

Illegal tissue recipient files suit

By CP

WINDSOR -- A man who received illegally harvested bone and tissue during a routine back procedure three years ago has launched a class-action lawsuit against a U.S. company accused of stealing and selling body parts for transplants.

Clarence Renaud, 68, lead plaintiff in the \$210-million class action, recently learned from Health Canada that he got the unscreened material during an operation on his back at Hotel-Dieu Grace Hospital in Windsor in April 2003.

He fears that the material could be infectious, said Renaud's lawyer, Greg Monforton, who estimates the number of Canadian patients who received illegal tissue during surgical procedures could run into the thousands.

"He's most fearful and he's most unhappy," Monforton said.

Among the defendants is the defunct Biomedical Tissue Services of Fort Lee, N.J., which was ordered to cease operations last month by the U.S. Food and Drug Administration in the face of what the FDA called "serious and widespread deficiencies."

Two of the company's founders, former oral surgeon Michael Mastromarino and funeral home owner Joseph Nicelli, also are named as defendants.

Mastromarino and Nicelli have pleaded not guilty in the U.S. to charges of enterprise corruption, body stealing and opening graves, unlawful dissection, forgery and other counts.

The company allegedly faked consents, falsified medical records and stole body parts from corpses in funeral homes, then sold the tissue to legitimate suppliers who distributed it around the world, including in Canada.

The distributors of the tissue, Zimmer Dental Medical Inc., Biogenics Inc. and Medtronic of Canada Ltd., also have been named as defendants.

None of the allegations has been proven in court.

"It is simply unacceptable that Mr. Renaud and many other Canadians have been receiving tissue implants that were illegally acquired and potentially diseased," Monforton said.

The most recent information provided by Health Canada indicates about 300 separate tissue parts that originated with Biomedical Tissue Services made their way into Canada, he added.

The number of affected patients in Canada could be much higher, he said. "One bone sample can be used on more than one surgery."

Half the parts were used for dental surgeries before they were voluntarily recalled by the distributors last October. The rest were used in orthopedic and neurological procedures.

"These innocent people now endure the stress and anxiety of not knowing if they have been infected with various communicable diseases," Monforton said.

Nine other plaintiffs have joined the class action, but none has tested positive for any diseases.

"That's wonderful news, of course, but many of the diseases they're being test for have very long dormancy periods."

The suit also seeks damages from the defendants to help pay for an extended testing protocol. In letters to patients, Health Canada and hospital officials have said the infection risk is believed to be very low.

But the agencies also admit they have "no real idea as to the magnitude of the risk," Monforton said. "We don't yet know where all of these bodies came from."