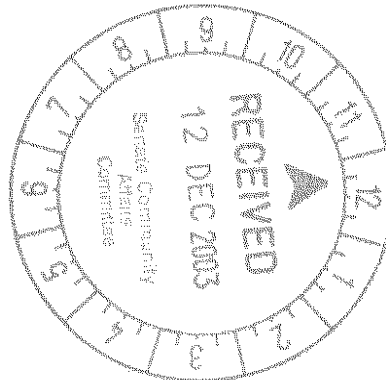


Our ref: LJC/57690-258
Your ref:
Direct e-mail: ljc@turnerfreeman.com.au
Direct phone: 02 8267 9458
Responsible partner: T L Goldberg

11 December 2003

The Secretary
Senate Community Affairs
References Committee
Suite S1 59
Parliament House
CANBERRA ACT 2600



Dear Sir/Madam,

**RE: SUBMISSIONS FOR INQUIRY INTO HEPATITIS C AND BLOOD SUPPLY
IN AUSTRALIA**

We act on behalf of a number of plaintiffs in separate proceedings against the Australian Red Cross Society in the District and Supreme Courts of New South Wales.

In each case the plaintiffs are claiming damages from the Red Cross as a result of the plaintiffs receiving transfusions of blood provided by the Red Cross between 1984 to 1989, which were contaminated with Hepatitis C, before a direct test for Hepatitis C was introduced.

In respect of the likelihood that Hepatitis C infections could have been prevented by the earlier implementation of surrogate testing and donor deferral, we *enclose* copies of the following supporting documents produced under subpoena by the Red Cross in various cases, with all data identifying the donors removed:

1. Registration card regarding donor 416336.

When interviewed after positive testing, the donor admitted to a 1969 use of heroin, sharing needles and admission to hospital for drug overdose.

2. Donor attendance record for donor 008641.

It was noted on the donor attendance record "DO NOT CALL B.T. APRIL 1983 UNABLE TO DONATE UNTIL APRIL 1988". However, blood was collected from this donor on at least two further occasions, and the blood collected on the second occasion was subsequently transfused to one of our clients and infected him.

Level 20
580 George Street
SYDNEY NSW 2000
Locked Bag A6020
SYDNEY SOUTH NSW 1235
Telephone: (02) 8267 9400
Facsimile: (02) 8267 9449
DX 152 SYDNEY
e-mail: mail@turnerfreeman.com.au
internet: http://www.turnerfreeman.com.au

3. Registration card for donor 130853 and letter to Dr Lien dated 18 March 1991.

The medical history indicates that the donor was an IV heroin user sharing a needle in 1982, had a tattoo in 1967, various bouts of non-specific urethritis and approximately seventy sex partners.

4. Registration card for donor 124497.

This indicates that the donor had Hepatitis B in 1980 and was ill for six weeks with jaundice.

5. Donor attendance record for donor 157298 and questionnaires completed by the donor on 9 August 1985 and 7 November 1985.

It was noted on the donor attendance record that the "DONOR HAD B.T. AUGUST 1984, DO NOT CALL TILL AUGUST 1989". The questionnaires also disclose that the donor had a blood transfusion in 1984. Blood collected from the donor on 7 November 1985 was subsequently transfused to one of our clients and infected him.

From a time before the first transfusion in these cases, tests for the presence of antibody to the core of HBsAG (anti-HBc) and alanine aminotransferase (ALT) were available. It is part of the plaintiffs' cases that those two tests should have been carried out by the Red Cross on blood donations before that blood was transfused. It is alleged that this "surrogate testing" would have identified a significant proportion of donors carrying Hepatitis C.

It is also part of the plaintiffs' cases that a significant proportion of the group of donors carrying Hepatitis C could be identified by certain characteristics and medical history eg. injecting drug users, those having prior transfusions. If the background and medical history of the donors had been properly investigated by the Red Cross, the risk of the recipients contracting Hepatitis C would have been eliminated or at least substantially reduced. Groups of potential donors with risk factors should have been excluded because their behaviour showed an elevated risk of carrying Hepatitis C, just as the potential donors with HBsAG and/or elevated ALT showed the donors to be at a higher risk of also carrying Hepatitis C.

The plaintiffs allege that relevant questions should have been asked and answers should have been followed up, as there was knowledge of the risk factors at that time. Failure to pursue such enquiries greatly increased the risk of Hepatitis C infection and, it is claimed, resulted in the plaintiffs' damage. Generally the records of the Red Cross produced under subpoena in these cases show a system of record keeping of material relevant to the risk factors, but arguably inadequate in scope and inadequate in pursuit of further enquiries, given the answers of the donors.

Please let us know if you require any further information.

Yours faithfully

TURNER FREEMAN

L. J. Clifton

Per: L J Clifton

2068971



2068971 WT: HB: 160 BP: 109/80

RED CROSS BLOOD TRANSFUSION SERVICE
DONOR ATTENDANCE RECORD

CLARENCE ST. BLOOD BANK 501
22 JUL 1986 1.01 PM

Bled by: *delena*

DONOR REGISTRATION DETAILS

Reg No: 008641

No reminders

(WRITE CORRECTIONS BELOW)

Phone:

Birthdate:

Usual Place: CLARENCE ST. BLOOD BANK

Work: Visit no: 78

Last Attended: 29-NOV-1985

77: 29/11/85 HB: 168 BP: 100/ 60

76: 13/09/85 HB: 159 BP: 120/ 60

75: 04/07/85 HB: 160 BP: 110/ 80

74: 04/04/85 HB: 172 BP: 120/ 80

MM MALE

G5 GROUP B POSITIVE

#7 TRIPLE PLAT(CLXII)

Reminds letters please

33 weeks ago. (Previous Medical History)
DO NOT CALL B.T. APRIL 1983 UNABLE MRW
TO DONATE UNTIL APRIL 1988.

delena not call

NAME: (Pw 130153) DATE OF BIRTH _____
 ADDRESS _____ OCCUPATION Apprentice Chief

MEDICAL HISTORY used IV heroin twice in 1972. Tattooed self in 1967.
No history of hepatitis or blood transfusion. Alcohol intake 0-200 gm
per week. Jailed Sept-Oct 1990. N/A in 1986. Sex partner approx 70

CASE NO.	DATE	ANTI-HCV ABOIT	ANTI-HCV CRHO	ANTI-HBC	ALT	AST	GGT	RISA
F.B.# 586	3.1.91	>4.7	>4.6		131.	6F.	66	tw
	17.1.91		>3.9		129	57	62	
	12.2.91		Referred	+	RPAH			
D 358								

5.2.91 OK to refer direct to RPAH
 OK to mention IV drug use.

18 March 1991

Dr. A. S. H. Lien
Blood Transfusion Service
153 Clarence Street
SYDNEY NSW 2000

Dear Alf,

Re: _____ - RPAH Uni

Many thanks for sending this 37 year old regular blood donor to see. He was found to be anti HCV positive in January 1991. He is tired and lethargic, has had occasional right upper quadrant discomfort for 1-2 years and there has also been some dark urine. There is no known past history of hepatitis however he did know a girl who had hepatitis B some 3 months ago. He used intravenous drugs 18 years ago but only used clean needles on those 2 occasions. However he does admit that in 1982 on one occasion he shared a needle that was not clean. There is no history of blood transfusion. He has had one tiny tattoo at the age of 12. There has only been overseas travel to New Zealand. His past history consists of maxofacial surgery and varicose veins operations but has mentioned no blood transfusions at the time. On several occasions he has suffered from non specific urethritis.

On physical examination he had one small spider on his left clavicle and palmar erythema. There was a smooth palpable liver approximately 2cm below the right costal margin. There was no splenomegaly, no ascites or oedema. The cardiovascular/respiratory examinations were normal.

Investigations done by you indicate a raised ALT in January. I have simply repeated his liver enzymes and plan to review him in 6 months. At that stage we will have abnormalities dating back over 6 months and we will probably do a liver biopsy to confirm the nature of the chronic hepatitis C.

Kind Regards,

cc: Medical Records
File

/rdj

school for mentally & physically handicapped
children - between 1984 - 87. Had general works
in 1986. Sex partners approx 5.

2900006



A POS

2900006 WT: HB: 14-2 BP: 120

RED CROSS BLOOD TRANSFUSION SERVICE
DONOR ATTENDANCE RECORD

PENRITH PEN

TUE 2-DEC-1986 2:33 PM Dep:

(WRITE CORRECTION BELOW)

Bled by:

DONOR REGISTRATION DETAILS
Req No: 157298 C No Reminders

Send Reminders Please.

Phone:

Birthdate:

Usual Place: PENRITH

Last Attended: 7-NOV-1985 55 weeks ago (Previous Medical History)

6: 7-NOV-1985 HB: 132 BP: 110/ 60

FM FEMALE

DONOR HAD BT AUG '84. DO NOT CALL
TILL AUG '89. MRW

#1 SINGLE PACK

*-DNC
-BT. NMA 5007*

Please read but do not sign the Declaration yet.

Take it with you to the Interviewing Station

Donation Number:

2953432



RED CROSS BLOOD TRANSFUSION SERVICE (N.S.W. DIVISION)

There are some people in the community who MUST NOT donate blood because their blood may transmit infection to patients who receive it. If you require clarification on any of the following points you should seek discussion with a Blood Transfusion Service Medical Officer. Please read the Declaration carefully. You will be asked to sign it before being accepted as a blood donor, and present State Legislation provides for penalties if false declarations are made.

DECLARATION RELATING TO A.I.D.S.

I HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE, THAT:

- 1. I am not suffering from AIDS or any disease related to it;
2. I am not suffering from night sweats or weight loss or persistent fever, diarrhoea or swollen glands;
3. I have not engaged in male-to-male sexual activity during the past five (5) years;
4. I have not injected myself with any drug not prescribed by a registered medical practitioner within the past five (5) years;
5. Neither my spouse nor any sexual partner would be excluded for any of the reasons described in 1, 2, 3, and 4;
6. I have not received a blood transfusion or treatment with human blood products within the past six (6) months;
7. My spouse or sexual partner does not receive regular treatment with blood or blood products.

I am signing this Declaration in the presence of a staff member of the Blood Transfusion Service.

Name: (PLEASE PRINT)

Signature of Donor

Date: 7/11/85

Signature of Witness: [Handwritten Signature]

MEDICAL HISTORY

Please answer YES or NO.

- 1. Have you given a blood donation before? YES
2. Have you ever had any of the following: diabetes, kidney disease, rheumatic fever, chest trouble, bleeding disorders, asthma, hay fever, epilepsy, T.B., cancer, V.D., high blood pressure, gastric or duodenal ulcer? NO
3. Have you, within the last 12 months, had any of the following: shingles, cold sores, herpes or chicken pox, any serious accident, illness or operation? NO
4. Are you currently suffering from any illness, allergy or infectious disease? Have you had a tooth extraction (or other dental work) in the past week? NO
5. Have you, within the last three (3) months, received any of the following treatments: injections, prescribed tablets or other medications, vaccinations, inoculations? NO
6. Have you received a blood transfusion or recurring treatment with human blood products within the past twelve (12) months? YES
7. Have you ever had a blood transfusion? 1984
8. Have you been tattooed within the past six (6) months? NO
9. Have you been overseas within the past twelve (12) months, or had an attack of malaria or taken anti-malarial drugs within the past two (2) years? NO
10. Have you had jaundice or hepatitis within the past twelve (12) months? Have you been in close contact with any person suffering from those diseases within the past six (6) months? NO
11. Are you off work and currently receiving Workers' Compensation? NO
12. Do you intend to drive a heavy transport or public transport vehicle within the next twelve (12) hours? Or to pilot an aeroplane within the next twenty-four (24) hours?

FOR WOMEN:

- Have you been pregnant during the past twelve (12) months? NO
How many children have you had? 1
Have you ever had a pregnancy? YES

Please read but do not sign the Declaration yet. Take it with you to the Interviewing Sister.

C1 P1

Donation Number:

2942037



RED CROSS BLOOD TRANSFUSION SERVICE (N.S.W. DIVISION)

There are some people in the community who MUST NOT donate blood because their blood may transmit infection to patients who receive it. If you require clarification on any of the following points you should seek discussion with a Blood Transfusion Service Medical Officer. Please read the Declaration carefully. You will be asked to sign it before being accepted as a blood donor, and present State Legislation provides for penalties if false declarations are made.

DECLARATION RELATING TO A.I.D.S.

I HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE, THAT:

- 1. I am not suffering from AIDS or any disease related to it;
2. I am not suffering from night sweats or weight loss or persistent fever, diarrhoea or swollen glands;
3. I have not engaged in male-to-male sexual activity during the past five (5) years;
4. I have not injected myself with any drug not prescribed by a registered medical practitioner within the past five (5) years;
5. Neither my spouse nor any sexual partner would be excluded for any of the reasons described in 1, 2, 3, and 4;
6. I have not received a blood transfusion or treatment with human blood products within the past six (6) months;
7. My spouse or sexual partner does not receive regular treatment with blood or blood products.

I am signing this Declaration in the presence of a staff member of the Blood Transfusion Service.

Name (Please Print)

Signature of Donor

Date 9/8/85

Signature of Witness

MEDICAL HISTORY

Please answer YES or NO.

- 1. Have you given a blood donation before? YES
2. Have you ever had any of the following: diabetes, kidney disease, rheumatic fever, chest trouble, bleeding disorders, asthma, hay fever, epilepsy, T.B., cancer, V.D., high blood pressure, gastric or duodenal ulcer? NO
3. Have you, within the last 12 months, had any of the following: shingles, cold sores, herpes or chicken pox, any serious accident, illness or operation? NO
4. Are you currently suffering from any illness, allergy or infectious disease? Have you had a tooth extraction (or other dental work) in the past week? NO
5. Have you, within the last three (3) months, received any of the following treatments: injections, prescribed tablets or other medications, vaccinations, inoculations? NO
6. Have you received a blood transfusion or recurring treatment with human blood products within the past twelve (12) months? YES
7. Have you been treated by acupuncture or had your ears pierced or been tattooed within the past six (6) months? NO
8. Have you been overseas within the past twelve (12) months, or had an attack of malaria or taken anti-malarial drugs within the past two (2) years? NO
9. Have you had jaundice or hepatitis within the past twelve (12) months? Have you been in close contact with any person suffering from those diseases within the past six (6) months? NO
10. Are you off work and currently receiving Workers' Compensation? NO
11. Do you intend to drive a heavy transport or public transport vehicle within the next twelve (12) hours? Or to pilot an aeroplane within the next twenty-four (24) hours?

FOR WOMEN:

- 1. Have you been pregnant during the past twelve (12) months? YES
2. How many children have you had? 1
3. Have you ever had a pregnancy or a blood transfusion? YES