

Denise Dunn

**From:** Susan Bonnell  
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**To:** George Tilley; Oscar Howell; Heather Predham; 'Dan Boone'  
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## Poor controls over cancer tests, court told

**Lawyer makes bid for certification of class action suit**

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***CBC News***

More than 20 breast cancer patients and their relatives sat in Newfoundland Supreme Court in St. John's on Wednesday as arguments started on whether to certify a class action suit over faulty lab tests.

St. John's lawyer Ches Crosbie told the court that the Eastern Health regional authority did not properly run the lab that produced hundreds of inaccurate hormone receptor tests during an eight-year period.



*Ches Crosbie opened arguments Wednesday at Newfoundland Supreme Court to certify a class action suit.  
(CBC)*

Crosbie argued that Eastern Health did not have appropriate quality controls in place over its hormone receptor tests, which help determine the type of treatment that breast cancer patients receive.

Among other problems, Crosbie said, Eastern Health did not offer appropriate training for its laboratory staff and compounded problems by not informing patients immediately about false negatives.

The potential suit is seeking unspecified damages.

Crosbie told Supreme Court Justice Carl Thompson that the cases of about 100 women, many of whom he personally represents, ought to be heard at once through a class action suit rather than letting the cases proceed individually.

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The tests have sparked a judicial inquiry, which the Newfoundland and Labrador government announced Tuesday.

On Friday — after an affidavit filed with the court showed that the error rate for hormone receptor tests was 42 per cent, or several times higher than what had been acknowledged last year — Eastern Health apologized for confusion caused by withholding information.

Patricia Sweeney, one of the women who received inaccurate results, said she attended Wednesday's court session in memory of her friend, Michelle Hanlon, who died of cancer.

"When I heard about this testing and all the unanswered questions, I said, 'Michelle was 42 — she never got married, she never got to see her children grow up,' " Sweeney said.

"[The] first thing I said to myself was, 'Would Michelle be with us today?' And I think she would have been.... My heart is here for her today."

Sweeney said she personally has received good medical care in the last eight years, despite a faulty hormone receptor test.

### **'It just demoralized me'**

Minnie Hoyles, who is also among the group of patients, said she learned about her false negative after she had endured chemotherapy that involved the use of the wrong drugs.

"When I found out that I in actual fact was positive, instead of negative, it just demoralized me to the point that I thought that there's nothing else that can go wrong," said Hoyles.

She applauded the call for the judicial inquiry.

"We need that. My concern was, also, that somebody else wouldn't be affected.... I want to make sure that this [does not] happen again, more than anything."

### **Excluded from therapy**

An affidavit signed by an Eastern Health manager showed that of 763 patients who had tested negative in their hormone receptor tests, 317 turned out to have been given wrong results.

Those patients were excluded from receiving anti-hormonal therapies like the drug Tamoxifen, which has been linked to higher survival rates for breast cancer patients.

A separate affidavit showed that 36 women who had received inaccurate hormone receptor test results have died.

Crosbie declined to comment to reporters about the application. Three days have been set aside at Newfoundland Supreme Court in St. John's.