

The second lawsuit, for \$18.5 million, was launched by the Ontario Nurses' Association (ONA) on behalf of front-line nurses infected with SARS. It is alleged that officials failed to provide adequate and timely information alerting nurses about how to properly protect themselves.

The health ministry and the provincial operations centre failed to provide information on precautionary measures to nurses, although it had been given to physicians, says Shaun O'Brien, a lawyer with Cavalluzzo Hayes Shilton McIntyre & Cornish LLP, the Toronto law firm retained by the ONA. Had those measures been available, O'Brien says, they would have prevented some of the nurses from contracting SARS.

Janet Jardine, a lawyer with Booth Dennehy in Winnipeg, says the damages seem aimed at getting people's attention. "But I can't imagine they have a realistic expectation of recovering those kinds of numbers on behalf of these people," Jardine says.

"The Ontario government must be held accountable for failing to protect the lives of its citizens and registered nurses caring for patients on the front lines," ONA president Linda Haslam-Stroud says. Hailing the ruling, Haslam-Stroud adds that nurses "are the ones that hold this health care system together. If they fall, the system is in danger, as we saw during the SARS outbreak."

Jardine expects that the government will argue that workers, too, "should have taken [their] own steps, precautionary or otherwise, to protect themselves." She calls that "a contributory negligence factor that I'm sure the court will look at."

In summarizing the claim, the judge says occupational health and safety was influenced by issuing but "not fully communicating the contents of directives with which the nurses were required to comply and which were, in any event, inadequate to protect them."

The claim argues the government took on the role of supervisor after the SARS crisis began — it issued directives relating to equipment and clothes for nurses, and detailed precautionary measures required to carry out their duties. Judge Cullity left open the possibility that the provincial government could be found to be a supervisor and, if so, owed a private duty of care to the nurses.

But the judge rejected the argument that the government acted as an employer through the Ministry of Health and Long-term Care. "I see no basis for a finding that the Crown was an employer of the nurses. Public hospitals are corporations and are the employers of the nurses," he writes.

A third negligence action, begun by the family of Nelia Laroza, which claims \$12 million, was also given leave to proceed. Laroza, a nurse at North York General Hospital, contracted SARS in May of 2003 and died from related complications the next month. Her son, Kenneth, was also infected, but survived.

Lisa Miron, lawyer for the Laroza family, says Laroza's fundamental right to justice under the *Canadian Charter of Rights and Freedoms* was violated. The decision to prematurely lift precautions at the hospital had "foreseeable" consequences for nurses in Laroza's position, Miron argues.

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Weather systems to help ease worries on the road

By Trisha Richards

Commercial truck drivers in Newfoundland and Labrador will soon have fair warning of highway weather conditions before hitting the road and braving the elements.

The heads-up is thanks to a recently inked deal between the province and Ottawa that will see \$1.1 million invested, on a 50-50 basis, in the acquisition and installation of as many as 18 Intelligent Transportation Systems (ITS) along the national highway system in Newfoundland and Labrador.

"Sometimes our drivers have to travel in adverse weather, but if they know what's coming ahead of time, at least they can prepare themselves," says Steve Saunders, dispatch operations manager for Hunt's Transport Ltd., a trucking company based in Newfoundland. Anything that will make drivers' journeys less dangerous is a welcome initiative, Saunders says.

ITS is a broad range of diverse technologies used to make transportation systems safer, without necessarily having to physically alter existing infrastructure, says a backgrounder from Transport Canada. ITS includes road weather information systems (RWIS), automated weather reporting stations with special sensors embedded in and below the road and on nearby towers, which are designed to give early warning and to help maintenance crews treat roads with freeze-point depressant materials before wet roads freeze, snow arrives, or ice forms.

Over a five-year period, commercial trucks averaged 11 per cent of all vehicles involved in fatal collisions, says a Transport Canada report released in 2003.

ITS, predicts Graham Cooper, senior vice-president of the Canadian Trucking Alliance, could potentially bring down those numbers. "The common denominator in these kinds of safety-oriented systems is their early warning," Cooper says. Presumably, ITS would be helpful to a professional driver planning a route, he says.

Weather conditions in Newfoundland and Labrador will serve as a good test of how valuable RWIS can be, says Robin Browne, a senior communications advisor at Transport Canada. Provinces and territories "having the greatest challenge with temperature fluctuations that cause freeze-thaw conditions would be rated as having greater need for RWIS than those jurisdictions that experience freezing conditions more consistently throughout the winter season," Browne says.

Being more aware of the highway conditions may influence a trucker's decision to work, Saunders says. "Weather always plays a part in whatever we do, especially in Newfoundland. Any advanced notice we have of any weather conditions will certainly affect when a driver's going to want to leave to go across the island or further, or when he should be staying put," he says.

To date, says Browne, five other provinces have initiated RWIS installations under contribution agreements with Transport Canada: British Columbia, Alberta, Manitoba, Nova Scotia and New Brunswick. "These new technologies will increase economic productivity while enhancing road safety and travel efficiency," says federal transport minister Jean-C. Lapierre. OHS

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