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Eastern Health misses court deadline

Facing a possible class-action suit over mistakes made in breast cancer testing, Eastern Health failed to meet a Dec. 15 court-ordered deadline for filing affidavits.

The suit is in regards to hundreds of breast cancer samples, dating back as far as 1997, that were sent to Mount Sinai Hospital in Toronto for retesting. The results of the test — which examines hormone receptors in breast cancer cells for estrogen and progesterone — help physicians determine the course of the treatment the patient should undergo.

As a result of the retesting, 117 patients required treatment changes.

“They were supposed to file by Dec. 15 but they didn’t,” says St. John’s lawyer Ches Crosbie, who represents those taking part in the class action. “Instead, they asked for a meeting with the case management judge on Jan. 22 and I understand they will ask for a new deadline at that point ... so that’s five weeks later, and that’s just to get a new deadline.

“We can’t proceed toward the argument for certification until that’s done.”

Crosbie says it’s “not usual to ignore” court-imposed deadlines.

Meantime, Crosbie’s firm has been reviewing randomly selected charts of some of the women taking part in the action. “Four out of five we’ve looked at had reversals from negative to positive, and the one that wasn’t reversed wasn’t retested,” he says. The sample from Myrtle Lewis was not retested because the physicians in Toronto determined she had never had invasive ductal cancer, her original diagnosis. Indeed, as Lewis found out last summer, her double mastectomy may not have been necessary.

Currently, at least 45 women have signed on to be part of the class.

Daniel Boone, the lawyer representing Eastern Health, did not return *The Independent’s* phone calls by press deadline.

— Stephanie Porter

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