

## NEWS



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# Cardiac device suit gets local interest

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**STEVE BARTLETT**

A national class-action lawsuit against a maker of faulty defibrillators and pacemakers has drawn interest from people in this province.

But it's too early to tell exactly how many from Newfoundland and Labrador will qualify as part of the class if the suit against Guidant Corp. proceeds and compensation is awarded.

Brad Robitaille, a managing partner with Greg Monforton and Partners in Windsor, Ont., said his firm has received correspondence from "about a half-dozen" residents of this province.

But, he noted, that does not mean a person inquiring will be part of the suit nor does it indicate how many Newfoundlanders and Labradorians will be affected.

"What you think is there today (in terms of numbers) will be different when the matter is resolved," he said.

In a class action, there is a plaintiff who represents members of the class.

When the case is resolved, either by settlement or trial, the class is defined and the settlement money is shared among members.

If this suit is successful, Guidant will likely be asked to provide contact information for members of the class and the value of their damages would be determined.

The class action against the company started in the spring and summer of 2005, after it recalled several models of implantable defibrillators - devices that help the heart beat normally - and pacemakers.

It is alleged Guidant knew of the problems with the products years before, but failed to disclose the information.

As a result, at least one major national class action involving a number of lawyers in Quebec and Ontario was launched.

Robitaille estimates the suit could involve thousands of Canadians and expects that some Newfoundlanders contacted one of the other firms.

According to a release issued shortly after the class action's launch, the Canadian firms are seeking in the area of \$500 million in damages.

The action, Robitaille said, is also in the process of being split between defibrillator recipients and pacemaker recipients.

The Telegram was unable to establish if Guidant was facing other class actions or individual suits in Canada.

In the U.S., the company is reported to be fighting thousands of legal proceedings and numerous deaths from the defibrillators have been reported.

Joel Rochon, whose firm Rochon Genova is also involved, expects a certification hearing on the Canadian case will be held in December.

If the class action is certified, he figures it could take years before completion.

"It's a big undertaking," he said.

Rochon did not know the breakdown of Newfoundlanders and Labradorians, but he said a number of people from across Canada have contacted his firm and that the calls seem evenly distributed from province to province.

While it's unknown how many from this part of the country will end up part of the suit, Dr. Eric Stone stressed no patients are at risk and there is no cause for alarm.

Anyone who received a recalled device, the chief of cardiology at the Health Sciences Centre said, has received the necessary care. Calling it a 2005 issue, he explained some patients were given new implants, while others - where the risk of surgery was greater than keeping the unit - are being closely monitored.

"We've moved on and what goes on between the patients and the company is of no relevance to us in the sense that it is about money and not about risk," Stone said.

When he spoke to The Telegram late Thursday afternoon, Stone had local statistics for one type of recalled defibrillator and it accounted for less than two per cent of devices implanted here between 1999 and June 2005 - five of 473.

He offered to provide more information if was it needed. He said he didn't know the details of the lawsuit and noted that recalls are not uncommon.

"In some of these recalls," Stone said, "the risk to the patient was actually very, very small. As I said, in some of them, the risk of changing (the device) was greater than the risk of leaving it alone."

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