

BREAST CANCER TESTING CLASS ACTION

Attention: Breast Cancer Patients of Eastern Regional Integrated Health Authority,
Estates of Deceased Patients, and other affected persons

THE ACTION

An action was commenced in the Supreme Court of Newfoundland and Labrador on behalf of the following class:

(a) 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; and

(b) Persons who have a claim for loss of consortium and loss of guidance, care and companionship on account of a relationship with a person in paragraph (a).

The Class is restricted to residents of Newfoundland and Labrador.

The "Class Period" is defined as: May 1, 1997 to August 8, 2005, or such other dates as may be approved by the court.

By order dated May 28, 2007, Mr. Justice Thompson of the Supreme Court of Newfoundland and Labrador certified the action *Doucette v. Eastern Regional Integrated Health Authority* as a class action, and appointed Verna Doucette as representative plaintiff for the class. He subsequently appointed her legal counsel, the law firm of Ches Crosbie Barristers of St. John's, as class counsel.

This notice is given by order of Mr. Justice Thompson of the Supreme Court of Newfoundland and Labrador dated July 20th, 2007.

The action seeks damages for personal injury, mental distress and nervous shock, and alleges negligence, breach of contractual and fiduciary duties, and loss of guidance, care and companionship, loss of consortium, mental distress and nervous shock, and mental distress falling from breach of contract. The Defendant denies any wrongdoing. The Court has not yet made any findings on the merits of this case. The common issues to be resolved at the trial of this action are as follows: (a) did the defendant owe a duty, and if so, (b) did the defendant breach that duty, when and how? There may be additional individual issues which will need to be resolved in further, individualized proceedings, following a resolution of these common issues.

FEES AND DISBURSEMENTS

Counsel have entered into an agreement with the representative plaintiff with respect to legal fees and disbursements for the trial of the common issues. This agreement provides that counsel will not receive payment for their work unless and until the class action is successful or costs are recovered from the defendant. This agreement must be approved by the court.

Once the Court has determined the common issues, it may be necessary that each class member participate in individual proceedings to determine issues which are not common to the class in order to establish their own entitlement to damages. If a class member is successful in establishing damages on an individual basis, the class member will have to pay for legal services provided to them by their lawyers. This will include both the lawyer for the class and any lawyer retained to assist in establishing damages on an individual basis. These fees may be paid out of an individual's award of damages. If a class member is not successful in recovering damages individually, he or she could be liable to pay a portion of the defendant's expenses incurred with respect to such individual proceedings.

RESIDENTS OF NEWFOUNDLAND AND LABRADOR

Any person or estate in Newfoundland and Labrador who wishes to opt out of the class action as certified must do so by sending a written notice on or before September 17, 2007 to Ches Crosbie Barristers or to Marian Crowley at Eastern Health. Persons in Newfoundland and Labrador not opting out will be bound by the Court's judgment whether favourable or not. If you are a resident of Newfoundland and Labrador, and you wish to be part of this action, you do not need to do anything at this time.

CONTACT INFORMATION

For more information, or to opt out of this action, contact either of the following:

Ches Crosbie Barristers
169 Water Street, 4th Floor
St. John's, NL A1C 1B1
Tel: 709-579-4000
or 1-888-579-3262
Fax: 709-579-9671
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OR

Eastern Health
c/o Marian Crowley
Rm 1212 Southcott Hall
100 Forest Road, St. John's, NL
Tel: 709-777-8025
Fax: 709-777-8033
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