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# FULL DISCLOSURE

## April 2006

[Feature Article](#)
[Car Accidents](#)
[Class Action Article](#)
[Arrive Alive](#)
[Contact Us](#)

This month in  
Full Disclosure:

### Feature:

Hi-tech settlement nets  
\$575,000

### Car Accidents:

Klein Lyons wins \$316,000  
for accident victim defeating  
ICBC's \$25,000 offer

### Class Action:

Klein Lyons launches class  
action on menopause drug  
manufacturer

### Arrive Alive:

Are cell phone driving bans  
coming?

## FEATURE

### Hi-tech presentations win Klein Lyons trial lawyer bigger settlements for motor vehicle accident victims

Struck by a car? Living daily with pain and suffering? Trial lawyer **David Osborne** can help you get the financial compensation you deserve.

Like a CSI investigator, Osborne draws on an arsenal of hi-tech tools: PowerPoint, digital video, and other technological wizardry. He makes persuasive presentations to insurance companies and juries—leading to increased settlements for Klein Lyons motor vehicle accident clients.

In a fast-food parking lot, a pickup truck struck Arnold La Rocque as he was walking towards his car. At first, ICBC offered only \$1,000 to settle his case. Osborne, and co-counsel Michele Ma, armed with his tech tools, pushed the offer up to \$225,000 at a mediation. But, it wasn't enough to compensate for the pain LaRocque suffered. The case settled just before trial for \$575,000.

Hi-tech presentations take time, and not all lawyers go to the trouble, and not every case lends itself to a visual presentation. But like CSI investigators who collect evidence to prosecute the criminal, Osborne's techniques can also win—greater settlements. And, if successful at the mediation stage, an expensive trial is avoided.

"When the facts and the witnesses are strong, this method provides a perfect way of making sure the client's best interests are protected in settlement discussions or at trial," says Osborne.

To read about David Osborne's successful settlements, see Klein Lyons' newsletter [archive](#).

"Putting my cases in the best possible light ensures the very best settlement offer is made to my clients," —David Osborne

[Top](#)



## CAR ACCIDENTS

### Insurance company blames office politics not accident for victim's headaches —Klein Lyons wins \$316,000

Randy Castle, a government worker, sustained neck and back soft-tissue injuries when a vehicle making a left turn hit his car. The accident occurred in 1998, when 45-year-old Castle was driving southbound along Mariner Way in Coquitlam.

Castle could not work for four months and returned to his job for a three-year period. But, he faced constant headaches and suffered from vision problems. By 2003, Castle had to leave the workforce and was on full-time disability.

Initially, ICBC disputed the disability, claiming it was related to work stress and not the accident. Klein Lyons lawyers, **David Osborne** and **Daniel Gelb**, prepared the case for trial. ICBC had refused to offer more than \$25,000 to settle the claim. After a two week jury trial in May 2005, involving about 20 expert and lay witnesses, the jury sided with Castle and awarded him a total of \$316,000 plus his trial costs.

"I was very impressed by the legal strategies Klein Lyons lawyers designed for my case and the incredible level of detail they pursued on my behalf," says Castle. "At every turn they fought hard for me. They believed in my case and they did an excellent job at trial. I would not hesitate to refer my family and friends to Klein Lyons for their expert help."

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—Randy Castle

[Top](#)

## CLASS ACTION

### Women suffering from menopausal symptoms duped by drug manufacturers —Klein Lyons initiates civil action

Hormone Replacement Therapy (HRT) has been a widely prescribed treatment for millions of women suffering from menopause. But, Dianna Stanway claims she developed breast cancer as a result of taking the popular HRT medication Premarin, in combination with progestin.

Klein Lyons has commenced class action on Stanway's behalf and is asking the courts that the action be certified to include all women who have suffered injuries as a result of using Premarin or Premplus.

In Canada, Wyeth Canada produces and sells Premarin (estrogen) and Premplus (an HRT formulation of estrogen and progestin combined). The lawsuit alleges that Wyeth Canada, a partnership of two Canadian companies, manufactured, marketed and sold these drugs individually but also in a joint venture with other American companies within the Wyeth pharmaceutical conglomerate.

According to **IMS**, a pharmaceutical information gatherer, Premarin, the most popular form of estrogen HRT, was the top-selling drug in Canada in 1998. In that year, doctors wrote over 4.66 million prescriptions for Premarin.

HRT was considered an effective treatment with limited side effects. However, studies including the **Women's Health Study Initiative**, found that HRT has now been associated with serious health problems. **Health Canada** does not recommend combined estrogen and progestin for long-term use in post-menopausal women, except in limited circumstances where other therapeutic choices are found inadequate. Health Canada states:

The risks of breast cancer, blood clots, stroke, coronary heart disease and dementia (in women aged 65 and over) are considered to outweigh the benefits of fracture reduction and the reduced risk of colorectal cancer, when long term use of HRT is considered.

And the Canadian Cancer Society reached a similar conclusion:

Due to increased cancer risk, women should avoid combination HRT for any reason other than to relieve severe menopausal symptoms that have not responded to any other treatment.

If you or anyone close to you is suffering from medical problems associated with use of Premarin or Premplus, please contact **Shauna Tucker** at Klein Lyons.

Phone: 604-874-7171

Toll Free: 1-800-468-4466

Email: [stucker@kleinlyons.com](mailto:stucker@kleinlyons.com)

Or, fill out the Klein Lyons form, "**Do you Qualify?**"

[Top](#)

## **ARRIVE ALIVE**

### **Driving and Cell Phone Use**

When a car accident happens, a cell phone can be a life saver. But, using a cell phone while driving can do the opposite too—cause injury or death.

We all know that talking on a cell phone while driving is a bad idea, yet 24 percent of men and 10 percent of women phone and drive.

Studies show that talking on a cell phone while driving increases the risk of crashing by 38 percent. And hand-free cell phones don't let you off the risk hook, either. Cell phoning is riskier than eating, dealing with children, or switching CDs while driving.

Drivers using hand-free cell phones are 18 percent slower in braking.

### **The myth about hand-free cell phones**

Not only the physical use of a cell phone can cause distraction, but the thinking that goes on while having a phone conversation can put drivers at risk too. A 2004 study from the University of Utah found that drivers using hand-free cell phones are 18 percent slower in braking, and those drivers take longer to get back up to speed after braking.



## Cell phone driving bans are coming

In Newfoundland and Labrador, it is now illegal to use hand-held cell phones while driving. More than two-thirds of Canadians support cell phone driving bans. Drivers who cause an accident while using a cell phone could face dangerous driving charges under provincial or federal law.

In some US states, employers have policies to restrict employees from phoning and driving because accidents can be costly. After an employee using a cell phone while driving was found at fault, the American company Beers Skanska Inc. agreed to pay the motor vehicle accident victim \$5 million.

## Life saver or life taker

In emergencies, cell phones are valuable to drivers. They can be used to report accidents or dangerous driving. But, don't let this life-saving communication tool become harmful to yourself or others.

While driving, if you have to make or receive a cell phone call, follow these guidelines:

- Pull to the side of the road and stop, or
- Let a passenger deal with cell phone calls, or
- Let the passenger drive, or
- Use voice mail and call back when safe

For more information, visit [Transport Canada online](#).

Also see ICBC Transportation Safety Research report, "The impact of auditory tasks, as in hand-held cell phone use, on driving task performance."

[Top](#)