

January 6, 2010

TO: Members of the breast cancer testing class action
Verna Doucette v. Eastern Regional Health Integrated Authority

Hearing Date: February 2, 2010

The hearing to approve the proposed settlement of this class action is scheduled for February 2, 2010 at 10 am before Justice Thompson at the Court House, Duckworth Street, in St. John's.

Summary of the Settlement

This is a summary only. Full details of the settlement are on our website: www.chescrosbie.com

Eastern Health has agreed to pay \$17.5 million to compensate class members. It also agreed to a number of reforms to its practices, including an oversight committee and a public report from an authoritative investigator on the progress of implementation of the Cameron Report recommendations, to be delivered in 2012. The settlement was negotiated with the assistance of an advisory committee composed of class members with a diversity of backgrounds, experiences and injuries. While any settlement is invariably a compromise, and while no amount of money can ever truly compensate class members for what has been lost, it is hoped that this settlement will provide a measure of solace to class members, and an assurance that Eastern Health is sincere in its efforts to make amends. It is our view, and the view of the advisory committee, that this settlement is reasonable under the circumstances, is in the best interests of class members, and represents a genuine effort by the Eastern Health at reconciliation.

If the settlement is not approved by the court, then the litigation will continue. In our view, and the view of the advisory committee, such an outcome is not in the best interests of class members. The lawsuit could continue for years with an uncertain outcome. A number of class members are in declining health. One of the benefits of this settlement is to get compensation to class members in a timely manner.

The settlement money will be paid to "Class Members" defined as:

Patients, including their estates, who underwent ER (estrogen) and PR (progesterone) receptor tests in which their breast tissue samples were tested at the Defendant's hospital during the Class Period, but excludes all persons who opt out, or who are deemed to have opted out, of the class action. The "Class Period" is May 1, 1997 to August 8, 2005.

The settlement will be divided among Class Members according to the nature of their injuries and their medical histories. There are six compensation categories:

	Compensation Target
Category 1: Class Member whose test result changed from negative to positive, did not receive timely hormone therapy and suffered a breast cancer recurrence within 10 years of original diagnosis.	\$ 75,000.00
Category 2: Class Member whose test result changed from negative to positive, did not receive timely hormone therapy and had stage IV breast cancer at the time of initial testing.	\$ 15,000.00
Category 3: Class Member whose test results changed from negative to positive, did not receive timely hormone therapy and has not suffered a breast cancer recurrence.	\$ 15,000.00

Category 4: Class Member whose test results changed from positive to negative as set out in the settlement and who received hormone therapy. \$ 10,000.00

Category 5: Class Member who does not fit in Categories 1, 2, 3, or 4 and who suffered a psychological injury as defined in the settlement. \$ 5,000.00

Category 6: All other Class Members \$ 1,000.00

The compensation targets are projections based on how many Class Members are expected to come forward and qualify within each category. The compensation to each Class Member could be higher or lower than the target amounts if the number of approved claims differs from the projections. Payments will be made to Class Members who fit the above descriptions. If a Class Member has died, the payment will be made to her estate. There are no separate payments for family members of the Class Member. This class action concerns incorrect hormone receptor testing; it does not include claims for a misdiagnosis of breast cancer (ie. a change from DCIS to invasive cancer or vice versa). Patients who have such claims may pursue those claims by way of individual lawsuits.

If the settlement is approved, the court will appoint a claims administrator to distribute the compensation. Claim forms will be made available for Class Members to fill out and return to the administrator. Further notice will be given to Class Members after the settlement is approved by the court.

This is a summary only. The settlement will be governed by the [settlement documents](#) which can be viewed on our web site. If you do not have access to the internet and would like a copy of the settlement mailed to you, please contact our office.

Legal Fees

Our firm has a retainer agreement with the representative plaintiff, Ms. Doucette, providing for a contingency fee of 33.3%. This percentage fee has been ratified by 348 other Class Members who signed similar agreements. We will be asking the court to approve a class counsel fee based on this retainer agreement. We will reduce the fee by the amount we were paid for work done on the Cameron Inquiry which was \$491,812.50. This works out to a fee request of \$5,335,687.50, or 30.49% of the \$17.5 million settlement. We will also be requesting reimbursement of disbursements (out of pocket expenses) of approximately \$166,507.43 to be paid out of the settlement fund. The compensation targets above are net amounts, calculated after deduction of the requested class counsel fee and disbursements.

If You Support the Settlement

If you support the settlement, it is not necessary for you to do anything at this time. If the settlement is approved by the court, further notice will be given as to how and when you may file a claim.

If You Oppose the Settlement

If you oppose the settlement, we request that you send a signed letter to us, at least 3 days before the hearing, with your name and address, and the reasons for your objection. We will provide a copy of your letter to the court. Our mailing address is:

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