

HEMPSONS

SOLICITORS

R. H. JAMES
J. A. A. WATT
A. R. LOCKHART-MIRAMS
M. A. M. S. LEIGH
C. R. J. DEWHURST
N. J. C. GILD
FRANCES A. HARRISON
J. J. TAYLOR
J. A. MITCHELL
LYNNE M. ABBESS
GAY E. WILDER
JANICE C. BARBER

CONSULTANT
C. H. H. BUTCHER

33 HENRIETTA STREET

STRAND

LONDON

WC2E 8NH

TELEPHONE: 01-838 0011

FAX: 01-838 2783

TELEX: 22502

DX: 240 LONDON

YOUR REFERENCE:

OUR REFERENCE: 1701 0812

13th November 1987

The Editor
The Mail on Sunday
Registered Office
Carmelite House
London EC4Y 0JA

Dear Sir,

We have been consulted by Dr. Peter Jones in connection with the leading article which was published in the issue of The Mail on Sunday for the 18th October 1987 under the headline "Tragedy of AIDS Warnings that went unheeded".

This article singles out Dr. Jones and accuses him of not "blocking the danger or protecting the victims" of haemophilia who were exposed to the risk of AIDS. The article then goes on to assert that "some 1,200 people - and their families - are now paying a terrible price for the failure to act urgently on our warnings. They have become infected with AIDS through contaminated Factor VIII." The following paragraph makes plain that the article is alleging some personal failure by Dr. Jones which has harmed his own patients. The failure which you identify is a failure to take steps which could have been taken to protect haemophiliacs following the warnings given in The Mail on Sunday in May 1983. As a result, your article says, 1,200 people "have become infected with AIDS".

In the following respects this article is factually inaccurate and rests upon false assumptions:

1. The article is wrong in stating that steps could have been taken following publication of your article in May 1983 to prevent the 1,200 people referred to from becoming infected with HIV. The truth is that virtually all of the 1200 haemophiliacs had been infected before May 1983. A retrospective study has shown that the first sero-conversion had occurred as early as 1979 and that the overwhelming majority had become infected between 1981 and 1982. In addition to this evidence is the fact that AIDS has a long incubation period which presently stands at around seven and a half years. The incidence of overt disease now being found in haemophiliac patients is entirely in keeping with infection prior to 1983. Thus, the central factual assertion in your article is incorrect.

2. Your article assumes that steps could have been taken following the publication of your May 1983 article to protect haemophiliacs from infection by the AIDS virus. Given the state of knowledge when your article was written this was not so. The susceptibility of the virus to heat was unknown as was the extent and nature of the risk of becoming infected with HIV. The situation facing haemophiliacs in 1983 was that if they discontinued injections of Factor VIII they would risk premature death or crippling as a result of their primary disorder.
3. Your article assumes some safer source of Factor VIII other than the United States was known to be available in 1983. In fact this is not so. Indeed it has now been established that even if sufficient supplies of plasma had been available (which they were not) from the alternative source mentioned by you, namely, Switzerland, plasma from this source would also have been dangerous because the incidence of AIDS in Switzerland is second only to the United States. In addition it is now known that by 1983 infection also existed in volunteer donor products within the National Health Service. As Dr. Jones wrote in December 1983 (see the British Medical Journal) "there is no evidence that any product, commercial or volunteer, is free from the risk of transmitting AIDS".
4. Your article assumes that in 1983 blood products infected with HIV could have been identified and/or HIV infection eliminated by, for example, heat treatment. Again, this is not so. It was not until 1984 when the HIV antibody and other tests first became available that such steps could be taken.
5. Your article assumes that in 1983 Dr. Jones and others could have protected their haemophiliac patients from the risk of AIDS. This is not so. There was nothing which Dr. Jones or anyone else could then do to protect his patients from this risk. There was no alternative treatment for haemophilia other than Factor VIII. Of course this situation received urgent consideration by Dr. Jones and others, see, for example, an article in the New England Journal of Medicine in 1983 and in a leading article which Dr. Jones wrote for the Lancet in April 1983.
6. Your article assumes that in 1983 Dr. Jones was inactive in promoting or encouraging research into AIDS. Again, this is quite untrue. In fact, Dr. Jones was in the forefront of those who pressed for continuing urgent research into AIDS. Such research had been initiated in 1982 (well before the publication of your May 1983 article) and is continuing. The fact that the discoveries of the causative virus, its epidemiology, the identification of its antibody enabling the testing of individual blood donations, has been so swift is a mark of the effectiveness of the international research of which Dr. Jones is a part.

The purpose of this letter is to explain why your article which is seriously defamatory of Dr. Jones is factually misconceived. The first step which should now be taken is that you should publish an appropriate correction and apology. If you indicate your willingness to do so, we shall prepare and submit to you an appropriate draft.

As the Press Council was concerned with the May 1983 article, we consider that it would be appropriate for a copy of this letter to be sent to them. However, we shall refrain from doing so until after we have heard from you.

In the meantime, all our client's rights are reserved.

Yours faithfully,

GRO-C

HEMPSONS