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THREE SMOKERS sue tobacco firms in class action

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Companies have known for years cigarettes harmful, suit alleges

BY BARRIE MCKENNA
The Globe and Mail

Three Ontario smokers afflicted with cancer or respiratory ailments have filed a class-action lawsuit against Canada's tobacco giants, alleging that the companies have known for years that cigarettes are both harmful and extremely addictive.

The three plaintiffs, who filed the \$1-million suit in the Ontario Court's General Division in Toronto yesterday, claim to represent a class of Canadian smokers who have suffered damages directly related to the conduct of the three defendants.

The suit names Imperial Tobacco Ltd., Rothmans Benson & Hedges Inc. and RJR-MacDonald Inc.

If the suit is accepted by the court, thousands of other smokers suffering from tobacco-related illnesses could choose to join it. The move would dramatically raise the total claim made against the companies.

"The whole purpose of this suit is not the monetary part. The purpose is to get the message out there to stop kids getting into this stuff," said Donald-Letourneau, 67, of Chatham, one of the plaintiffs, who has

emphysema and lung cancer. "I'd like kids to see pictures of my lungs and see what harm they are getting into."

The other plaintiffs are David Caputo, 26, of Brampton, who has cancer of the tongue, and Luna Roth, 55, of York Region, who suffers from "shortness of breath and smoker's cough," according to the suit.

All three claim to be addicted to cigarettes and are seeking "aggravated, punitive and exemplary damages" for their injuries.

A handful of personal-liability suits have been filed in Canada, but this is believed to be the first class-action suit.

At least one lawsuit has been launched in the United States. In November, a Florida judge allowed the first-ever class-action suit against U.S. tobacco companies on behalf of "all individuals living and dead who could not quit smoking because of their addiction to nicotine and have suffered from other diseases and illnesses allegedly caused by smoking."

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Smokers sue three big tobacco companies

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The Ontario lawsuit alleges that the three Canadian tobacco companies conspired to "deprive the public of information about the dangers of smoking and the addictive nature of nicotine, while trying to keep smokers consuming their products."

The companies "should have been aware of the addictive nature of the nicotine in the products," the lawsuit says.

The suit also alleges that the companies conspired to target children, teens and women in their advertising.

It claims that the companies conspired to "design cigarettes which maximize the nicotine and tar content received by the smoker" while keeping a nicotine-free cigarette off the market.

It adds that the defendants can precisely control the amount of nicotine contained in cigarettes "and do so."

Tobacco companies have repeatedly denied manipulating the amount of nicotine, widely believed to be the addictive ingredient in tobacco.

The conspiracy constitutes a "wanton and outrageous disregard for the health and well-being of the

plaintiffs and members of the class through the concerted effort to profit irrespective of the damage caused," the 33-page suit alleges.

The suit was filed under Ontario's three-year-old Class Proceedings Act.

David Mair, associate director of the Canadian Council on Smoking and Health, said the suit could be "a watershed" for the fight against smoking in Canada.

Dr. Mair said Canadian suits have been rare in the past because awards for class actions are significantly lower than in the United States, a situation that acts as a deterrent to those considering claims.

He credited fears of tobacco-related lawsuits in the United States for prompting U.S. fast-food chains, such as McDonald's Corp., to ban smoking in their restaurants.

Robert Parker, president of the Canadian Tobacco Manufacturers Council, said the tobacco companies were not aware of the Ontario suit. He refused to make any comment.

Officials of the three tobacco companies and their lawyers were unavailable for comment. Tobacco companies vehemently deny that smoking and various diseases are linked or that smoking is addictive.

The lawyer for the three Ontario smokers, Richard Sommers, also could not be reached for comment.

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