

Denise Dunn

From: GeorgeButt
Sent: Wednesday, August 02, 2006 12:02 PM
To: Robert Williams
Cc: Doris Murphy
Subject: FW: LAWSUIT AGAINST EASTERN HEALTH: Another lawsuit has been launched against Eastern Health over the work of its pathology lab. 07:50AM Item # 09



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Dr. Williams

Has there been discussion with HIROC as to whether these are viewed as multiple occurrences or as a single occurrence. The insurance impact is significant to say the least.

George

-----Original Message-----

From: Bonnell, Susan
Sent: August 1, 2006 11:42 AM
To: Executive Team Eastern Health May 2005; Pam Elliott; Heather Predham; Terry Gulliver
Subject: FW: LAWSUIT AGAINST EASTERN HEALTH: Another lawsuit has been launched against Eastern Health over the work of its pathology lab.
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Product Summary:

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Tuesday, August 01, 2006 07:50AM Item # 09 CBC Radio St. John's

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JEFF GILHOOLY: Another lawsuit has been launched against Eastern Health over the work of its pathology lab. Last spring CBC Radio reported that the family of a woman who died of cancer is continuing to pursue a lawsuit she initiated against the health authority. Now a St. John's lawyer has filed a class action suit against Eastern Health on behalf of a number of clients who claim the pathology lab failed them. Myrtle Lewis is one of the women named in this suit, she had been diagnosed with cancer and she joins me on the line from Conception Bay North. Good morning to you.

MYRTLE LEWIS: Good morning.

JEFF GILHOOLY: What were you told at the time of your diagnosis?

MYRTLE LEWIS: Well I was told that I had cancer in one breast and in the other one was a lump there but it was benign.

JEFF GILHOOLY: All right and what were your options for treatment at that time, what did they tell you?

MYRTLE LEWIS: Well when I went to my doctor, my surgeon she said, well she said you make up your mind she said what you're going to do she said but you'll have to have one of your breasts off anyhow right. So she said you make up your mind, then I'll tell you what I think when you come in so we talked about it, me and my husband, so I mean you look at you know here you are with five children right and six grandchildren and you wonder well if this is going to save my life well then I'll do it. So I made the decision that I was going to have two of my breasts off because down the road they said that in three to six months I would have to have the other one anyhow so I didn't want to go through the second thing all over again right.

JEFF GILHOOLY: Not a decision that anybody wants to face for sure.

MYRTLE LEWIS: No that's for sure.

JEFF GILHOOLY: What happened after you had the surgery then?

MYRTLE LEWIS: Well after I had the surgery they send me out for to get done for chemo right, check out for chemo so when I went in to talk to them my sister was with me and he said Myrtle, he said we took a tumour out that was 1.5 centimetres, he said and you have to do six months of chemo. And so he said if the tumour would have been under 1 centimetre you wouldn't have had to do chemo so I mean I didn't have a choice but do the chemo right.

JEFF GILHOOLY: So you went ahead with those treatments, did you have radiation as well? Just chemo.

MYRTLE LEWIS: No I didn't have radiation.

JEFF GILHOOLY: Okay.

MYRTLE LEWIS: He gave me six months of chemo.

JEFF GILHOOLY: And at what point did you find that none of this was necessary?

MYRTLE LEWIS: The fifth of July I was called back, that's seven years later and they sat down when we went in, I'll never forget it. I mean it's like a tonne of bricks hit me right when he said that, the oncologist said to me, Myrtle he said we got good news and bad news, he said what do you want to hear first. I said well give me the good news first. He said Myrtle, he said you're not going to die of breast cancer he said because you didn't have cancer you only had pre-cancer cells. That's what he told me and I mean if like I said it was a hard thing to swallow so and then he explained to me then you know that the pre-cancer cells and that and that I didn't have to do the chemo, I had 11 lymphoids taken out of my arm that I didn't have to have done.

JEFF GILHOOLY: Went through all that chemotherapy.

MYRTLE LEWIS: Yeah six months of it and believe you, me it was six months of pure hell. Because I mean I go to the hospital, I get the chemo, I come home. Before I get to the car I'd be throwing up. I'd get home, I'd be in the bed three days, couldn't get out of the bed and the time I'd get over that it was time to go back for it again. Because I had to do chemo in between right.

JEFF GILHOOLY: Myrtle I'm going to talk to your lawyer here in a second but just from your perspective, from both personally and from your family's perspective, what do you hope would happen as a result of the legal action that you're now involved in?

MYRTLE LEWIS: Well I hope this news story gets out so like there's so many, like I got eight sisters, I got two daughters, I got three daughter-in-laws right. I mean you know if this story is going to help somebody else I mean it's never going to help me, I mean there's nothing that will ever replace what I've lost. But if it's going to help somebody else, some other woman out there, I'd say to them make sure, make sure you get the second opinion before you have anything done.

JEFF GILHOOLY: Yeah okay, appreciate your time this morning. Thanks very much.

MYRTLE LEWIS: Thank you very much.

JEFF GILHOOLY: Bye now. That's Myrtle Lewis, she's suing Eastern Health for damages. Her Lawyer is Ches Crosbie, he is representing Myrtle and a number of others similar clients really and he joins us live in the studio. Good morning, thanks for coming in this morning.

CHES CROSBIE: Good morning Jeff.

JEFF GILHOOLY: What are your clients claiming here?

CHES CROSBIE: Well they feel as a whole that the system has served them poorly. As to what they might be claiming by way of financial compensation, that's something well down the road. I think the first thing to do is in a class action which is what this is, is to get yourself certified, recognized by the court as being able to aggregate individuals together in a group so as to increase the strength of what the individuals can do against a large defendant. And then to find out what went wrong and as far as we can figure right now there's a break down in the pathology department which has effected quite a number of women. First of all there's about 1,000 women which the press accounts tell us have had to have their breast cancer specimens retested at Mount Sinai in Toronto.

They found out by and large about this in the newspaper last October.

That

shouldn't have to happen so the suit would have a class of mental distress, people who suffered mental distress in some cases quite significant enough that they've been seeking psychiatric help over that.

Because it does erode your faith and something that we all want to have faith in when we're in a crisis and we feel we need it and maybe our lives depend on it, which is the quality of our health care system. So that's something that has to be looked at. The next class of people who may be in the...being classified as positive or rather negative for hormone receptivity, their hormone status and treated in a certain way, namely the chemotherapy. But in reality they shouldn't have had chemotherapy, they should have had something called Tamoxifen or another similar drug instead of chemo and avoided all the unpleasantness that we all are fairly aware of that goes along with chemotherapy. And then there's a third group like Myrtle who actually didn't have cancer at all and yet had mutilating surgery and chemotherapy for no good reason.

JEFF GILHOOLY: This is the first I've heard of a case like Myrtle's, okay.

We're familiar with the first two but let me ask you generally and you can expand on this if you want. The original concern was with the specific test called, if I've got it right, a hormone receptor test, that's a test to help determine what treatment a person with cancer should get. Does this suit now claiming additional problems with the pathology lab there.

It sounds much more far reaching, can you tell us how much more far reaching this whole action now is?

CHES CROSBIE: Well far reaching I guess only in the sense that I assume, and I don't know the details because we're not privy to them yet, although I hope we will be. That in the process of doing the retesting that we've been reading about since last October for hormone receptor positive, negative status, pathology in Mount Sinai must have realized that some of these specimens weren't cancer at all. And they've probably taken their time, like it's now July, quite a bit later during the process of the testing to have it read and reread and make sure of what they're looking at before they got around to telling these people. One thing that Myrtle didn't mention is that she's been calling frequently knowing that she was in that group of people who are being retested and being told no we don't have your results back yet. And I'd say it took them this long to bite the bullet and it's to the credit of the authorities that they've actually fessed[sic] up and told people this.

JEFF GILHOOLY: In this case.

CHES CROSBIE: In this case yeah.

JEFF GILHOOLY: Other than that has Eastern Health responded to any statement of claim at this point?

CHES CROSBIE: No we issued one near the beginning of July and I think their lawyer has

been on vacation, one thing and another, it's the summer.
So that's not surprising but I'm sure they will eventually.

JEFF GILHOOLY: All right we appreciate your time. Thanks for coming in.
We'll stay in touch.

CHES CROSBIE: Thank you.

JEFF GILHOOLY: All right. Ches Crosbie, a lawyer in St. John's, he is representing a group
of women who are suing Eastern Health. They claim mistakes made by the health authority's
pathology lab have harmed them.

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