

Good news, bad news

For seven years, Myrtle Lewis of Conception Bay South believed she had cancer. Three weeks ago, her doctor told her she never had the disease — the test results were wrong. Lewis is glad to be alive, but devastated that her breasts were removed unnecessarily. She's one of the women behind a class-action suit filed in July against Eastern Health. 'Why should they get away with what's been done to me?'



Myrtle Lewis

Paul Daly/The Independent

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Within months of being diagnosed with cancer, Myrtle Lewis underwent surgery to have both of her breasts and 11 lymph nodes removed. Then came six months of chemotherapy — treatments she says stripped her of energy and deeply affected her immune system. She can no longer spend time in the sun, play sports, use conventional cleaning products or wear make-up.

In the seven years since her diagnosis, Lewis has tried to get on with life — it's

been a struggle, but she kept going, just glad to be alive. All that changed three weeks ago.

Lewis got a call from the hospital July 5. "Never in a million years" would she have guessed what she was about to hear.

Lewis had never had cancer. According to the oncologist, some pre-cancerous cells were present in her tests — but none of the treatments she went through may have been necessary. Not the radical surgery, not the harsh drug regime.

Now, sitting in the waiting room of Ches Crosbie's law office in downtown St. John's, eyes red-rimmed and hands clutching her purse, she looks like she's still in shock.

"I dealt with the cancer ... I thought, I'll

look at my scars and be glad I was alive to be with my children and my grandchildren and my family," Lewis says.

"But now, I don't know what to do, I can't work, my mind is always racing ... this took everything away from me, took all my dignity."

In October 2005, *The Independent* learned the Health Sciences Centre in St. John's had begun retesting tissue samples taken from breast cancer patients from as far back as 1997 to address possible inaccurate results.

Lewis' specimens were among the hundreds retested.

Now she has joined several other women who have signed on to take part in a class action lawsuit. The statement of claim filed

by Crosbie was served to the defendant, the Eastern Regional Integrated Health Authority July 7.

As of *The Independent's* press deadline, Crosbie had yet to receive a response.

The suit is being filed on behalf of women who had received inaccurate test results — which may have affected their diagnosis or treatment — and on behalf of breast cancer patients who have been on tenterhooks for months, wondering if their health problems were as they had been told.

The tests in question are referred to as ER (estrogen) and PR (progesterone) receptor tests. The procedures, given to men and women diagnosed with breast

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cancer, determine whether a particular tumour needs hormones, such as estrogen or progesterone, to grow.

A positive result shows it does, which means the cancer may respond to hormone therapy, such as the drug Tamoxifen — taken by mouth and generally carrying fewer side effects than chemotherapy.

If the ER and PR test results are negative, the patient may be given chemotherapy.

Some of the results were reassessed in St. John’s; others were sent to Mount Sinai Hospital in Ontario. The results have been trickling in over the past nine months. Patients are being contacted one by one.

“We’ve been looking at this for quite a while now, since the story first came out,” says Crosbie. “I wanted to make sure there was a case to take; I consulted with two experts and reviewed several files of clients who contacted us.

“I wanted to make sure we got this right and didn’t start making accusations without some basis.”

Overall, Crosbie says the main allegation is “inadequate quality control in the testing.”

He says there are three specific pools of claimants within the suit.

The first group — an estimated 1,000 people whose specimens were retested — would be looking for compensation for mental distress, whether or not the re-test results were the same as the originals.

“There’s a fairly convincing argument they (officials with the Eastern Regional Integrated Health Authority) mishandled the way they informed people about this. You shouldn’t have to find out about it in the newspaper,” Crosbie says. “They could improve their patient relations. I think.

“Some women have been to see psychiatrists, it’s been that distressing because it does impact your faith in the health-care system.”

The second group — which could be between 30 and 60 people — involves patients who originally tested negative for estrogen and progesterone receptor status, but emerged positive after the re-test.

“The difference is, if you’re negative they give you chemotherapy and if you’re not, they (could) give you Tamoxifen which, I gather, is a lot more pleasant.”

(In the case of one woman named on the statement of claim, Verna Doucette, the chemotherapy allegedly caused a flare-up of an old tuberculosis infection in her left lung. Removal of the lung has been considered. As discovered in the re-test, she could have been treated with Tamoxifen — and the lung problems perhaps avoided.)

The third group is made up of women like Lewis, who didn’t have cancer — but were treated for it. “One hope is that’s a very small group,” says Crosbie. “I don’t know how I’d react to that situation, it’s rather horrifying.”

Lewis can vouch for that. Although the surgery and chemotherapy altered her life — she could no longer play sports with her sisters and daughters, no longer had the same energy or confidence — she had been secure in her decision to proceed.

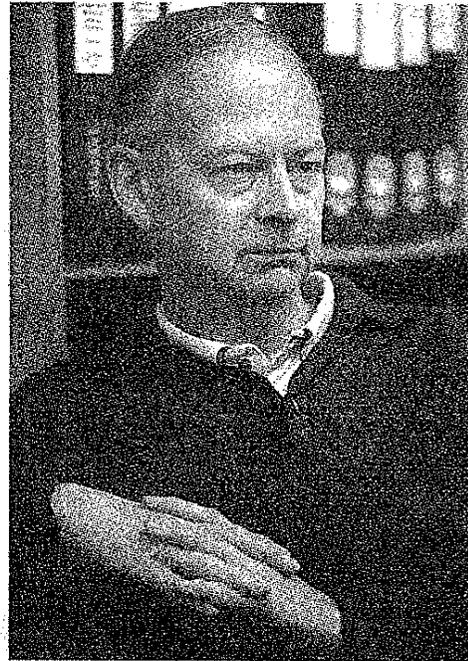
“I guess like any woman, with five children and six grandchildren and sisters and brothers, I said, well, if it’s going to save my life, I should go for it.

“I dealt with it good. I looked at it like, I’m alive and so many have died.”

Lewis says her follow-up visits to the doctor showed she was cancer-free — but she was never free from the fear. In her mind, every ache and pain was a recurrence of the disease that she never had.

When the news broke in *The Independent* about the retesting, Lewis started calling the hospital to see if she her file was affected.

“It was three weeks ago they called me (back),” she says. “I went in, and the oncologist said, ‘We’ve got good news and bad news, which would



Lawyer Ches Crosbie Paul Daly/*The Independent*

you like first?”
 ““The good news is you didn’t have cancer,” he said, just like that. “You had pre-cancerous cells. The bad news — you did six months of chemo, the 11 lymph nodes removed, it wasn’t necessary.”

The precancerous cells could likely have been removed via lumpectomy — not a double-mastectomy.

“I wouldn’t go and have my two breasts off for just pre-cancerous cells,” she says. “I mean that, it’s a part of your body. Now I take off my clothes and I don’t know if I’m a man or woman.”

Lewis, still bewildered, doesn’t know what to do or think. She currently works at a personal-care home, and has put in notice to leave at the end of September. “I can’t do it anymore, I go into work and my mind is racing the whole time. I work with senior citizens and I love them dearly, but ...”

She says she was told she’s not the only one who may have had unnecessary surgery.

Lewis is hoping for compensation (“why should they get away with what’s been done to me?”) — and she hopes her story may encourage other women to come forward.

Crosbie currently represents more than half a dozen women involved in the retesting.

“My clients feel there are many women out there who are upset and feel that they’d like to do something legally or they’d like to have a remedy or they’d like to know what happened,” Crosbie says, pointing out every affected person has the right to choose whether or not to be involved with the legal proceedings.

Crosbie has already filed the statement of claim. The next step, he says, is to be certified as a class-action suit — which is usually contested, and may take six months or more.

Should he be successful, Crosbie says he’ll then “do whatever has to be done” — examine charts, establish liability, go to trial, or reach a settlement.

“It’s not going to have a quick ending,” he says. “It’s going to take a couple of years. But that’s usual in litigation.”

The retesting at the root of the lawsuit is still underway.

Susan Bonnell, a spokeswoman for Eastern Health, says “almost all” individuals impacted have been contacted.

“We’re getting near the end, but we’re still doing data collection so we haven’t had an opportunity yet to consider our review process,” she says. “All that they’re able to tell me is each case is unique and every case is being dealt with individually. Some are taking longer to deal with than others.”

She is aware of Crosbie’s intention to launch a class-action suit, but says she’s unable to comment further. The lawyer for Eastern Health is on vacation until Aug. 7 and could not be reached for comment.

“I’m not sure they (Eastern Health) were expecting it (legal action),” Bonnell says. “It’s a big issue, a big case ... I don’t think there’s any real surprise, people always have the freedom to make that kind of decision.

“Our focus has been on addressing the issue and that’s where our heads have been and our focus has been. Not on anything else.”