INFECTED BLOOD INQUIRY

Addendum submissions made on behalf of clients represented by Watkins & Gunn

This is an addendum to the existing submissions made on behalf of the recognised core participant clients of Watkins & Gunn, in respect of the "MULL" documents, consisting of those documents supplied by US attorneys arising from legal proceedings in the 1990s in the US against pharmaceutical companies.

Given the number of documents and the hundreds of pages that are found in many documents, the time allowed to complete this document has been quite short. We understand the Inquiry's desire to keep any addendum to a minimum but there are issues that need to be considered, which, in order to reduce the length of these submissions, we shall do so by way of bullet points.

The matters which we wish to emphasise are;

1. These documents were created for the purpose of legal proceedings regarding claims for damages made by Plaintiffs concerning infection with Hepatitis C and/or AIDS/HIV. Such proceedings are fundamentally different from the form and nature of this Inquiry. The Plaintiff is seeking to establish fault/responsibility on the part of the Defendant, whilst the Defendant is seeking to avoid a finding of liability. This, necessarily, results in the respective parties seeking only to adduce evidence that assists them to establish their case, the truth of what actually occurred may not be central to their case. This will tend to result in the US tribunal gaining only a partial view of the matters under consideration. This is the

opposite to the role of this Inquiry, indeed of any inquiry, which is to reveal the truth of what, when and why certain events occurred.

2. Caution must be exercised when considering this evidence. It is apparent that many of the doctors and scientists employed by the federal or state governments to ensure the safety of those to whom blood or blood products were given, once retired, would commence employment with the suppliers or manufacturers of these same products. This means that their evidence could have been influenced or biased for or against previous, present or future employers.

3. An example of this is the evidence of Dr Francis who had originally been employed by the Hepatitis Division of the Center for Disease Control ("CDC"), a governmental organisation, who then transferred to a manufacturer and supplier of blood and blood products (045. MULL US Litigation Tranche 05 document 0000663.002). His evidence commenced by describing the actions of the CDC once a new virus was identified (Hepatitis B), and thereafter, when an unknown virus was discovered (Non-A Non B). The impression he gives is that the CDC was carrying out its duties correctly. However, he insists that following him leaving the CDC, his new employer did what could be done to protect their clients from AIDS/HIV and Non-A Non-B Hepatitis. In other words, he asserts that everyone he worked for was acting in a perfectly proper manner. Interestingly, although not a surprise, he accuses the other manufacturers and producers of being slow in responding to the developing crisis.

4. The general thrust of the evidence contained in the MULL disclosure, is that in the US;

    a. By the 1970s doctors and medical scientists knew that viruses could be transmitted by blood.

    b. By the mid-1970s it was generally known that there was an unidentified virus, that could be transmitted by blood and blood products (Non-A Non-B, subsequently known as Hepatitis C).

    c. By the turn of the decade it was known there was a disease which interfered with the immune system which could result in death (subsequently known as AIDS/HIV).

    d. By the early 1980s it was known that the disease was probably a virus that could be transmitted by blood or blood products (AIDS/HIV).

    e. By early 1982 it was known that AIDS/HIV could be transmitted to haemophiliacs via blood or blood products.

    f. It was known that Non-A Non-B Hepatitis could be transmitted to haemophiliacs via blood or blood products.

    g. It was known by the mid-1970s (if not earlier) that the risk of becoming infected with Non- A Non-B Hepatitis was dependent on the degree and extent of exposure to the contaminated blood or blood products including cryoprecipitate, and Factors VIII and IX.

h. Many UK doctors who gave evidence to the Inquiry insisted that, in broad terms, the risk of becoming infected with Non-A Non-B Hepatitis and AIDS/HIV was the same whatever type of treatment was used, albeit that it might take longer to become infected when using cryoprecipitate – a convenient argument which was used by the many UK doctors to excuse their failure to continue using cryoprecipitate. That was not the view of many US doctors, who accepted that there was a very significant increase in the risk of contamination by using Factor VIII or IX, rather than cryoprecipitate.

i. Generally, notwithstanding the known risk of infection with Non-A Non-B and AIDS/HIV, US doctors, as with UK doctors, preferred to use Factor VIII or IX rather than try to avoid the use of any drugs even when the patient suffered from mild/moderate haemophilia.

5. The story of the exposure of haemophiliacs to contaminated blood and blood products, the slow acceptance that this exposure resulted in Hepatitis C and AIDS/HIV, the refusal to accept that there were other ways of treating those with haemophilia (eg. by the use of cryoprecipitate or by avoiding the use of any drugs), the denial by doctors of any specific link between haemophiliacs and these diseases, the failure to warn haemophiliacs and their families of the risks to which they were being exposed, and the painfully slow development of a means of identifying blood or blood products that had become contaminated with these viruses, resulted in tens of thousands of haemophiliacs and their families

in the UK being exposed to the risk of becoming infected, and thousands of people dying from such exposure.

6. The experience in the UK, of haemophiliacs and their families being exposed to the risk of contamination, mirrors that of what took place in the US. This could have avoided if the medical profession and health system in the UK had properly considered what had already occurred in the US. Instead, they ignored the known risks and failed to warn of the dangers to which people, especially children, were being exposed.

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