

Senica Master Fontaine

Claim No. HQ17C03611

CONTAMINATED BLOOD PRODUCTS GROUP LITIGATION

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

JASON EVANS & OTHERS

-and-

SECRETARY OF STATE FOR HEALTH



Claimants

Defendant

GROUP LITIGATION ORDER
Approved on 27 October 2017 by the
President of the Queen's Bench Division

UPON the Claimants' application for a Group Litigation order pursuant to CPR Part 19

AND UPON hearing Leading Counsel for the Claimants and Counsel for the Defendant

AND UPON the President of the Queen's Bench Division consenting to this Order

AND UPON the Claimants undertaking to issue a Claim Form in the Queens Bench Division of the High Court of Justice within 28 days of this Order being sealed

AND UPON the following definitions being adopted

Definitions:

1. "Lead Claimant" refers to Jason Evans.

2. "Claimants" refers to Jason Evans and all those listed in the exhibited schedule marked WDC1, all of whom are Infected Claimants or are or were alleged dependants of the same.
3. "Contaminated Blood Products" refers to Factor VIII and Factor IX concentrate, administered and/or prescribed to NHS patients which was contaminated with Hep C and/or HIV.
4. "HIV" refers to Human Immuno-Deficiency Virus.
5. "Hep C" refers to Hepatitis C
6. "HIV Haemophilia Litigation" refers to the case AMcG002 v Central Birmingham Health Authority (1), Coventry and District Health Authority (2), West Midlands Regional Health Authority (3), Oxfordshire Health Authority (4), Oxfordshire Regional Health Authority (5), The Attorney General on Behalf of the Committee on Safety of Medicines (6), The Attorney General on Behalf of the Licensing Authority Pursuant to the Medicines Act 1968 (7), Secretary of State for Health (8), Department of Health (9), North West Thames Regional Health Authority (10) and Central Blood Laboratories Authority (11); case reference 1989 E N. 2111.
7. "Infected Claimants" refers to those Claimants in the exhibited schedule marked WDC1 who were infected with Hep C, and/or HIV either directly by Contaminated Blood Products or indirectly by another person who had been infected by Contaminated Blood Products.
8. "NHS" refers to the National Health Service.

IT IS ORDERED THAT:

A. THE GLO ISSUES:

1. This Order applies to claims in respect of the following common or related issues of law or fact:

COMMON ISSUES

- 1.1. Whether in exercise of its obligations pursuant to statute or otherwise to provide
 - 1.1.1. a national blood transfusion service
 - 1.1.2. a national blood products laboratory
 - 1.1.3. a national epidemiology service

the Defendant owed a duty to take reasonable care to prevent personal injury or loss to the Infected Claimants.
- 1.2. Whether in exercise of those obligations or otherwise the Defendant owed a duty to the Claimants to provide prompt and timely disclosure of the state of knowledge of the Defendant at all material times of the risk of infection from Contaminated Blood Products.
- 1.3. Whether in exercise of those obligations or otherwise the Defendant owed a duty to provide prompt and timely notification to the Infected Claimants of the information and/or knowledge which the Defendant held relating to the infection of the Infected Claimants with Hep C, and/or HIV.
- 1.4. Whether any undertakings given by the Claimants or any of them, directly or indirectly, to the Defendant at any time arising out of the HIV Haemophilia Litigation or otherwise are binding upon the Claimants, and in all the circumstances whether it is unconscionable for the Defendant to rely upon such undertaking.

- 1.5. Insofar as any of the Claimants may have discontinued a case brought within the HIV Haemophilia Litigation whether such discontinuance is binding upon those Claimants and/or their dependants, and in all the circumstances whether it is unconscionable for the Defendant to rely upon the said discontinuance.
- 1.6. Whether insofar as might be necessary the Court should exercise its discretion under Section 33.1 of the Limitation Act 1980 in favour of the Claimants.
- 1.7. In the event that the duty at 1.1 above was owed, whether the Defendant was in breach of that duty.
- 1.8. In the event that the duty at 1.2 above was owed, whether the Defendant failed to provide prompt and timely disclosure to the Claimants so as to be in breach of that duty and whether any such failure amounted, at any time, to misfeasance in public office.
- 1.9. In the event of breach of duty at 1.3 above, whether the Defendant failed to provide prompt and timely notification to the Claimants so as to be in breach of that duty and whether any such failure amounted, at any time, to misfeasance in public office.

and those claims will constitute the Contaminated Blood Products Group Litigation (CBPGL).

B. THE GROUP LITIGATION ORDER

2. The initial proposed claimants are those individuals whose names are set out in the Schedule 1 to this Order.
3. Potential claimants may hereafter apply to the Lead Solicitors to be entered in the Group Register referred to below and joined as Claimants under the terms of this Order.

4. The solicitors, Collins Solicitors, are the Lead Solicitors for the purposes of service, receipt of documents and coordination; unless otherwise agreed between the parties, individual solicitors may deal directly with the court in respect of matters relating to their respective clients.
5. A group register shall be set up on which details of the claims which are the subject of this Order are to be entered and which will be, subject to further directions by the Management Court as specified in paragraph 13 below, be maintained by the Lead Solicitors.
6. The register shall include
 - 6.1 the full name, address and postcode of each Claimant and the litigation friend (if appropriate)
 - 6.2 the date of birth of the Claimant
 - 6.3 the claim number of the Claimant's case and the date of commencement
 - 6.4 the names and address, reference, DX, fax and telephone number of the solicitors on record for the Claimant
 - 6.5 the number and date of any notice of funding for the Claimant
 - 6.6 the national insurance number of each Claimant
 - 6.7 the date of entry of the Claimant on the register
 - 6.8 the date on which any Claimant ceases to be on the register.
7. The register shall be reviewed and updated one month after the cut-off date and thereafter every month, and after each update a copy of the register shall be served on the Defendant within 14 days of each update.
8. The Defendant may give written notice to the Lead Solicitors of any issue it takes on the accuracy of the updated register within 28 days of receipt.
9. All claims entered on to the group register shall be deemed to have been issued at Court on the day they are added to the group register.

10. A Claimant shall remain on the register until such time as he serves notice of discontinuance, or if required, obtains permission to discontinue, or the claim is otherwise disposed of prior to trial, in which event the Claimant shall cease to be on the register on the expiration of the last day of the period of account during which notice of withdrawal or discontinuance or permission to discontinue is given or the effective date of disposal occurred.
11. The period of account shall be
 - 11.1 the period up to the cut-off date
 - 11.2 thereafter each period of 3 months
12. For the purpose of CPR 38.2(2), consent to discontinuance by any Claimant on behalf of the other Claimants may be given by William Desmond Collins of the Lead Solicitors. The Lead Solicitors shall maintain a list in which shall be included
 - 12.1 the name of the party discontinuing and
 - 12.2 the date of filing the notice of discontinuance
13. The Royal Courts of Justice Queen's Bench Division will be the court which will manage the claims on the group register (the Management Court) and any future claims to which this Order applies are to be issued in that court and entered on the group register.
14. Any claims to which this Order applies which are proceeding other than in the Management Court be transferred immediately to that court and entered in the group register, the transfer of any claims from the County Court to the High Court having been approved by the Head of Civil Justice on behalf of the President of the Queen's Bench Division.
15. A nominated Trial Judge shall be appointed.
16. The President of the Queen's Bench Division will appoint the Managing Judge under CPR 19PD Paragraph 8, who shall be the judge responsible for the management of all claims to which this Order applies.

17. The Lead Solicitors file and serve on the Defendant Group Particulars of Claim by a date to be determined by the Managing Judge
 - 17.1 The Group Particulars of Claim shall contain:
 - 17.1.1 general allegations relating to all claims;
 - 17.1.2 a schedule contained entries relating to each individual claim specifying which of the general allegations are relied on and any specific facts relevant to the Claimant.
 - 17.2 The Group Particulars of Claim shall be verified by a statement of truth signed by the Lead Solicitor
18. No claim may be entered on the group register after the cut-off date. The cut-off date shall be determined by the Managing Judge
19. None of the Claimants in this group litigation shall be obliged to comply with the Personal Injury Protocol, and any breach of it before a claim is entered on the group register.
20. Any documents or bundles in respect of claims to which this Order applies should have endorsed on the top left hand corner the short title of the claim, Contaminated Blood Products Group Litigation and the claim number.
21. A copy of this Order shall be lodged by 4.00pm on 27 November 2017 by the Lead Solicitors with
 - 21.1 the Senior Master of the Queen's Bench Division in Room E101 at the Royal Courts of Justice, Strand, London WC2A 2LL and
 - 21.2 The Law Society at 113 Chancery Lane, London WC2A 1LP
22. "Common costs" means

- 22.1 those costs and disbursements incurred and to be incurred on or after 6th February 2017 in relation to all matters arising from the investigation, pleading, preparation for, and trial of common issues and
- 22.2 the costs of the Lead Solicitor in administering the group litigation
23. As between the Claimants, the common costs shall be apportioned between them equally.
24. Any common costs ordered to be paid by the Claimants to the Defendant shall be apportioned between the Claimants equally and the liability of individual Claimants under any such orders shall be several.
25. For the purposes of common costs
- 25.1 a Claimant whose claim is entered on the group register at any time shall be deemed to have been on the group register from the making of this Order
- 25.2 a Claimant shall not be liable for his proportion of common costs incurred after his name has been removed from the group register in accordance with paragraph 10.
26. Any common costs ordered to be paid by the Defendant to the Claimants shall be paid to the Lead Solicitors.
27. Any Claimant whose claim is entered on the group register has permission to accept a Part 36 payment in full and final satisfaction of his claim. Such Claimant shall be entitled to recover from the Defendant in addition to his individual costs the proportionate share of the common costs incurred up to the last day of the period of account in which the Claimant accepts the Part 36 payment, such common costs to be apportioned in accordance with paragraphs 24, 25 and 26.
28. The
- 28.1 individual costs relating to parties attending and/or represented today and
- 28.2 the common costs of the application

are to be costs in the case save that those costs of the Claimants of and occasioned by the Claimants' attendance today to meet the Defendant's opposition to the Application are to be paid by the Defendant and those costs are assessed at £1,800 (inclusive of VAT) and are to be paid within 21 days of today.

Dated the 27 day of October 2017

Claim No.

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