

HEMPSONS

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5th February 1988

BY HAND

Mr. S. Steven
The Editor
The Mail on Sunday
Carmelite House
London
EC4Y 0JA

Dear Sir,

Thank you for your letter of the 26th November 1987 and we do not accept that your Leader of the 18th October 1987 was not libellous as set out in our letter of the 13th November. Your paper's "apology" at the end of another article on the 15th November 1987 was unnecessarily supercilious and clearly grudging. Our Client feels, and we agree, that you are intent upon a personal attack upon him resulting from a grudge that you hold against him for his complaint to the Press Council in 1983. It is irresponsible to pursue this grudge publicly through your columns.

Our Client has discussed this with us at length, and Leading Counsel, and has decided to accept our advice that he should complain to the Press Council about your article of the 18th October 1987. This has been done today and we enclose a copy of our letter of complaint. You will see that all correspondence passing between ourselves has been sent to the Council including a copy of your letter of the 26th November and this reply.

Concerning the points made in your letter of the 26th November we will deal with them below. Before we do please note that we do not derogate the skills of journalists at all whether specialist or otherwise, but we do expect their skills to be employed responsibly and it is lack of responsibility on your part that we feel has permeated your publications on this matter from the inception of the original article in 1983 to your damaging personal unjustified attacks on our Client in 1984 and again in October 1987.

Concerning your letter of the 26th November it does not answer many of the points that we made in our letter of the 13th November. Nevertheless, we will respond to all that you say. Before we do take your points in numbered order we observe

the following matters which we feel that you have lost sight of :-

- our Client's complaint to the Press Council in May of 1983 was that your article was neither objective nor accurate. Our Client did not take any objection at all to the Mail on Sunday or any of the other media dealing with AIDS, its impact or its causes.

- your original article of May 1983 continues to contain inaccuracies even in the light of present knowledge. In particular you mentioned the danger of blood imported from America "for millions of patients requiring major surgery after road accidents and severe burns". We now know that these patients were at no risk because their blood products had been pasteurised. You clearly did not know that pasteurisation was safe in 1983 otherwise you would not have made this reference in your 1983 article and you cannot now pretend that knowledge which we infer you are doing in paragraph numbered 2, page 2 of your letter of the 26th November 1987.

We will now comment using your numbering commencing on page 2 of your letter of the 26th November 1987:-

1. Of course it is not surprising that we raise this - it is entirely relevant to the libel contained in your Leader of the 18th October 1987 which maintains that Dr. Jones was responsible for haemophiliacs including his own patients contracting AIDS.

You maintain that if action had been taken following your article in May 1983 "lives may have been saved". We have already pointed out to you that no specific action was possible when your article was published. There was insufficient Factor VIII available in the United Kingdom at that time and you are in possession of all of the facts about that. You stated in your first article that "its (AIDS) discovery here prompted the British Blood Products Laboratories, suppliers of all Hospitals and Clinics in England and Wales, to consider sending out a warning telling that their products could not be guaranteed free from AIDS", thereby admitting that a switch to volunteer donor plasma was not feasible in the light of knowledge then available.

You are also aware that our Client was one of the prime movers to get this country self-sufficient in Factor VIII in the early 1970s. That evidence was presented to you in 1983. There is no disagreement between yourselves and Dr. Jones that there was a genuinely urgent need to investigate immediately but in fact the investigation was already proceeding and your article made no difference.

The last line of your first paragraph is arguable. Leading Virologists concerned with HIV in this country, say there is no evidence that repeated exposure heightened the risk of the development of full blown AIDS.

2. Re: your first line, the virus does not sero-convert. We assume you mean to say that it was known that the virus was susceptible to heat treatment in May 1983. That is untrue. Firstly, the virus now known to be associated with AIDS had not then been positively identified so its susceptibility to heat treatment was unknown. Doctors treating people with haemophilia had been discussing viro-inactivation by heat

treatment previously because of non-A non-B infection as well as Hepatitis B. The truth of the matter is that doctors were concerned that the heat treatment might alter the protein within the Factor VIII and Factor IX to such an extent that that in itself would cause immunological or other damage.

Your paragraph hereunder continues to refer to blood, rather than Factor VIII or Factor IX, as did your original article. Whole blood, of course, cannot be heat treated to destroy viruses, nor can fresh frozen plasma or cryoprecipitate derived from it, which might have been an alternative source of treatment in 1983. You are in possession of these facts.

Concerning your last line we can find no statement in your first article to suggest that patients "should never consider giving up their Factor VIII treatment".

3. We disagree that the situation in Switzerland must not be judged retrospectively, in exactly the same way as you are judging it in other countries. The level of HIV infection in any country was entirely unknown in 1983. That was one of the reasons why it was so difficult to know where to turn. The fact that the UK did not turn to Switzerland as your May 1983 article suggested has turned out to be fortunate. A similar argument applies to the rest of your article, with regard to your suggestion that a switch to NHS Factor VIII would have saved lives, this does not take into account the fact that most patients had already sero-converted.

We have already dealt with the situation regarding the supply of NHS Factor VIII in 1983 and we do not accept that a public outcry would have made any difference since strenuous efforts were under way to get the country self-sufficient in Factor VIII. Further, we are not persuaded that your article of May 1983 had any impetus bearing in mind that several months elapsed between our Client's private complaint to the Press Council and the Council's verdict. The response to your story that you consistently maintain was stifled did not manifest itself when it might have been expected to do so.

4. Your October 1987 article does assume that the cause of the infection could be blocked, or "the victims" protected in some way. This obviously requires identification of HIV infection and blood treatment.
 5. You are wrong that doctors including our Client did not have a sense of urgency in 1983. Everybody considered switching to cryoprecipitate but this was also a blood derivative and, as our Client wrote in December 1983, there was no evidence that any product was free from the risk of transmitting AIDS. So far as Factor VIII is concerned there was insufficient NHS Factor VIII concentrate to use as substitute, and the campaign for self-sufficiency was already in progress. We now know that it would have made very little difference with regard to HIV infection because the majority of patients were already infected by the time of your May 1983 article. We also know that self-sufficiency has still not been achieved despite the enormous resources put into Elstree.
 6. Our Client's complaint was that your original article was sensational and inaccurate and he still maintains this to have been so in May 1983 given the knowledge of AIDS at that time. There was nothing to prevent you publicising your anxieties in more responsible terms as other media did.
- Yours faithfully,

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