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— PRACTITIONERS IN LAW TO THE
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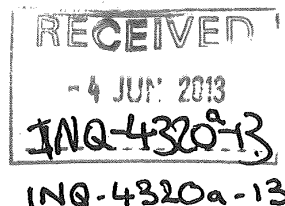
2 Franklin Street, Belfast, BT2 8DQ
DX 2842 NR Belfast 3

Your Ref:
BMCL-0053-13

Our Ref:
HYP W50/02

Date:
4th June 2013

Mr B McLoughlin
Assistant Solicitor to the Inquiry
Arthur House
41 Arthur Street
Belfast
BT1 4GB



Dear Mr McLoughlin,

RE: INQUIRY INTO HYPONATRAEMIA RELATED DEATHS - RAYCHEL FERGUSON PRELIMINARY

I refer to your letter dated 30th January 2013 and our subsequent replies of 25th April 2013 and 4th June 2013. Further to same, I would respond to your request for the following category of documents as follows (I have adopted your original numbering):

3: All files of the Trust, Westcare, and the Trust's solicitors in relation to the Clinical Negligence claims brought in relation to Lucy Crawford's death

I am instructed that the Western Trust holds the following files: -

- a) 549/73/2279 Clinical Negligence Claim – Lucy Crawford
- b) 549/73/2432 Clinical Negligence Claim - Andrea Crawford
- c) 549/73/2394 Clinical Negligence Claim - Neville Crawford
- d) 549/73/2400 Clinical Negligence Claim - Mae Crawford

Furthermore I confirm that we, as the Trust's solicitor, on behalf of the Western HSS Trust, we hold the following files: -

- e) MN/T59/7/41 Clinical Negligence Claim – Lucy Crawford
- f) MN/W/59/108 Clinical Negligence Claim – Andrea Crawford
- g) MN W59/88 Clinical Negligence Claim – Neville Crawford
- h) MN W59/98 Clinical Negligence Claim – Mae Crawford

In answer to your request for Discovery of the files held by the Trust in relation to the clinical negligence claims I would state:

Providing Support to Health and Social Care



1. The documents in file (a) above have already been disclosed to the Inquiry and are contained within the Inquiry papers at File 47. We are cross-referencing the documents contained within this file with those in Inquiry File 47. We are finalising this process and will provide you with an index for the original Trust file which will include the Inquiry reference of all documents which are listed on the index of File 47, for ease of reference. All documents contained within the original file held by the Trust, but not listed on the Index to File 47, will be highlighted in yellow. The Index will also identify which of those documents, highlighted in yellow; the Trust is asserting a claim of legal advice/legal professional privilege over. For the avoidance of doubt any claim made will be without prejudice to any pre-existing privilege claim in respect of those documents which are listed on the Index to File 47.
2. In relation to the remainder of the request, for files listed at b – d, we submit that these files are not relevant to the Terms of Reference of the Inquiry. These files contain documentation relating to personal injury claims brought by Lucy Crawford's family following Lucy's death.

If we are wrong in asserting this claim we believe the only documents in these files which are discoverable would be "open correspondence" exchanged between the parties. I am instructed that the Trust asserts a claim for privilege over the remainder of the documentation, as they contain letters of advice to and from the Trust to Counsel and again a claim legal advice/ professional privilege is asserted.

3. In relation to the file listed at (e) above I am instructed that the Trust will be asserting a claim of legal advice/professional privilege over the documents contained within that file. I shall revert to you on this matter in the near future.
4. In relation to your request for files (f)-(h) we request this claim on the same basis as (2) above.

4. All files of the Trust, Westcare, and the Trust's solicitors in relation to the inquest in relation to Lucy Crawford's death

The Western HSS Trust holds the following files: -

- a) 549/73/2279 Inquest file – Lucy Crawford

Furthermore I confirm that we, as the Trust's solicitor, hold the following files: -

- b) INQ/T59/9/02 – Lucy Crawford (Western Trust) Inquest file

- c) CNG/W59/01 – Lucy Crawford (deceased) – miscellaneous advices
- d) CNG/W59/2 – Lucy Crawford PSNI Investigation file

In relation the claim to have discovery of categories (a) – (d) I would state:

(a) I refer to the correspondence which was sent to your office on this matter earlier today.

(b) As above.

(c) In relation to the documents held in (c) and (d) aside from “open correspondence” or original statements (and additions added during the course of the inquest) (and these already appear at (a)). These documents are currently being considered in conjunction with Counsel and we shall forward an index setting out any claim in respect of privilege to be asserted by the Trust to you as soon as possible.

We do not seek to obstruct the inquiry but it is important to remember that inadvertent waiver can result in waiver over a wider class of documents than a party may have intended. See *Great Atlantic Insurance Co –v- Home Insurance Co* [1981] 1 WLR 529; *Dunlop Slazenger International Limited –v- Joe Bloggs Sports* [2003] All ER (D) 137.

Yours faithfully



Joanna Bolton
Solicitor Consultant