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This Month in

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Larry Kelly Battles And Wins 4.5 Times Greater Than ICBC's Initial Offer

Larry Kelly is a lot happier these days. And for good reason. After battling ICBC for several years, he finally got the compensation he deserves — and it's roughly 4.5 times greater than what ICBC had initially offered.

Kelly, a schoolteacher at the time, was injured on June 17, 1999, in Surrey, BC — struck from behind while making a left turn into a parking lot. His case, however, is a little bit out of the ordinary. You see, Kelly was not initially given an official diagnosis of a mild traumatic brain injury nor of post-traumatic stress disorder, according to Manjot Hallen of Klein Lyons. While ICBC was willing to provide Kelly with some compensation, Hallen felt that the case warranted a closer look and requested second opinions from both a neurologist and a psychiatrist. Hallen pursued the case through mediation, where these second opinions were instrumental in demonstrating that Kelly did indeed suffer from some symptoms of both ailments.



"To obtain an award of that magnitude, given a lack of clear diagnosis of mild traumatic brain injury or post traumatic stress syndrome, is quite remarkable," says Hallen of the outcome.

For Larry Kelly, it sure paid to get a second opinion.

Where There's Smoke...

In a manner of speaking, where there's smoke, there is also Klein Lyons. That's the case with regard to a landmark lawsuit led by senior lawyers David Klein, Doug Lennox and Nicola Hartigan. They have been engaged in recent and ongoing trial preparation for Kenneth Knight's class action lawsuit against Imperial Tobacco Canada Limited.

Specifically, the case is about holding Imperial Tobacco accountable for what the lawsuit alleges has been a long history of deceptive marketing practices that push so-called light and mild cigarettes.

"We allege they falsely advertised a deadly product for decades," Lennox explains of this vitally important lawsuit against the tobacco company.

This lawsuit was filed four years ago (May 2003) on behalf of Kenneth Knight

and other BC citizens, and has the support of Physicians for a Smoke-Free Canada, a national organization of healthcare professionals.

After the class action gained certification, Imperial Tobacco tried to have it dismissed. Fortunately, in May 2006, the BC Court of Appeal unanimously rejected this attempt by the tobacco giant. However, at the same time, the appeal court narrowed the scope of the lawsuit to only involve citizens who purchased light or mild cigarettes after May 8, 1997.



The case includes hundreds of thousands of consumers. If the suit is successful, money awarded in damages would be donated to charities that deal with smoking-related diseases, which is another unique feature of this non-traditional personal injury case. Rather than mainly being about damages for individuals, it seeks to have Imperial Tobacco held accountable for what Knight asserts are illegal profits raised through sales based upon false, misleading and dangerous marketing practices.

Among other things, the lawsuit contends that the terms light and mild imply that cigarettes branded that way are less harmful than other cigarettes and thereby deceptively dissuade people from quitting smoking.

Although the case is unique in Canada, it isn't a surprise the lawsuit was filed in BC. The province was one of the first jurisdictions to move toward a plan for a full ban on smoking in public places.

The suit is the first of its kind in Canada and one brought as a result of harm done to a class of British Columbians.

Used Cars And Parts: Not Just For The Wreckers Anymore

Recent warnings about the negative effects of fuel emissions and publicity about eco-friendly vehicles make us all want to buy (or at least consider buying) a new car. But what happens to our old cars? Here are just a few things that are being done with used cars and car parts.

Resell

Just because a car dies or is written off in an accident doesn't mean it's of no use. Many businesses buy and sell used car parts. If you're getting rid of an old vehicle, taking it to a parts dealer is a great way to ensure that the working components will go to a good home instead of a garbage dump. If you're looking to replace a worn part on an otherwise working vehicle, buying used gives you the opportunity to help the environment by minimizing the amount of energy and resources required to manufacture new parts. Plus, the older your vehicle gets, the more difficult it can be to find certain parts. Buying at a used auto parts lot allows you to find exactly what you need. And it will save you money too.



Reuse

Used tires are a huge burden on the environment. Scrap tires are difficult to bury in landfills because they are buoyant and tend to make their way back to the surface. When stored above ground, used tires can become a breeding ground for rats and insects. Fires at tire stockpiles can be particularly dangerous: they're hard to extinguish and the resulting fumes are harmful to both our health and the environment.

Fortunately, old tires can be put to good use. They can be ground down for use in playing fields, running tracks and rubberized asphalt, and made into automotive parts.

To dispose of your old tires, return them to an authorized tire dealer who warrants that the tires will be recycled.

Re-create

For some, recycling is an art. In Brazil, many auto repair shops advertise using sculptures made from old car parts. This online gallery displays some innovative car-part art ideas: www.lost.art.br/carparts2.htm (click the small thumbnail images to view the sculptures). California resident Steven Shaver www.stevenshaver.com has created novelty gifts for the likes of Nicholas Cage, Jay Leno, and Hugh Hefner. What exactly does Shaver make? His website gallery includes a table lamp made from a crankshaft, a desk clock made from Chevy engine parts, and a rather classy floor lamp made from a Volkswagen Bug's heater hose.



From buying and selling used to making things new again, you can find several ways to recycle your vehicle. You just have to think outside the metal box.

Recent Class Actions Filed On Behalf of Injured Canadians By Unsafe Products

AMO Contact Lens Solution

On May 30, 2007, Health Canada issued a recall of "Complete All-In-One Contact Lens Solution" sold by Advanced Medical Optics Inc. (AMO), due to contamination with a parasite that can cause serious and sometimes permanent eye problems. [More...](#)

Wego Tube Kite

A proposed class action has been filed on behalf of Canadians who purchased and/or used the Wego Tube Kite. To see the Statement of Claim, [click here](#). The product was recalled on July 13, 2006, following reports of 39 injuries and two deaths involving the product. To see the recall notice, [click here](#).

Sleeppees

A class action was filed on July 16, 2007, in the Supreme Court of British Columbia by Vancouver resident Leslie

Ellis against Vancouver-based Our World Inc. The lawsuit is on behalf of Canadians injured by the herbal sleep aid, Sleeppees. The product was recalled following a February 23, 2007, Health Canada advisory that Sleeppees contained an undeclared drug, estazolam. Estazolam can be highly addictive and can cause serious adverse reactions, including depression, loss of memory, allergic reactions and withdrawal symptoms. [More...](#)

For more information on class actions filed by Klein Lyons:

[Alberta Child Welfare](#)

[AMO Contact Lens Solution](#)

[Baycol](#)

[BC Ear Bank](#)

[BC Rail Pension Plan](#)

[Business Development Bank of Canada](#)

[Breast Cancer Testing](#)

[Crocus](#)

[Fosamax](#)

[H.R.T \(Hormone Replacement Therapy\)](#)

[Light Cigarettes](#)

[Sleeppees](#)

[Vioxx](#)

[Wego Tube Kite](#)

Arrive Alive — Back to Basics

Yes, you've been driving for years. But every once in a while, it doesn't hurt to review the rules of the road. Here's a short summary of some of the basics of safe driving.

Never underestimate the importance of using your turn signal

Other drivers aren't mind-readers. Signal to let them know when you plan to:

- turn left or right
- change lanes
- pull over to stop or park
- move to or from the side of the road

Approach uncontrolled intersections with caution

Uncontrolled intersections are intersections without traffic signs or traffic lights. When you approach an uncontrolled intersection, do the following:

- Slow down and look out for others using the road.

- Scan the intersection from left to right.
- Yield the right of way to any vehicle that has arrived before you. If two vehicles arrive at the same time, the vehicle on the left should yield to the one on the right.
- When turning left, yield to oncoming traffic that is in or near the intersection.
- If you approach the intersection and plan on going straight through, yield to a left-turning vehicle that's already in the intersection.

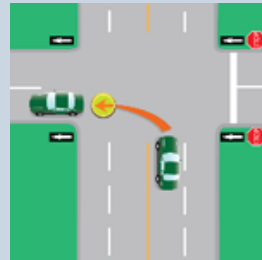
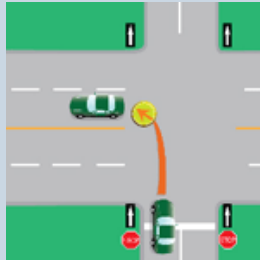
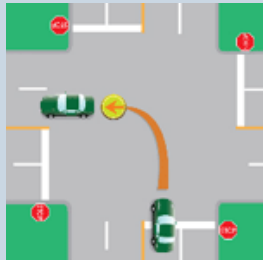
Use lanes correctly

When making a turn, get your vehicle into the correct lane before making the turn and get it into the correct lane after completing your turn. For example, when turning right, move your car into the right lane, then make your turn into the right lane of the cross street. (Note that at some intersections, road markings will indicate if it's okay to make a right turn from a centre lane).

Turning left is a bit trickier. Keep in mind that the key point — after driving in the correct direction, of course — is to move from the lane closest to where you want to turn into the lane closest to the starting point of your turn. Often this means that you will be making a left turn into the centre lane. Don't make a left turn into the right-side curb lane.

If you need to eventually move into the curb lane, signal your intent and change lanes when it's safe to do so.

Drive in the lane that gives you the best vision and allows you to go where you want to go. When driving on a multi-lane highway, leave the left lane clear for passing vehicles and drive in the right or centre lane.



To brush up on more of the basics, check out *RoadSense for Drivers* at www.icbc.com/licensing/lic_utility_resman_drivers.asp.

Download all our newsletters at www.kleinlyons.com/newsletter

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