

SULAN J

NO.65/2006

R V ANDRE CHAD PARENZEE

THURSDAY, 1 FEBRUARY 2007

RESUMING 10.30 A.M.

+ELENI PAPADOPULOS-ELEOPULOS CONTINUING

+CROSS-EXAMINATION BY MS MCDONALD

- Q. Yesterday in your evidence you said, at 606, line 22, 'Now, HIV, to use molecular methods for HIV or again like the paternity suit, the most basic requirement is to have the HIV RNA. Once you get the HIV RNA, then you can do any of the studies and try, for example, to find the same RNA, or if you want, you can take the DNA, the complementary DNA to this RNA, and you look with these RNA or DNA from the virus to find out if you have, like for the children - to find out if you have it in other tissues, in other human beings or in other animals, the same thing. Now, the most basic requirement is the same principle. The most basic requirement is to have the RNA from the virus but you cannot put a needle in the virus and get DNA out because it's too small, the virus particles are too small, and you cannot get it from one single virus particle'. Do you agree that was your evidence yesterday.
- A. Yes.
- Q. I suggest that the RNA of HIV has been isolated, extracted and identified.
- A. The HIV RNA cannot be extracted or identified in any other ways unless you have the virus particles purified. That is stated in the document you gave us. How can other ways extract the HIV RNA? It is not physically possible to extract the HIV RNA from the virus unless you purify the virus.
- Q. Let me ask you this question. You assume for the moment - and I'm asking you to assume this.

A.	I cannot assume.	1
Q.	You are obliged to as an expert in this court.	2
A.	No, I don't.	3
Q.	If you assume for a moment that we know what the RNA of the virus is and we can identify it, is that sufficient to prove HIV for you.	4 5 6
A.	If you have the HIV RNA, then you can detect the virus using molecular methods.	7 8
Q.	If we can isolate and identify RNA as belonging to a unique virus HIV, does that prove that HIV exists according to you.	9 10 11
A.	You have to have the probes. You cannot understand. To do the molecular testing, you have to have the viral RNA. Then and only then, then and only then, you can use the viral RNA - sorry, then and only then you can use the viral RNA to identify, to detect the virus. Not to identify, to detect the virus. Now, let me go back to the case of the paternity suit. You cannot do - you cannot identify the offsprings of a man if you don't have the DNA from the father. You've got to have the DNA from the father. Similarly, here - that is, if we can call the children the offsprings, detection of the offsprings, similarly to detection of the virus, you've got to have the viral RNA. There is no other way to identify. How can you say that this virus, this RNA, is HIV RNA unless you have proof that that RNA came from the virus? There's no other way. You've got to have proof. If you say that this - shall we say this kidney belonged to me, the surgeon has to take it from me, not from anybody else. The kidney has to - he has to have proof that the kidney is from me. The same thing if you want to say that this is an HIV RNA, you have to have proof that the HIV RNA came - you took this piece of RNA from a virus particle but it is impossible, as I said yesterday, it is impossible to take that virus, that RNA, from a virus particle. So the next best method is to separate, to purify the viruses, to have a mass of particles which all look identical and then you take	12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38

those particles, you extract the particles and you will
get the virus. If the particles are infectious, then
you will say this virus, this RNA, belongs to this virus
or this virus has this RNA. There is no other
scientific method of proving ownership. There is no
other. So once you prove ownership, then you go and you
can do nucleic acid tests, you can do viral load, you
can look for genes, you can do through genetic trees if
it is possible. You can do all these things but you
must start with that. You have to prove ownership of
the RNA you are using as a probe otherwise you cannot do
that. You can do as many as you want, but they would be
meaningless regarding the detection of another virus.

Q. I will go back to my question. I am asking you to
assume that we have RNA that has been proven to be
unique to the HIV virus. Is that proof that that virus
exists as a distinct virus.

A. You cannot have the RNA. You have to prove the virus
first, then you prove - could you please put once again
the question?

Q. If you assume that the RNA of HIV has been identified as
unique to the HIV virus, is that proof that the virus
exists as a separate distinct virus.

A. I said yesterday, if you purified the virus and you show
me that it has this unique RNA and this unique proteins,
then I will say the virus exists. That's what I said.
I said - let me repeat.

HIS HONOUR

Q. No, I don't think you need to repeat it. I think we
have heard it a number of times now. I think the answer
is if you make the assumption that you have made, the
answer is yes, if you make the assumption.

A. If you make the assumption.

XXN

Q. Given some of the lengthy answers you gave yesterday and
this morning, I'm not proposing to take you through the
statement of Dominic Dwyer, who has given a statement
about isolation of the virus and nucleic acid testing, I

just want to confirm you have had a chance to read the statement of Dominic Dwyer.

A. Yes, I did.

Q. Do you have any observations you would like to make about it to his Honour above and beyond what you have already told the court. I'm not inviting you to repeat anything you have said already, but if there is anything you want to say to his Honour about this report you feel you haven't had an opportunity to put yet -

A. I will see. I have to go through it again. Your Honour, since yesterday morning, I have been given a pile of long papers as well as I think five documents from HIV experts. I read them but it is impossible - I did not sleep. I went through all night reading them but it is impossible to remember what is in it, but if I -

Q. There is no difficulty with you seeing them.

HIS HONOUR: You can look at the statement.

A. I haven't got.

HIS HONOUR

Q. Have you got the report of Dominic Dwyer? Have a look at mine. Is that one of the documents you read.

A. Yes, it is.

Q. The question really is: over and above what you have already told the court, is there anything which you want to say about that particular report.

MR BORICK: I'm not sure that I follow that. I thought the question was relating to the scientific articles.

HIS HONOUR: This question is not. It was related to - I presume it is Dr Dwyer, but it is Dominic Dwyer. It is a statement. Am I right, Ms McDonald?

MS MCDONALD: Yes. I'm really just giving the witness a chance to comment out of fairness in case there is something she feels she hasn't had a chance to answer to it yet.

MR BORICK: I think it is a little unfair. That is a fairly lengthy article, it is going to be his evidence

and I would have thought it would be more appropriate if
it was put to her what she relies on in the Dwyer
evidence.

HIS HONOUR: I assume, Mr Borick, this is an attempt,
really, to try and short cut this process. Ms McDonald
could put relevant passages of Dr Dwyer's evidence to
the witness and ask her whether she agrees or disagrees
with them, but I think it is an intent to short cut it.

MR BORICK: Yes, I can understand that. Would your
Honour mind making it clear to the witness what she is
being asked now because I'm not sure that it is clear.

HIS HONOUR: If, ultimately, Mr Borick, something has
been overlooked or if you feel that the process was
unfair, I will give you an opportunity to call further
evidence from the witness, if the process has somehow or
other overlooked something.

MR BORICK: In the meantime, would your Honour
explain in your own way to her what is happening.

HIS HONOUR

Q. Ms Papadopoulos-Eleopoulos, what you are really being
asked to do, and it is really a short cut way of giving
your evidence because you have been in the witness box
for a long time now, it is just to indicate whether
there is anything in this statement that you wish to
comment about in addition to what you have already told
the court. So you don't have to repeat what you have
already told the court.

A. All I can say, that here we have repeated claims of HIV
isolation, of HIV molecular unification, but there is
not - nucleic acid tests - but there is no evidence of
how these nucleic acids are obtained.

Q. So you come back to what you have been telling me.

A. The same thing. We say we do this test, we do that
test, but it doesn't tell me what is the basic
scientific requirement. How did you obtain the probes?
Where is there evidence that they come from HIV?

Q. Yes, I understand that.

A. That is all, my general comment.

Q. So there is nothing new in this material which would
cause you to want to say anything more than you have
already said.

A. Which would make me to change my views.

Q. Your opinions.

A. My opinions, yes.

XXN

Q. I am going to put a couple of articles to you and again
I am going to try and deal with these in a fairly
shorthand way. These are both articles which have been
produced to you already. The first is entitled
'Sequence-based Identification of Microbial Pathogens:
A reconsideration of Koch's Postulates'. I have a fresh
copy for you.

A. No, I have it.

EXHIBIT #P47 DOCUMENT ENTITLED 'SEQUENCE-BASED
IDENTIFICATION OF MICROBIAL PATHOGENS: A RECONSIDERATION OF
KOCH'S POSTULATES', VOL.9, NO.1 OF THE 0/1/1996 EDITION OF
CLINICAL MICROBIOLOGY REVIEWS TENDERED BY MS MCDONALD.
ADMITTED.

Q. You have had a chance to read this article.

A. Yes, I did.

Q. In summary, it is an article relating to Koch's
postulates.

A. Yes.

Q. And also it looks at the question of serological assays.

A. Serological assays?

Q. Yes.

A. Nucleic acid and serological assays.

Q. I want to just take you to a passage on the front page
of that article, on the right-hand column.

A. Yes.

Q. I am going to be reading from almost the top.

A. 'History' or the top?

Q. It will say the word 'Serological': 'Serological assays
offer an independent but indirect approach to the
clinician for diagnosing disease in individual patients

and for studying the epidemiology of microbes in host
populations. But the most revolutionary advance in
biomedical science since the time of Koch is the
discovery of nucleic acids as the source of genetic
information and as the basis for precise
characterisation of an organism. The ability to detect
and manipulate these nucleic acid molecules in
micro-organisms has created a powerful means for
identifying previously unknown microbial pathogens and
for studying the host-parasite relationship'. Do you
agree that's what it says there.

A. Yes, I agree.

Q. Do you agree with that statement.

A. There are - if you look later on where they discuss how
you can use nucleic acid for identification, because
this is a summary of what they want to discuss, there is
a subheading 'Genetic-based microbial Identification'
and it is on p.22. Then if you go to p.24, they give
what is the problem. First of all, they say how this
test came to be and then they said what are the problems
with identifying and they said there are many problems.
In fact, there are more problems with this test than
with the Koch postulants. These authors themselves do
not say that these tests are identified a pathogens. If
you read along that left column, it is all about, on
p.24 - I can read it if you want.

Q. No, I'm sure his Honour can read it.

A. Yes, but they say what are the problems. In fact, I
believe recently there was an article in New York Times
discussing the problem with the use of genetic or
nucleic acid tests to identify microbes in epidemics,
microbial epidemics. So yes, they are used, but yes,
even these authors accept that they are not perfect
tests.

CONTINUED

Q. Go back to the question again: that passage I read out to you, do you agree with it. 1
2

A. I agree they are used, but I also agree with the authors that they are not good tests. 3
4

Q. Do you recall the passage that I read to you. 5

A. I recall the passage and I say I agree with all they say that that is what is being done, but I also agree with them that they say these tests are not ideal tests. 6
7
8

Q. That's not what the author is saying in this paper. 9
They're not saying they're not good tests. 10

A. Please read, please read. Shall I read it? The left column of p.24. Shall I read it, the whole thing? 11
12
That's all they discuss. 13

Q. If you say p.24 is important, I am sure his Honour can read p.24 for himself, he has the article. You don't need to read it out. The next article I want to ask you about - 14
15
16
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MR BORICK: That is not at all satisfactory. That means your Honour has got to have a chance to read it, and since I don't have the article, I wouldn't mind it being on the transcript. 18
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HIS HONOUR: P.24, I will show it to you, Mr Borick. I presume it is the passage commencing 'In practice' at the top of p.24. 22
23
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A. May I read just one sentence from there, your Honour, just one sentence? 25
26

HIS HONOUR 27

Q. You tell me the sentence. 28

A. The sentence is 'However'. 29

Q. 'However, with only amplified sequence available, the biological role or even existence of these inferred microorganisms remains unclear'. 30
31
32

A. That tells you. 33

HIS HONOUR: Would you like to have a look at the transcript? 34
35

MR BORICK: I think if that gets on the transcript. 36

HIS HONOUR: Anyway, I will read the whole of that paragraph, I will make note of that whole paragraph. I 37
38

will read the article, but I will make note of that paragraph.

XXN

Q. The next one is an article entitled 'Koch's Postulates and the Etiology of AIDS: An Historical Perspective'. That is one you have been provided with already.

A. Yes.

EXHIBIT #P48 ARTICLE ENTITLED 'KOCH'S POSTULATES AND THE ETIOLOGY OF AIDS: AN HISTORICAL PERSPECTIVE' BY VICTORIA A. HARDEN, REPORTED IN HISTORICAL PHILOSOPHICAL LIFE SCIENCE, VOLUME 14, 1992, P.249 TENDERED BY MS MCDONALD. ADMITTED.

Q. You have had a chance to read that.

A. Yes.

Q. Do you agree, and this is my summary here, that this is a paper in which the author studies the development of the debate over HIV as a cause of AIDS from the time of Koch's postulates through to the present.

A. This is a history of the Koch's postulates, that they discuss the Koch's postulates in relation to HIV.

Q. The Abstract sets out the purpose of the article, doesn't it. It says 'This paper examines the debate over the human immunodeficiency virus (HIV) as the cause of acquired immunodeficiency syndrome (AIDS) from an historical perspective. The changing criteria for proving the link between putative pathological agents and the diseases are discussed, beginning with Robert Koch's research on anthrax in the late nineteenth century. Various versions of "Koch's postulates" are analysed in relation to the necessity and sufficiency arguments of logical reasoning' and it continues on there. Do you agree that is a summary of what this article is about.

A. Yes, that's what I said, it gives a history of it.

Q. Is there anything in this article that you disagree with.

A. I disagree with the claim that the Koch's postulates have been fulfilled by HIV. But let me say something

here. We have never argued, in no way in our writing we have used the Koch's postulates to argue against HIV and against HIV as the cause of AIDS. Somehow it appears, from the way I see the questions are put to us, or the commentaries of the HIV experts, it appears that either what we have been published now for so long in our papers and scientific journals and in our website, and we will be discussing it now for so long in this court, it appears they still do not know what we are all about and always somehow confuse our scientific views with those of other dissidents, or maybe it is - either they do not read what we are saying, or they do not understand what we are saying, because the dissidents are a very heterogenic group of people and all have been scientists, all have different ideas, but we still don't know which one right, and we haven't proven, no one of us have been proven right or wrong. But they are trying to argue against us using other dissidents' argument, which is - I cannot understand it. Don't they know what we are all about, or they have not read it? If they did not do it before this case, they should have read it since then. So why they are arguing against us using other people's or other dissidents' arguments is beyond me. And Professor McDonald's Koch's postulates are wrong. They are not Koch's postulates, either Koch's original, or modified, or any Koch's postulates, they are not Koch's postulates.

Q. If the witness could be shown P17 and perhaps given a highlighter pen. This exhibit is the list of publications that you have produced for the court, so a list of your publications. What I would like you to do for us is just mark in some way those publications in this list that are actually peer reviewed articles. They were not letters or bits of correspondence, but those publications in this list that are peer-reviewed articles.

A. I will do that, but I don't know why that is, because when you're publishing a scientific journal, I think the

scientists are the best peer reviewers. The scientists
 on the large, because they are the best peer reviewers.
 Everybody knows in science now there is big problem for
 peer reviewing, but once an article, or a letter for
 that matter, because yesterday you trying to tell me
 that Professor Fraser's findings are not valued because
 they were in a letter, doesn't make any difference. If
 they're no good, then somebody should have put a letter
 or a correspondence to the journal and say 'These
 findings are wrong'. Nobody has - they were published
 in 1986 and now 20 years later nobody can say that these
 findings are wrong. That is the role of scientists.
 When somebody publishes something and it is wrong, they
 have to write to the journal, no matter what it is, if
 it's letter or article, peer reviewed or not peer
 reviewed, and say that it is wrong. Sure, but if you
 want, I will tell you which is peer reviewed.

Q. Just mark them, there is no need to read them out. So
 peer reviewed articles I want you to mark.

WITNESS MARKS EXHIBIT P17

A. Your Honour, I made a mistake and start putting this.

HIS HONOUR

Q. What number is that one.

A. Number 2. I just put there a small thing.

Q. Yes, I understand. The others you have highlighted.

A. And 8.

Q. That's a mistake as well, is it.

A. Just start doing it and then I realised it was a letter.

Q. The ones that are fully highlighted are the ones that
 have been peer reviewed.

A. All the others are fully highlighted.

XXN

Q. Just whilst others are looking at that, I want to take
 you back to a group of studies -

HIS HONOUR: What do you want to do with it?

MS MCDONALD: I want to give it to Ms Richardson. It
 is tendered already.

HIS HONOUR: No, but it is not tendered in the

highlighted form. 1

MS MCDONALD: I tender it. 2

HIS HONOUR: You don't have to, it is only if you want 3
to use it later. 4

MS MCDONALD: I do want to use it later. 5

HIS HONOUR: So you tender it in its highlighted form? 6

MS MCDONALD: What I will do is I will replace it with 7
an exhibit. We have a clean copy here. 8

HIS HONOUR: I was only going to call it P17A, because 9
it was tendered a lot earlier. 10

MR BORICK: We would like to get the highlighted 11
parts. 12

HIS HONOUR: Ms Richardson I understand is doing a 13
copy at the moment. Ms McDonald, you tender it later 14
when you are ready it to tender, when everybody has had 15
an opportunity. Just don't forget. If you want to 16
tender it now, I will give it back to you. 17

MS MCDONALD: I think I had better tender it now, 18
because I will forget. 19

EXHIBIT #P17A DOCUMENT WITH HIGHLIGHTING OF THE ARTICLES 20
WHICH THE WITNESS SAYS ARE PEER REVIEWED TENDERED BY 21
MS MCDONALD. ADMITTED. 22
23

XXN 24

Q. Yesterday I was asking you some questions about some 25
studies that were annexed to the back of the statement 26
of Professor French. 27

A. Yes. 28

Q. Do you have it there. 29

A. Yes, I have. 30

Q. I am going to tender each of these articles, so we will 31
just go to them hopefully fairly briefly one by one. I 32
will just get you to indicate whether you have had a 33
chance to read them or not. The first is 'Mechanisms of 34
Hypergammaglobulinemia and Impaired Antigen-Specific 35
Humoral Immunity in Hiv-1 Infection'. 36

A. Yes. 37

Q. Have you had a chance to read that. 38

A. Yes. 1
Q. Is there any observation or comment on that article that 2
you would like to make to his Honour, again above and 3
beyond the evidence you have given. 4
A. The first thing I can say that in one haemoglobin is 5
antibody. So what this article says is that AIDS 6
patients when they are challenged with some extended 7
antigens, they are can make - sorry, AIDS patients make 8
high levels, have high levels of haemoglobins, but 9
somehow when they are challenged by an antigen, the B 10
cells do not make - they don't respond effectively as 11
normal cells. So that's all it says. But it is still 12
they have high levels of haemoglobins and these 13
haemoglobins overreact - which are antibodies, they 14
don't have a specific function, they are antibodies - 15
they overreact in the antibody tests. That's all I can 16
comment. So I don't see in fact why this paper was 17
given to us. 18

EXHIBIT #P49 ARTICLE ENTITLED 'MECHANISMS OF 19
HYPERGAMMAGLOBULINEMIA AND IMPAIRED ANTIGEN-SPECIFIC HUMORAL 20
IMMUNITY IN HIV-1 INFECTION' BY DE MILITO AND OTHERS, 21
PUBLISHED ON 15/3/2004, VOLUME 103 NO.6, PUBLICATION BLOOD, 22
TENDERED BY MS MCDONALD. ADMITTED. 23

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Q. The next one is 'Persistent immune activation in HIV-1 infection is associated with progression to AIDS'. 1
2

A. Yes. 3

Q. By Hazenberg and others. 4

A. Yes. 5

Q. Have you had a chance to read that. 6

A. Yes. 7

Q. I invite you, if there's any comment or observation you want to make about that article. 8
9

A. Yes, I have a lot of comments there and I have to disagree with Professor Michael French. Our interpretation is not the same as this study. He says 'AIDS is caused by factors other than HIV'. I am not arguing with that. That is what this article says and this is the commentary to this article by well-known HIV experts say. Let me read you just one sentence of the commentary - 10
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Q. Where are you reading from. 18

A. From 'Explaining, predicting'. 19

Q. Are you looking at the document that has been put in front of you or something else. 20
21

A. It is a document, a commentary to the paper. 22

HIS HONOUR 23

Q. Who is the commentary by. 24

A. The commentary is by Keith Henry, Pablo Tebas and Clifford Lane. 25
26

XXN 27

Q. Is that a document that is already before the court. 28

A. No, I am giving it to you. You are giving them to me all the time. 29
30

HIS HONOUR: Ms McDonald, would you like to have a look at it? 31
32

MS MCDONALD: Just briefly. I think if it is going to be read from it should be tendered. 33
34

HIS HONOUR: Mr Borick, have you seen it? 35

MR BORICK: No, I haven't. Do you want me to tender it? 36
37

HIS HONOUR: No, it can be tendered - I think the 38

easiest thing might be, Ms McDonald, you are tendering
the first article so we will do that first.

EXHIBIT #P50 DOCUMENT TITLED 'PERSISTENT IMMUNE ACTIVATION
HIV-1 INFECTION IS ASSOCIATED WITH PROGRESSION TO AIDS', BY
HAZENBERG AND OTHERS, VOL.17 NO.13 TENDERED BY MS MCDONALD.
ADMITTED.

HIS HONOUR: Do you mind if we give this other
document an exhibit number?

MS MCDONALD: No.

EXHIBIT #P51 DOCUMENT TITLED 'EXPLAINING PREDICTING AND
TREATING HIV ASSOCIATED CD4 CELL LOSS' BY W. KEITH HENRY MD
AND OTHERS PUBLISHED IN JAHA 27/09/2006 VOL.296912 TENDERED
BY MS MCDONALD. ADMITTED.

MR BORICK: My understanding is the commentary that
the witness is about to make relates to the paper put in
by Rodriguez; is that right?

HIS HONOUR: She was about to comment on the paper
that was shown to her which was the Hazenberg paper.

A. I'm going to comment on the paper by Rodriguez.

HIS HONOUR: The paper that you have shown to her is
different to the paper she was going to comment on.

HIS HONOUR

Q. Which paper are you looking at.

A. Rodriguez.

Q. I think the paper you were asked to look at is the
Hazenberg paper.

A. Sorry, I thought we were looking at Rodriguez.

MR BORICK: She would be wanting to comment on both,
so can we start with Rodriguez?

HIS HONOUR: Where are we?

MS MCDONALD: The witness has already been
cross-examined on the Rodriguez paper.

A. I have been asked to comment.

HIS HONOUR: What I will do is, at this stage I will
withdraw the Exhibit P51, give it back to the witness
and I will ask her to deal with the Hazenberg paper

first. When we get to the Rodriguez paper, because it is in this bundle, then the document to which I am now looking at, which is now P51, but will become something else, she can refer to it at that point. All right?

MR BORICK: I am getting a look from the witness -

A. Please, I have been asked here to comment -

HIS HONOUR

Q. You were being asked to comment on papers that are being put to you.

A. I am being asked to comment on Professor Martyn French.

Q. You are being asked to comment on papers to which Professor French has referred. Have you got the Hazenberg paper?

A. I have three papers now and I have already commented on that.

Q. Have you got the Hazenberg paper: 'Assist in immuno activation'.

A. Yes, I do.

Q. You are being asked is there anything you want to comment on in relation to the Hazenberg paper.

MR BORICK: I'm not sure that is the question. I am totally confused. I thought it was asking her to comment on Martyn French's report.

HIS HONOUR: No. As I understand it, Mr Borick, there was a question earlier on and she referred to Martyn French's paper or report, which attached a series of articles -

MR BORICK: That was earlier on?

HIS HONOUR: Yes. Then Ms McDonald started to go to the very articles which are referred to and the first one was P49, which is the mechanisms for hypergamma - that is the De Milito paper. She was asked to comment on that. The next paper was the Hazenberg paper and she was asked to comment on that and that is when she produced the paper explaining predicting and treating HIV, to which she was about to refer. You have now pointed out that the paper to which she was about to refer was not a commentary upon the Hazenberg paper, so

I have reversed and said I will take P51 out and withdraw that for the moment and we are back to asking the witness to comment on the Hazenberg paper.

HIS HONOUR

Q. Is that clear.

A. Let's go back now to the Hazenberg paper. I don't care which order.

Q. We have to take it step by step because at some stage I have to try and decipher all this, so I have to know what document I'm looking at. We're now at the Hazenberg paper.

A. Yes. I am looking at the Hazenberg paper and I'm sorry I have to disagree with Professor Martyn French's interpretation of this paper. Now he says, let me read, on p.78, line 140, relates to immune activation, Hazenberg 2003: 'A study undertaken in Amsterdam demonstrated that immune activation before and after acquiring HIV infection increased the rate of developing AIDS. Immune activation before acquiring HIV infection probably results from the effects of other communicably infectious diseases or intravenous drug use'. That is not what that paper says let me read -

Q. What are you reading from now.

A. From the Hazenberg paper.

Q. Which page.

A. 'In conclusion', p.1887. 'In conclusion, our data shows that chronic immune activation and the size of the CD4 T cell pool are critical factors, critical factors in HIV-1 pathogenesis, even when measured before seroconversion'. In other words; decrease in CD4 T cells before 'HIV infection'. By seroconversion, I mean a positive antibody test. This paper says that decrease in T4 cells before a positive test, before infection with HIV, which we would say, together with immune activation, is a critical factor - a critical factor - in the development of AIDS. That means that the effect proceeds the cause. Decrease in T4 cells is a critical factor in the development of AIDS but this, somehow, is

not caused by HIV, it is caused by something else. If it is decreased before seroconversion, it means it is caused by something else and he says 'Not only it is decreased', he says 'It is a critical factor'. What this says and what Professor Martyn French says is totally different. There must be some other factors, not HIV, as he says, which causes the decrease. We must look for the other factors which are critical.

Q. The next article is titled 'Decline in the AIDS and death rate in the EuroSIDA -'

A. I have to comment on the prediction. Is this the other paper by Professor Martyn French. You asked me to comment on the other paper -

HIS HONOUR

Q. What are you looking at now.

A. Again Professor Martyn French. The first paper she gives is Rodriguez.

Q. We haven't got to that yet.

A. That's the first paper. We're still on Martyn French.

Q. Listen to the question and we will get to it in a minute. Listen to Ms McDonald's question and answer it. We will get to the Rodriguez paper shortly. Have you got the paper 'Decline in the AIDS and death rates in the EuroSIDA study: an observational study'. Do you have that paper.

A. Who is that by?

Q. That is a paper by Mocroft and others.

EXHIBIT #P51 PAPER TITLED 'DECLINE IN THE AIDS AND DEATH RATES IN THE EUROSIDA STUDY: AN OBSERVATIONAL STUDY' REPORTED IN THE LANCET VOL.362 05/07/2003 BY A. MOCROFT AND OTHERS TENDERED BY MS MCDONALD. ADMITTED.

XXN

Q. Have you had a chance to read this study.

A. Yes, I have.

Q. I will ask you the same question I have asked you about the previous two studies and that is: is there any comment or observation you want to make about this study

to his Honour, above and beyond the evidence you have
already given.

A. Yes, this study says - the authors claim that they have
shown that antiretrovirus decreases mortality. Let me
say again, clear, again it seems there is a confusion
between what we say - the experts - the HIV experts -
seem again to confuse or somehow do not know what we are
saying and what other dissidents are saying. Never in
our publication, if you go through them, is it saying
that antiretroviral should not be given to the patient.
There is not one paper that says 'Yes, antiretrovirus,
like any other drug, have toxic side effects', but if
the beneficial effects are bigger than the toxicity then
give them. It never says in that publication - please
don't laugh, that is the truth. In not one of our
publication that says the antiretrovirus should not be
given. All it says is that if the antiretrovirus has a
clinical effect, if they have a clinical effect, that
fact must be due by a mechanism other than them acting
as antiretrovirus. This is what the Rodriguez paper
shows. How we can act in ways other than the
antiretrovirus and all the explained evidence that at
least some of these drugs are antibacterial agents, so
most of the diseases in AIDS patients are caused by
bacteria, so they may kill the bacteria and the diseases
are not coming up. It is okay, use them. Professor
Weisz says that antiretrovirus should be used against
hepatitis B. So this antiretrovirus acts again, at
least in these viruses, so, yes, use them. If they have
a recognition that they have a beneficial effect, we
never said 'Don't use it'. We never argued against
treatment of AIDS patients with antiretrovirus. If they
have a clinical effect, do it - if - but it is not for
us, it is for the physician to determine that.

Q. The next one I want to ask you about is an article
entitled 'Loss of memory V cells impairs maintenance of
long term serological memory during HIV-1 infection'.

HIS HONOUR

Q. Do you have that article. That is by Titanji and others. That paper you're looking at, is that one you've seen.

A. Yes, I have seen it.

CONTINUED

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EXHIBIT #52 PAPER ENTITLED 'LOSS OF MEMORY B CELLS IMPAIRS
 MAINTENANCE OF SEROLOGICAL MEMORY DURING HIV INFECTION'
 PUBLISHED ON 1/9/2006 VOL.108 NO.5 OF THE PUBLICATION
 'BLOOD' TENDERED BY MS MCDONALD. ADMITTED.

A. I read it now or I read it before. I don't know, maybe
 I read it home.

Q. It doesn't matter. You have it in front of you at the
 moment.

A. Yes.

XXN

Q. I will ask you the same question I have asked before;
 having read this particular article, is there any
 comment or observation you want to make to his Honour
 above and beyond the evidence that you have already
 given.

A. No, I don't want to make any comment.

Q. Now the next article that was annexed to the statement
 of Dr French, which has already been tendered, it's
 actually P19, which we have.

HIS HONOUR: Is that the Rodriguez paper?

MS MCDONALD: Yes, the same paper. Given the witness
 indicated that she wants to say something more about it.

HIS HONOUR

Q. We are now dealing with the Rodriguez paper.

A. Yes.

Q. You wanted to refer to another paper, I gather, or
 another article.

A. The commentary.

Q. Yes, the commentary. What do you want to say about the
 Rodriguez paper, P19.

A. Again, I'm sorry, but I have to disagree with Professor
 French's interpretation of the paper. Maybe it would
 help if I read part of what he wrote. He says 'She
 therefore argues A, it is caused by factors other than
 HIV' line 38 p.76. 'The publication by Rodriguez
 demonstrates more comprehensively than any other
 previous publication what has been accepted for many

years by immunologists titled HIV disease, that is that the CD4 T cell depletion, that not just results for application of HIV in the CD4 T cells. There is now a large amount of evidence (some of it referred to in the paper by Rodriguez et al) supporting the view that CD4 T cell depletion results from immune activation triggered by HIV infection'. Triggered by HIV infection. That's not what the paper says.

Q. Yes.

A. Let me just quote their conclusion, which is front page 'Presenting HIV RNA level predicts the rate of CD4 cell decline only minimally in anticipation of other factors -' other factors, so he excludes HIV '- other factors as yet unidentified -'

Q. 'Undefined'.

A. Sorry, undefined, yes, '- likely drive the CD4 cell losses in HIV infection'. So nothing to do with HIV. There are other factors. No matter where and how, direct, indirect or lymph nodes or blood, anywhere, other factors. 'These findings have implication for treatment decision in HIV infection and for understanding the pathogenesis of progressive immune deficiencies'. So the Rodriguez interpretation is totally different to Professor Martyn French's interpretation. So is the commentary by, as I said, three well-known HIV experts. If we go to the commentary -

Q. I don't have that so you will have to give it to me. So you are referring now to a commentary -

A. To the Rodriguez paper.

EXHIBIT #P19A COMMENTARY TITLED 'EXPLAINING, PREDICTING AND TREATING HIV ASSOCIATED CD4 CELL LOSS' BY KEITH HENRY AND OTHERS, REPORTED IN JAMA 26/9/2006 VOL.296 NO.12 TENDERED BY MS MCDONALD. ADMITTED.

HIS HONOUR

Q. You want to refer to this paper, do you.

A. Yes. On p.1524 they say 'The findings presented by

Rodriguez et al provide support to those who favour
non-virological mechanism is the predominant cause of
CD4 loss'. Non-virological mechanism in CD4 loss. So
they both, the authors themselves, and the commentary by
HIV experts, disagree with Professor Martyn French's
interpretation. In fact, as Professor Martyn French
says, there have been, long before the Rodriguez paper,
evidence that the CD4 loss in AIDS patients is not
caused by HIV, and let me just go through a few of these
titles. The first one was published by Montagnier in
1986.

Q. I think you've referred to those earlier, haven't you.
You have already referred to those, have you not.

A. I don't think that, in my presentation. I don't know.
I may have. By now, I don't know what I said when I
did, but Montagnier had this lady who was HIV positive,
and had low T 4 cells, and the lady was practising
vaginal intercourse, anal intercourse and oral
intercourse, and then she stopped to have any sexual
contacts with her husband. Her husband was negative.
The woman was followed up. I forgot now after what
time, she became HIV negative and the CD4 returned to
normal. So, you know, she just lost HIV. Somehow, when
nobody can get rid of HIV, no matter what drugs they are
using, this woman, just by stopping having sexual
contact with her husband, she lost the virus, if all the
tests have been interpreted as the virus, and CD4s
became normal. The same thing, Professor Fraser in
1986, again in another paper he published, or maybe
letter, he found out that there are patients that are
HIV positive and HIV negative patients, who had low T 4
cells. After one year of follow-up both the HIV
positive and the HIV negative - in both, HIV negative
and HIV positive individuals - the CD4 cells and the
function of their cells improved, and this was related
to change in sexual practices. Here it is. May I read
this?

Q. I don't know what you're referring to.

A. Is a paper published by Professor Fraser in 1986. 1

Q. Is that another quote again. 2

A. Yes, this is another quote. 3

XXN 4

Q. Do you have the paper there. 5

A. I haven't got the paper here. 6

OBJECTION: MS MCDONALD OBJECTS. 7

MS MCDONALD: I'm opposed to the witness reading out 8
the quote. If she produces the paper, that is one 9
thing. 10

HIS HONOUR: Mr Borick, I think the paper needs to be 11
produced. If the witness wants to refer to it, then the 12
whole paper needs to be produced. 13

MR BORICK: Yes. I'm not sure which paper she is 14
referring to. 15

HIS HONOUR: Perhaps have a look at the document. 16

A. I think that's a quote from a paper. 17

MR BORICK 18

Q. Have we got the paper here. 19

A. We haven't got the paper here. It's the Medical Journal 20
of Australia, we can find. 21

XXN 22

Q. Is this the one that you were giving evidence about 23
previously which is, in fact, a letter not a paper. 24

A. I said I cannot remember, I said maybe a letter. 25

HIS HONOUR: Is that the same one as the earlier one? 26

MS MCDONALD: Yes, I didn't realise that. 27

HIS HONOUR: I think we have already got it. I asked 28
the question whether it was the same one or not. 29

MR BORICK: Perhaps if she could be shown both. 30

HIS HONOUR: I don't think I've got the full text. 31

MS MCDONALD: No, and if that is the correct 32
reference - 33

HIS HONOUR 34

Q. Looking at the document you now have in front of you, is 35
that the full text. 36

A. This one? 37

Q. Yes, the one that you're holding up. 38

A. It's not the same paper. 1

Q. Beg your pardon. 2

A. It's not the same paper. 3

Q. It's not the same paper. 4

A. No. 5

HIS HONOUR: We haven't had a morning adjournment. 6

We'll try to sort this out during the morning 7

adjournment. 8

MR BORICK: My friend has started asking the question 9

with 'Is that the letter', in other words it's not peer 10

reviewed. It's just not correct in the world of 11

science. Peer review is conducted anonymously. If I 12

publish a letter, you are then reviewed by all of your 13

peers. I just don't want my friends to keep saying that 14

without the challenge being made right now. 15

HIS HONOUR: All right. That's on record. The 16

problem arises - and I don't say this in any critical 17

way - when the witness pulls out a document which is a 18

copy of part of another document. We really need to go 19

back to the document she gets her extract from. All I 20

want to do over the adjournment is to try and locate the 21

extract and the original document from which that 22

extract comes. Perhaps that can be done. 23

MR BORICK: I understand that, but perhaps 24

sometimes - 25

HIS HONOUR: As I said, I'm not criticising, but you 26

know the rules of evidence as well as I do, and if that 27

can be just sorted out, we'll have a 10 minute break. 28

A. May I say something? Even if I turn up I won't be able 29

to find this. 30

HIS HONOUR 31

Q. You talk to Mr Borick and Mr Borick can talk to 32

Ms McDonald and I can be told after the break, rather 33

than trying to sort it out in court. 34

ADJOURNED 11.44 A.M. 35

RESUMING 12.01 P.M. 36

MS MCDONALD: I think the witness was in the middle of 37

her commentary. 38

+RE-EXAMINATION BY MR BORICK

Q. A short while ago you referred to an article dealing with Koch's Postulates. You have got it in front of you at the moment, I think.

A. Yes.

Q. That is Exhibit P48. You have got it there.

A. Yes, I have.

Q. You were asked to make a comment on the paper and you said that you disagreed with the conclusion reached by the authors that Koch's Postulates had been satisfied in the issue of HIV causing AIDS. Do you remember saying that.

A. Yes, I did that. I didn't say they conclude but they suggest.

Q. During the morning break, did you reread that paper.

A. Yes, I did.

Q. And did the authors come to that conclusion.

A. In fact, that's why, because as I said, last night I had so many papers to read. No, the authors did not come to that conclusion. The authors did not come to that conclusion.

Q. In fact, they came to the opposite conclusion; they said more research needs to be done.

A. Yes, they did not say that the Koch postulate - that HIV satisfied the Koch's Postulates.

Q. Late yesterday afternoon and again this morning, and at other stages, you have referred to the analogy between a paternity suit as to whether a particular man is the father of a particular child.

A. Yes.

Q. When you come to relate that to the issue of whether a particular individual has HIV, who is the father and who is the child.

A. If we can have that analogy, then the father will be HIV.

Q. That is the virus itself.

A. Yes, the virus itself. The father will - we are looking for HIV, the HIV genome in a patient.

Q. And in this instance the person on the other side of the analogy is Mr Parenzee. 1

A. That is it too, yes, Mr Parenzee. 2

Q. What we are looking at is a purified virus on the one hand matching a particular individual, in this case Mr Parenzee. 3

A. What we are looking is of an RNA or its CDNA obtained from a purified virus that is the whole genome, not bits and pieces, but the whole RNA from the virus or its complementary DNA being present in the patient or in this case Mr Parenzee. 4

HIS HONOUR 5

Q. As I understood your evidence, and please correct me if I am wrong, using the analogy of father and child, am I correct in understanding you to say that the problem here is, whoever the child might be, the father has never been identified. 6

A. The DNA of the father or the RNA. 7

Q. Has never been identified. 8

A. Has never been identified. 9

Q. As linking to the father. So whatever you link the child to, you cannot link it back to HIV because HIV has never been identified. 10

A. The HIV suspicion RNA has never been - 11

Q. Identified. 12

A. There is something which is called HIV RNA and you are looking to find that RNA or DNA in children but we don't know what that DNA or RNA is. 13

Q. Assuming for a moment that you had a sample, A, which is allegedly the HIV, and you linked anybody, whether it is Mr Parenzee or someone else to that sample, the problem is not the linking of a person to the sample, it is the fact that the sample has never been identified as HIV. 14

A. Exactly, and most probably since this sample, since this RNA, since these probes have been obtained from a material, at least in the case of Montagnier, which did not even have virus-like particles, much less a virus, it is a cellular, a cellular RNA. 15

REXN	1
Q. You were asked a number of questions about a study which	2
was referred to as the ACTG076 study. This relates to	3
the topic of mother to child transmission. Do you	4
remember being referred to that study.	5
A. Yes, I do.	6
Q. In 2001, a group of scientist, one of whom was you and	7
another was Dr Turner, produced an article headed	8
'Mother to child transmission of HIV and its prevention	9
with AZT and nevirapine'.	10
A. Yes.	11
Q. And in that article you deal specifically with the	12
importance of the ACTG076 study and did you then	13
describe, in the article, problems with that study.	14
A. Yes, we go into detail to analyse the study very	15
thoroughly.	16
Q. Looking at the document I put in front of you, is that	17
the article that you referred to.	18
A. That is the document. We analysed every aspect. Yes,	19
this is the study. This is our document and we -	20
Q. If you turn to p.71.	21
A. Yes.	22
Q. - that is where this particular discussion starts.	23
A. It is entitled 'Part IV'. It is entitled 'Evidence	24
claimed to prove AZT and nevirapine reduce MCT of HIV'.	25
Q. You dealt with it in this order. First of all, the	26
importance of that study. Then you dealt with the	27
patients and the methods used in the study.	28
A. Yes	29
Q. You dealt with the experimental design of the study.	30
A. Yes.	31
Q. You dealt with the HIV status of the infants in the	32
study.	33
A. Yes.	34
Q. And then you made your commentary on it; is that right.	35
A. Yes.	36
MR BORICK: I tender the whole of the book, in	37
particular the reference to pp.71-75 during the 076	38

study. I won't leave the whole of the book here. 1
Unfortunately, we have to arrange to get further copies 2
of the whole book. 3

MS MCDONALD: I object to the tender. 4

HIS HONOUR: What is the basis of the objection? 5

MS MCDONALD: It is two-fold. First, how is the rest 6
of the book relevant to anything? The second 7
fundamental problem at the moment is no-one has ever 8
shown any of us this book or any part of that. 9

HIS HONOUR: That is not a basis for objection. It 10
might be a basis for delaying the tender of it until you 11
have had an opportunity to consider it. 12

MS MCDONALD: That can be remedied. 13

HIS HONOUR: I think, Mr Borick, I need to be able to 14
give Ms McDonald some time to look at it. Do you say 15
that the whole of the book is relevant? 16

MR BORICK: Yes, because the first witness coming up 17
specifically relies upon the mother to child 18
transmission and there has been evidence given about it. 19
This study deals with the whole thing and I think it is 20
important that your Honour have it. The particular 21
reference to this 076 study is that I wasn't 22
anticipating that there is going to be cross-examination 23
about this and I wasn't aware of the fact that they had 24
already done all the work on the study until it was 25
raised with me. That is why it is late. I will 26
certainly give a copy to Ms McDonald for her to have a 27
look at it. 28

HIS HONOUR: I will mark the document for 29
identification A10. 30

EXHIBIT #A10 DOCUMENT ENTITLED 'MOTHER TO CHILD TRANSMISSION 31
OF HIV AND ITS PREVENTION WITH AZT AND NEVIRAPINE, A 32
CRITICAL ANALYSIS OF THE EVIDENCE' MARKED FOR 33
IDENTIFICATION. 34
35

HIS HONOUR: I will take the evidence de bene esse, 36
Ms McDonald, and then we can deal with the tender later. 37
38

REXN

Q. Briefly, if you can, what was your conclusion about the value of the 076 study.

A. Well, this 076 study, there is no proof that AZT - in fact, if you take our whole monograph, you will see there is no proof at all that there is mother to child transmission, and secondly, there is no proof that whatever that is, it is reduced by AZT.

Q. There have been a number of questions put to you which have been prefaced by some comment to the effect it is the Perth group or you are against the rest of the scientific world. Is the Perth group the only group which questions the existence of HIV.

A. Is the Perth group the only group?

HIS HONOUR

Q. The question can be answered 'Yes' or 'No'.

A. No, the Perth group is the only group which published scientific papers questioning the existence or questioning the evidence for the existence of HIV. However, there are many other scientists around the world who support our view. They include in Europe Professor Etienne de Harven, who is professor of pathology and a specialist, an electromicroscopist of electro-viruses. In Germany Etienne de Harven is from France. In Germany is a pathologist called Dr Stefan Lanka. In America we have several people who are on our side, including two people who used to work in the HIV field. One is Rodney Richards, a doctor in biology I think his degree is, and now he is fully supportive. He uses exactly our arguments against HIV. Then there is a professor at the University of Texas called Rebecca Culshaw. She is an assistant professor at the university and she, in fact, worked for 10 years in HIV research doing mathematical modelling. She got her PhD in doing HIV research and now she is questioning HIV again using our arguments stronger even than us. In fact, she wrote a piece called 'Why I quit HIV'. In fact, in that document - it is a little bit late, so

maybe I will give it to you. 1

HIS HONOUR 2

Q. You need the whole document. 3

A. I have the whole document, yes. Can I give you the 4
whole document? 5

HIS HONOUR: Do you want to tender it, Mr Borick? 6

MR BORICK: Yes. We will probably get the same 7
objection but I will apply to tender the document. 8

MS MCDONALD: I'm not sure where this is going, whether 9
there are some other fundamental problems with this, 10
including hearsay. 11

HIS HONOUR: We are dealing with expert evidence, 12
Ms McDonald, and if the witness wants to refer to a 13
particular paper, the objection is valid insofar as you 14
haven't seen it. 15

MS MCDONALD: I have no idea what it is about. 16

HIS HONOUR: So I will mark it for identification, 17
take the evidence de bene esse but the fact that it is 18
hearsay is not a basis for objection. It depends how 19
you want to use the material. 20

MS MCDONALD: That's right. 21

EXHIBIT #A11 FIVE PAGE DOCUMENT ENTITLED 'WHY I QUIT HIV' 22
AND ATTACHED DOCUMENT ENTITLED 'WHY I QUIT HIV: THE 23
AFTERMATH' BY REBECCA V CULSHAW MARKED FOR IDENTIFICATION. 24
25

HIS HONOUR: I will accept the two documents and I 26
will mark them for identification subject to objection. 27

REXN 28

Q. Can you just briefly tell his Honour what passages you 29
want to refer to so his Honour can look at it. Then, if 30
necessary, perhaps read it allowed. There is one 31
specific passage I think that you can refer to. 32

A. I don't know exactly where they are there but I have 33
found an abstract. So I think the whole article will be 34
less important because I couldn't take everything in on 35
that. 36

HIS HONOUR: Subject to it being admitted, I will read 37
it. Mr Borick, you can take me to the passage in due 38

course. If the document is admitted, you can take me to the passage.

MR BORICK: Yes, with that particular article I can do that.

REXN

Q. Is there any other person you want to refer to other than Rebecca Culshaw.

A. There are many.

Q. They are examples.

A. They are the two examples of people who work in the HIV field and left it and who fully understand the field and they are now some of our strongest supporters. Yes, there are many others, and, of course, we have, you know, other dissidents again. In fact, we started with very few. Initially, it was in the 80s, you can say there were only three people or three groups, which was Peter Nusby, Robert Basteen and us but now there are so many sufficient to do a search, a global search, and they are everywhere.

CONTINUED

All, many people are - feel reluctant to come into the open because they are put under a lot of pressure -

HIS HONOUR: I don't think that is very helpful.

REXN

Q. You have answered the question now.

A. Sorry, your Honour.

Q. The final question I want to put to you is this: you have been informed that Sir Gustav Nossal is going to give evidence in this case, if he chooses to, as I understand it, and a two-page report has been provided, is that right; you've been told that.

A. Yes.

Q. You have read his report.

A. Yes, I read his report.

Q. Part of his report refers to the fact that most scientists in the world accept the HIV theory of AIDS.

A. Yes, that's true.

Q. Do you want to put a quote from Sir Gustav Nossal direct to his Honour on the issue of why the existence of HIV and HIV theory of AIDS have been accepted by most. Is that what you want to do.

A. That's what everybody ask: why, how it is possible that - you know, you are still in the minority, there are thousands now, and I mean thousands, if not ten thousand, of so-called dissidents, why, you know, everybody else accept it, HIV and the HIV theory of AIDS?

Q. What is your answer to that.

A. To be honest with you, your Honour, as you see, I have problems formulating my words and this was even more problematic. I did not know how to give an answer to this question, to formulate an answer to this question, but when I heard that Sir Gustav Nossal is involved into this case, I went back - that was in December we found out - I went back to home in fact, because I have his file in my home, and I look at my files - or the Gustav Nossal files, his papers. Because since about 25 years ago, I had - I corresponded to Sir Gustav and I had very

great respect for him, and I still continue to have it, 1
and since then I be collecting as much of his 2
publication as possible. So I went and look at his 3
publication and out of them I found out one of his 4
publication actually was a speech he gave and 5
automatically was published in World Hospitals in 1977, 6
and I found I could not put my - I could not formulate 7
my answer better than Sir Gustav did. And there he 8
says - first of all he says - 9

OBJECTION: MS MCDONALD OBJECTS. 10

MS MCDONALD: If the witness is purporting to quote a 11
witness in this trial and she says that comes from a 12
written document, that document should be produced. 13

HIS HONOUR 14

Q. Have you got the document. 15

A. No. 16

REXN 17

Q. But you have the exact quote. 18

A. I have the exact quote and I will present the document. 19

HIS HONOUR: I will take the answer de bene esse. 20

A. This document is in my office. I will have it today. 21

HIS HONOUR: Subject to that being produced. 22

HIS HONOUR 23

Q. Where does the document come from, what is the document. 24

A. It is a publication in World Hospitals 1977. 25

Q. 77. 26

A. '77, '77. 27

Q. 31 years ago. 28

A. Yes, but still is very valid. In fact, describes what 29
is going on. Now, here Sir Gustav there says that 30
medical care can be divided into three strata, or 31
something like that, and he said first we have medical 32
research, which is done usually in research institution 33
or universities. Then we have the commercial side, that 34
is whatever the researchers find, the commercial side, 35
that is companies make instruments, develop drugs and so 36
forth. And then he says is the hospital where the whole 37
thing is supplied. And this is - I quote that he says 38

'The large global medical research machine, dominated by the richer countries, produces its annual array of elaborate and new diagnostic technology and its panoply of experimental treatment modes. World communication is rapid and pressures soon build up for the availability of these innovations even in the poor countries. A hospital with an overworked staff with no time for research finds itself obliged to become enmeshed in fields where no staff member has real expertise, nor the time and perspective to come to a balanced assessment of the value of the new tool. Frequently, however, the treadmill continues to turn. Another specialist is added to the staff. He soon becomes overwork. The responsible government authority fumes about the rising bill, but no-one really makes the effort to ask how much the innovation has added to the patient wellbeing, and so on for the next year's innovation.' And then he continues 'The distinguished physician Lewis Thomas captured the point when he said "It is when physicians are bogged down by their incomplete technologies, by the innumerable things they are obliged to do in medicine when they lack a clear understanding of disease mechanisms, that the deficiencies of the health care system are most conspicuous".' So I think it describes exactly what happened with the HIV. We have Gallo, Montagnier, two prestigious institutions, claim to have isolated, to have discovered HIV. Then we had everybody else trying - if this was happening 30 years ago, today is even more, 20 years ago is more so - everybody tries straightaway to do - they took what Gallo said about HIV proteins, they took what Gallo and Montagnier said about HIV RNA and they decide to do HIV antibody test, HIV and that's how the whole thing started. Nobody is to be blamed; the system. In fact, sometimes I think Gallo and Montagnier cannot be blamed, because they were under pressure to find something, everyone wanted to find a cure. They come up and the problem there was that Gallo was reviewing - apropos of reviewing, which Ms McDonald

was so keen of, Gallo was reviewing Montagnier's papers 1
and Montagnier's was reviewing Gallo's papers. In fact, 2
we know that Gallo is even changing what Montagnier had. 3
And that is how the whole thing started. There was 4
nobody to analyse their findings. They had no time. 5
Nobody is to be blamed, is the whole system. Now, Sir 6
Gustav even suggests how we come out of this when you 7
are in this kind of mess and he says 'Especially, how 8
prepared are we to agree that not all the power of 9
choice should reside with the profession? The American 10
scientist and scientific policy advisor, Dr Alvin 11
Weinberg, has spoken of the "embeddedness" of values', 12
and he quotes, 'No universe of discourse can be 13
evaluated by criteria that are generated solely within 14
that universe. Means are established within a universe 15
of discourse. Ends - that is, values - must be 16
established from outside the universe'. So that is one 17
of the big advantage we have. We are outsiders. We 18
look at all the problem of HIV and AIDS as outsiders, 19
and I repeat that is our biggest advantage. 20

HIS HONOUR: If that particular publication or speech 21
can be got? 22

MR BORICK: Yes, that will be put to Mr Gustav when 23
he comes along. 24

NO FURTHER QUESTIONS 25

WITNESS RELEASED 26

+THE WITNESS WITHDREW 27

HIS HONOUR: Where do we go from here? 28

MS MCDONALD: I have spoken to Mr Borick about 29
logistics from here, because we of course have a video 30
link booked this afternoon at 2.15. It has been set in 31
stone. So I am content to start with Dr Turner now and 32
interpose this afternoon's witness, if that isn't too 33
confusing for your Honour. I know in the past it has 34
been an issue. 35

HIS HONOUR: I am happy for that course. 36

MR BORICK: Yes, I agree. 37
38

+WITNESS VALENDAR FRANCIS TURNER CONTINUING	1
+CROSS-EXAMINATION BY MS MCDONALD	2
HIS HONOUR REMINDS WITNESS HE IS STILL UNDER OATH	3
XXN	4
Q. I want to start off by just asking you some questions	5
about your qualification and expertise. We know from	6
your evidence before that you are a legally qualified	7
medical practitioner.	8
A. Yes.	9
Q. With an area of specialty.	10
A. Yes.	11
Q. And just remind us of what that is.	12
A. Emergency medicine.	13
Q. Do you work in that field at the moment.	14
A. Yes and no. I'm semi-retired, I work for the Health	15
Department of Western Australia as an advisor to	16
clinical matters which require my expertise in emergency	17
medicine.	18
Q. I will come back to your current position in a moment.	19
Do you have any formal qualifications in microbiology.	20
A. No.	21
Q. Virology.	22
A. No.	23
Q. Epidemiology.	24
A. No.	25
Q. Do I take it from that you also have not been subjected	26
to any form of examination or thesis review on those	27
topics.	28
A. Not at all.	29
Q. Have you conducted any studies or tests in relation to	30
HIV yourself, and by that I mean primary studies, not	31
just taking up the work of others.	32
A. I was involved in the collaboration that my colleague	33
discussed briefly during her cross-examination, where we	34
collaborated with Professor French. That is all.	35
Q. So you're talking about the occasion on which he gave	36
yourself and others some samples to use for some tests.	37
A. Yes, and he also gave us access to his medical staffer	38

and the records so that we could correlate the findings with clinical data.

Q. And that is the testing that never really got off the ground.

A. That's correct, unfortunately, yes. There were some findings, but they weren't much to speak of.

Q. So other than that, you have been involved in no form of HIV testing yourself.

A. No.

Q. Have you conducted a Western Blot or an ELISA test.

A. No, but I have conducted antibody tests in the past, but not those tests.

Q. Given your great interest in this area, is there any reason why you have never actually conducted a Western Blot and ELISA test.

A. I'm a clinician. Clinicians don't do tests; they order tests and interpret tests and relay the information to patients, but they don't do the tests.

Q. Your interest in this area, though, goes beyond just being a clinician, doesn't it. It is a personal interest that has taken up much of your time for many years, you have told us.

A. That is true.

Q. So given that one of the areas that is obviously of great significance to you that you have given evidence about is the usefulness of these two sorts of tests, is there any reason why you haven't attempted to use them yourself, see how they actually work.

A. Well, I don't think it is appropriate that I should do that. I mean, my role, my interest in this, in AIDS research, is to read papers, to think about the consequences, to interpret the data and that includes the tests. So, I mean, I have actually sighted tests through colleagues through the hospital, I haven't actually performed any tests.

Q. We see your name appear in some of the articles that appear on P1, that is the list of publications by Ms Papadopoulos. 1
2
3

A. Yes. 4

Q. Have you been involved in publishing any of your own work in any publications, other than the ones that appear on this list. 5
6
7

A. There should be a couple of articles written for which I am the principal author, or the only author, but I don't know what is on that list. 8
9
10

Q. Looking at P19 - 11

HIS HONOUR: I think it is P17. 12

A. I assume you mean my publication in relation to HIV AIDS, not interested in other publications? 13
14

XXN 15

Q. Yes, focussing on HIV AIDS. 16

A. I must have been in a humble frame of mind when I wrote this because there is three letters that I have written to journals, not full articles. Sorry, hold on - 17
18
19

Q. To make this clear, this was a document that was produced in court by the last witness, Ms Papadopoulos, as a list of her publications. I am not suggesting a list that is meant to include anything you had published. What I am asking is: we have a list of publications that Ms Papadopoulos was involved in; you were also involved in some of those. 20
21
22
23
24
25
26

A. Yes. 27

Q. What I am attempting to establish is: have you published, in relation to HIV and AIDS, any articles or letters other than those which we see you appear in on this document. 28
29
30
31

A. Yes, I have and I thought they were in my affidavit but I don't have my affidavit with me. 32
33

Q. Would you be able to provide for the court - and you can do this later in letter form - a list of any additional publications that you have been involved in in relation to HIV and AIDS and indicate for us the nature of what those publications are - whether that be a letter or 34
35
36
37
38

article or correspondence. 1

A. There are three letters, I can tell you that right now. 2
That is it. 3

Q. Off the top of your head, can you take us through those. 4

A. There is one written to Elizabeth Dax about the Western 5
blot test, which is mentioned in one of the slides that 6
I put up in evidence-in-chief. There is a letter about 7
the acute retrovirus syndrome in Emergency Medical 8
Australia. The other letter is also in Emergency 9
Medical Australia, which is about the diagnosis of HIV 10
AIDS in Papua New Guinea. 11

Q. Turning to ask you some questions about your current 12
position. You have just told us you are semiretired. 13

A. Yes. 14

Q. You also hold a part-time position. 15

A. Yes. 16

Q. What is that position. 17

A. I am a member of the Project Development Unit of the 18
Department of Health Western Australia. 19

Q. What does that unit do. 20

A. It is mainly responsible for the health call centre in 21
Western Australia, which is a telephone number you would 22
ring if you were sick and don't know what to do and 23
nurses, who are registered in Western Australia, advise 24
you what to do. I'm one of the clinical overseers of 25
that. It takes about 200,000 phone calls a year. It is 26
quite a big institution. 27

Q. When you say you're a 'clinical overseer', what is your 28
actual role, what do you do there. 29

A. I oversee the case histories that they take, quality 30
assure and get them and read them and decide if they are 31
okay and not okay and there are protocols for just about 32
any symptom you can think of when people ring up and 33
these have been written in the USA and modified locally 34
and I am responsible for modification and for keeping 35
them up-to-date and that's about it. 36

Q. You're responsible for modification and updating 37
protocols and you check the case histories that are 38

being taken down by the staff who answer the calls. 1

A. I check some of them. I can't check all of them. There 2
is about 600 phone calls a day, but I check a fair 3
proportion and we also have other projects that we do in 4
this unit. We're involved in outpatient reform, we're 5
involved in chronic disease management, using 6
telephones. 7

Q. Do you consult at all, any longer. 8

A. No. 9

Q. For how long has that been the case. 10

A. About three years, I think. 11

Q. In that three years, have you been working in the 12
position you have told us about or have there been other 13
positions. 14

A. I rang up the emergency department - I took up this new 15
job and then I gave up the emergency department. 16

Q. Have you ever been involved in the ongoing treatment of 17
someone who has been diagnosed as HIV positive. 18

A. Not ongoing. 19

Q. In any form of treatment of someone who's been diagnosed 20
as HIV-positive. 21

A. I have, on occasions, in the emergency department at 22
Royal Perth Hospital. 23

Q. For example, if someone presented who was HIV positive 24
and they had a particular illness or injury, is that the 25
sort of context you mean. 26

A. Yes, in fact I diagnosed an AIDS case very early on at 27
the beginning of the AIDS era at Royal Perth Hospital. 28

Q. What do you mean 'you diagnosed it'. 29

A. I suspected it might have been that and referred it 30
appropriately. 31

Q. Why did you suspect it might have been that. 32

A. Because the man had streptococcal meningitis. 33

Q. It was the actual disease that he had. 34

A. Yes. 35

Q. Why did you suspect that might be AIDS. 36

A. Because it is an AIDS indicated disease. As I said, I 37
don't know if this is relevant, I don't want to do a 38

Mrs Papadopoulos on you, I can assure you, but my
interest in AIDS began out of necessity. I was in
charge of a very large hospital and emergency department
at Royal Perth Hospital and, back in the 1980s when this
all started, it was something that we had to come to
grasp with, so that's how my interest sparked and, I
suppose, unfortunately, I developed an interest in it
which has become somewhat consuming - a scientific
interest.

Q. Going back to the patient that you referred to as being
someone that you diagnosed, the extent of your
involvement was you were suspicious about a particular
disease that he had and you referred that person on to
the appropriate experts.

A. Yes.

Q. No further contact with that patient after that.

A. No.

Q. You don't know what happened to that patient.

A. I don't, actually - in fact the patient was discharged
after a lumbar puncture everyone thought was okay, but
in the end showed that he had this condition and he was
brought back. That sometimes happens in hospitals, as
I'm sure you realise.

Q. You have given some evidence about having some
involvement in the issue of needle-stick injuries.

A. I don't recall - I have been involved with people who
have had needle-stick injuries, yes.

Q. Is that in the context of you being in the emergency
section and there have been, on occasions, people who
have stuck themselves with a needle.

A. Yes, including myself. I have been needle-stuck and my
colleagues have been needle-stuck and possibly in some
parts half of the health care workers have been
needle-stuck or come into contact with bodily
secretions.

Q. Did you have some tests to see if you were HIV-positive
when you were needle-stuck.

A. I was counselled by the immunology nurse and I didn't

have any tests. 1

Q. If someone came to you today and said 'I have just stuck 2
a needle into my finger and I think the blood was 3
HIV-positive, what do you suggest I should do. I want 4
to know if I am HIV-positive'. What advice would you 5
give them. 6

A. You're saying you're the patient? 7

Q. If someone came to you today and that's what they said 8
to you: 'I have just put a needle in my finger, I 9
believe that the blood comes from someone who was 10
diagnosed as being HIV-positive. I fear that I might be 11
HIV-positive, I would like to know.' What would you 12
suggest that person do. 13

A. Get tested. I would refer them. If it was the middle 14
of the night, which it could be, I would take their 15
blood and ring up the immunology registrar. If they 16
were high-risk, I would do everything that Professor 17
McDonald wouldn't do. 18

Q. You would advise them to get tested. 19

A. Yes. 20

Q. Using the Western blot and the ELISA. 21

A. Well, whatever the people who I refer them to do. 22
Whatever their algorithm is, I would put them in the 23
system. 24

Q. You are aware that when you refer someone on, the tests 25
to be conducted are the ELISA and Western blot. 26

A. The ELISA and Western blot. 27

Q. Those are the two tests. 28

A. Yes. 29

Q. You would be aware, in referring that person on, those 30
would be the two tests that would be undertaken 31
initially. 32

A. They may not get a Western blot, it depends on the 33
result of the ELISA test. 34

Q. Potentially, those are the two tests that would be 35
undertaken. 36

A. Those and many more tests. 37

Q. Given all of your concerns about how useful these tests 38

actually are, why would you give someone that advice,	1
with the knowledge that those are the tests that would	2
be undertaken.	3
A. As I said in my evidence-in-chief, I think, this has	4
been an ethical dilemma, as you could imagine, for me.	5
I have solved this problem by never putting the patient	6
in the middle of a scientific debate. I treat these	7
people as my immunological colleagues would treat them.	8
That is what I do. I don't tell them I'm an AIDS	9
dissident. I don't tell them anything at all about what	10
I publish - nothing.	11
Q. But you tell them to go and get tested, knowing those	12
tests would be the ELISA and the Western blot.	13
A. Yes.	14
MS MCDONALD APPLIES TO INTERPOSE WITNESS DAVID COOPER	15
LEAVE GRANTED	16
WITNESS STANDS DOWN	17
+THE WITNESS WITHDREW	18
ADJOURNED 12.58 P.M.	19
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