

# Cancer patients sue Ottawa Hospital over wrong radiation dose

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[CBC News](#)

An eastern Ontario man whose skin cancer returned after he got the wrong dose of radiation during treatment is leading a \$30-million proposed class-action lawsuit against the Ottawa Hospital.

David John Watts of Chalk River, Ont., is the representative plaintiff in a claim filed Thursday in court, said Watts's lawyer Thomas Connolly in an interview Friday.

Connolly, of the Ottawa personal injury law firm Connolly Obagi LLP, is lead counsel in the case that names as defendants the Ottawa Hospital and five staff members responsible for the radiation machines.

Watts is one of more than 300 patients who may have received up to 17 per cent less than their prescribed dose of radiation between November 2004 and November 2007.

According to the hospital, the under-dosing was because of a math error that caused a radiation machine to be calibrated incorrectly. The problem affected 326 patients being treated for skin cancer, specifically basal and squamous cell carcinomas. Those types of skin cancers typically don't spread and the tumours are typically slow-growing. They usually can be successfully removed or treated with radiation.

However, Watts, who is in his early 50s, alleges that the radiation therapy he received in March 2006 was unsuccessful and the cancer returned, requiring invasive surgery.

He is seeking damages for the recurrence of his cancer and associated mental distress and anxiety.

The lawsuit alleges the hospital's mistake caused "numerous prolonged health problems and great distress" to all affected patients and their families.

**Patients learned of error 5 months after it was found**

Watts also alleges he first learned of the error through the hospital's public announcement in April 2008, even though it had been discovered by the hospital in November 2007.

"This five-month delay in telling patients that they didn't receive enough radiation isn't acceptable," Watts said in a statement. "People's health was at risk and the Ottawa Hospital didn't act fast enough."

The Ottawa Hospital has not yet responded to the claim and the allegations have not been proven in court.

Connolly said Friday he cannot reveal the number of patients who have joined up so far. However, that will be revealed when he applies to have the case certified as a class-action lawsuit.

The Ottawa Hospital reported in April 2008 that the calculation error was programmed into a radiation unit in November 2004, when it was disassembled, moved from the general campus to the civic campus of the Ottawa hospital and reassembled.

The mistake arose because the radiation is measured for a particular size of radiation beam, and calculated for the other beam sizes using a formula that contained an incorrect number.

The error was discovered in November 2007 by measuring the radiation at other beam sizes using a dosimeter.

The hospital said it immediately corrected the error and checked other radiation units. It also held an internal review to determine what effect the wrong dose may have had on patients. It said it waited so long to disclose the error because it took a while to find someone to conduct that review. According to the hospital, the normal acceptable variation in radiation dose is five to seven per cent.

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