

THE HAMILTON SPECTATOR

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\$10m payout for surgeries

Fertility doctor's procedures found to be obsolete, unnecessary

BY CARMELA FRAGOMENI

A Hamilton fertility doctor who resigned his post after performing more than 100 obsolete and unnecessary surgeries to prevent miscarriages, along with the hospital involved, have agreed to pay their patients \$10 million.

The money is from a settlement Dr. Salim Daya and Hamilton Health Sciences reached with as many as 189 women claimants in three class-action suits.

The settlement, subject to court approval on Nov. 27, gives each of the potential claimants \$35,000 each, plus \$2,000 to compensate family members.

Daya, who is still practising although not allowed to perform the surgery, and the hospital corporation do not admit any wrongdoing or liability.

Sandra La Rocca, one of the women, is still angry about her surgery in 2002.

"I'm not completely happy with the settlement, but I'm glad we don't have to go through it anymore."

La Rocca, a Hamilton resident, feels violated by her painful and unnecessary surgery and was forced to take three months off work to recover. She believes Daya is getting off lightly since he is still allowed to practice.

"I mean, \$35,000 for what he did to us. That's it?"

Daya performed an outdated surgery called Tompkins metroplasty to modify the shape of the women's uteruses to help them carry pregnancies to term instead of a standard, safer and less invasive procedure.

He resigned from McMaster University Medical Centre in February 2004 after a storm erupted over his continued use of the procedure.

Daya is now president of CAN-AM Cryoservices Corp. in Hamilton, a sperm bank for artificial insemination that requires donors to be tested.

Dr. Salim Daya was investigated by the College of Physicians and Surgeons of Ontario.

The College of Physicians and Surgeons of Ontario investigated Daya in early 2004, but did not make him face a disciplinary hearing after he promised not to perform the procedure and to undergo an assessment of his surgical skills before he resumes unsupervised surgery.

The 189 women eligible to receive a settlement must have had the surgery between January 1990 and March 31, 2004. Some have already opted out of the class action suit and are pursuing their own lawsuits.

Jeff Vallentyne, HHS associate vice-president of corporate and medical affairs, said yesterday, "My hope and the hospital's hope is this settlement, if and when it is finalized, might provide some sense of closure to everyone involved in this, particularly for the women involved."

The hospital's share of the settlement is less than 5 per cent.

David Thompson, the Hamilton lawyer for one of the lawsuits, said his clients are pleased with the settlement, although it is not ideal.

Daya could not be reached for comment.

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With files from Dan Nolan

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