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Maple Leaf pays \$27M to settle listeriosis suit

Compensation ranges from \$750 to \$30,000 for tainted meat victims

December 19, 2008

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When lawyers began filing class-action lawsuits against Maple Leaf Foods in August claiming thousands of people had suffered from eating listeria-tainted cold cuts, company president Michael McCain fired back.



LARS HAGBERG FOR THE TORONTO STAR
 Karen Clark and her brother, Tim, sit on their mother's bed in Madoc, Ont. Frances Clark died Aug. 25 after testing positive for listeriosis. (Dec. 18, 2008)

In internal email memos to staff, McCain dismissed class-action lawyers and painted some of the self-professed victims as opportunists making the "faintest, thinnest of claims of so-called emotional stress or illness (tummy ache stuff)."

That tone changed yesterday when Maple Leaf settled the class-action lawsuit with victims of the listeria outbreak, committing to pay between \$25 million and \$27 million in compensation. Under the agreement, victims of listeria-induced stomach aches stand to receive potentially thousands of dollars from the company.

"Our goal throughout this legal process has been to negotiate a fair and early settlement so that we can obtain court approvals and promptly compensate families who were affected," McCain said in a statement issued yesterday.

"This was a tragic experience and I want to acknowledge the co-operation of all the parties involved to ensure that people affected receive timely restitution."

The settlement still requires court approval in Ontario, Quebec and Saskatchewan. The Ontario approval hearing is to be heard early next year.

Ted Charney, a Toronto lawyer who represented some claimants, said the settlement

came quickly thanks to co-operation on both sides.

"We had the benefit of a very experienced group of lawyers for both the plaintiffs and for Maple Leaf and a corporate defendant who was prepared to be reasonable and make settlement its priority instead of protracted litigation."

Members of the class-action suit will receive widely varying compensation depending on the severity of their injuries.

At the low end, listeria-triggered illnesses lasting a day or two will be eligible for a \$750 payout. Those who suffered illnesses lasting two weeks to a month will be entitled to \$8,000 plus any loss of income and \$750 a day for hospitalization.

Payouts of \$120,000 will go to the estates of those whose symptoms when they died were consistent with listeriosis, plus funeral expenses, \$35,000 to their spouses, \$30,000 for each of their children and \$20,000 for their parents.

Tim Clark, whose mother, Frances, died Aug. 25 after testing positive for listeriosis, says the settlement is insulting to families who lost a loved one.

"I'm disappointed and insulted by the amount they put on a human life," he said from his home near Belleville, where he moved four years ago to look after his aging mother.

"I'm sure Mr. McCain has spent more than that on damage control with his ads on TV. I wish that he could have been there to watch the suffering and pain in Mother's face when she died or the anguish on the families' faces to watch this happen."

Dennis Schroh, whose 82-year-old mother, Elizabeth, died in August after testing positive for listeria, said he was pleased by the settlement, and that it will bring closure for him and his six siblings. Blood tests showed his mother, who lived in a nursing home in Macklin, Sask., contracted listeriosis in mid-July.

"We can get on with our lives," he said from his home in Swift Current. "I hope all nursing homes take care of the elderly and not serve deli meats. All the food should be cooked. Our health standards are not up to par. Maybe after this, our health standards will improve. That's what I want to see."

Health officials have officially attributed 20 deaths to the listeria outbreak. But a *Toronto Star*/CBC investigation recently raised questions about whether far more deaths were missed due to a failure to conduct blood tests.

Saskatchewan-based class-action lawyer Tony Merchant, whose firm represents about 3,500 of the 5,000 claimants, says there are 29 families claiming a loved one died as a result of the outbreak.

"The government says there are 20 dead. We think it's 29. And it may even be 30 or 31. So there's a significant undercounting of people who died from listeriosis," he said.

Maple Leaf spokesperson Linda Kuhn said the payout will be covered by the company's

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liability insurers.

The Maple Leaf meat recall, the largest in Canadian history, has raised serious questions about Canada's food safety system.

The *Star*/CBC investigation found government authorities were slow to warn Canadians about the risk as it began to emerge in August.

Unlike the early distant warnings that American health officials typically provide consumers, health officials here ordered detailed and lengthy tests to pinpoint the cause and the origins of the outbreak before going public.

That, say critics, allowed Canadians to unwittingly continue consuming potentially deadly meat for weeks.

Test results on Maple Leaf cold cuts collected from Toronto nursing homes and hospitals and obtained by the *Star* and the CBC showed levels of listeria that experts had not seen before.

Politicians and food safety officials at the federal and provincial levels initially dismissed any criticism, saying they acted as swiftly as scientific analysis would allow.

But there have also been recent acknowledgments of shortcomings in the handling of the crisis.

Dr. Brian Evans, the Canadian Food Inspection Agency vice-president and chief veterinary officer of Canada, recently told the *Star* that the federal food safety watchdog could have done a much better job of communicating with the public during the outbreak.

"I accept the criticism that there is a need for us to reflect and to do a much better job of informing (Canadians)," he said.