

Latest Canadian Stroke Lawsuit Dismissed

CLASS-ACTION SUIT SOUGHT \$529 MILLION IN REPARATIONS, DAMAGES.

Editorial Staff

Justice R. Paul Belzil of the Alberta Court of Queen's Bench has denied certification of a \$529 million class-action suit filed in 2008 against Alberta chiropractor Dr. Gregory Stiles and the [Alberta College and Association of Chiropractors](#) (ACAC). Filed by Sandra and David Nette, the suit alleged that a 2007 adjustment by Stiles left her paralyzed. According to a Jan. 15 article in the *Edmonton Sun* reporting on Justice Belzil's ruling,¹ the suit specifically alleged that Dr. Stiles' "prescribed upper-neck adjustments ruptured Sandra's right and left vertebral arteries, which disrupted blood flow to her brain and caused a cascade of strokes, resulting in permanent neurological damage."

The suit claimed that both the chiropractor and ACAC knew that the adjustment was dangerous¹⁻² and requested \$500 million in reparations from all Alberta DCs for "inappropriate and non-beneficial adjustments" on behalf of injured patients since June 1998 and \$29 million in personal compensation for the Nettes. The Alberta College and Association of Chiropractors provided a press release to *Dynamic Chiropractic* on Jan. 21 (excerpted as follows) explaining the rationale behind and significance of Justice Belzil's decision:³

"Justice Belzil found the proposed class action ... to be unworkable on all aspects of the legal test for certification. The decision is significant not only for the ACAC and chiropractors in Alberta, but for all Canadian professional regulatory bodies and the professionals they regulate."

"Most importantly, Justice Belzil determined that it was 'plain and obvious' that the Nettes did not have a 'cause of action' against the ACAC, which means the Nettes had no valid legal basis for suing the ACAC. In coming to this determination, Justice Belzil confirmed that, under the Alberta Health Professions Act, the ACAC's responsibility in governing the chiropractic profession is to the public as a whole and not to any individual patient. He also noted the total absence of any dealings between the ACAC and the Nettes, which might otherwise have given rise to a duty to be mindful of their personal interests."

"Justice Belzil refused to recognize a cause of action in relation to the allegation that the practice of chiropractic is based on a flawed scientific foundation. Citing legal precedent including other cases involving chiropractic institutions (*Lewis v Emmanuele* and *Corvaro v Canadian Memorial Chiropractic College*) where the attempt to attack the scientific foundation of chiropractic was unsuccessful, Justice Belzil found that this allegation was 'nothing more than an attempt to resolve a scientific dispute in a court of law and would also amount to an attack on the legislative competence of the province in enacting the HPA.' This decision serves as additional strong support for the principle that courts are not the proper forum to settle scientific disputes."

"Justice Belzil also concluded that the Nettes failed to define a class of people who were similarly affected by any actions of the ACAC, calling their proposed definition 'too vague and thus unworkable.' In a similar vein he denied the existence of any issues that were common to all of the people the Nettes had hoped would fit within that definition, noting the inherent individuality of

chiropractic care including the different types and duration of treatment that may be provided, the varying techniques that can be used in providing those treatments, and the individualized information communicated to the patient."

While allegations of chiropractic-caused vertebral artery dissections and resultant strokes are unfortunately nothing new (see top story in this issue), concerned chiropractors may want to review recent findings from the U.S. Bone and Joint Decade 2000-2010 Task Force on Neck Pain and Its Associated Disorders. For more information, read "[Neck Pain Task Force Releases Findings](#)."

References

1. Zabjek A. "\$529 Million Lawsuit Against Alberta Chiropractors Thrown Out." *Edmonton Journal*, Jan. 15, 2010.
2. Blais T. "Judge Nixes Lawsuit." *Edmonton Sun*, Jan. 15, 2010.
3. "Alberta Court Denies Class Action Against the Alberta College and Association of Chiropractors. ACAC press release, authored and submitted to *DC Canada* by Dr. Clark R. Mills, ACAC president.

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