statement of Claim;
- (ii) it is denied that it was negligent so to treat him;
- (iii) heat-treated Factor VIII concentrate was not available before the date of the Plaintiff's seroconversion;
- (iv) further and in any event, the Plaintiff is put to proof that even if he had not been treated prophylactically he would not have seroconverted.

10. Save as aforesaid, no admissions are made as to paragraph 11 of the Statement of Claim.

11. No admissions are made as to paragraph 12 of the Statement of Claim.

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

13. 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 31st day of May 1990 by Beachcroft
Stanleys of 20 Funnival Street, London EC4A 1BN.
Solicitors for the First and Second Defendants.

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
BETWEEN:-

LPN 173

Plaintiff

-and-

NORTH EAST THAMES R.H.A.

First Defendant

-and-

HAMPSTEAD H.A.

Second Defendant

-and-

THE DEPARTMENT OF HEALTH

Third Defendant

-and-

THE ATTORNEY GENERAL

(on behalf of the Committee on
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Fourth Defendant

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Sixth Defendant

-and-

NORTH WEST THAMES R.H.A.

Seventh Defendant

DEFENCE OF FIRST AND SECOND
DEFENDANTS

Messrs Beachcroft Stanleys
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