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Settlement Provides Future Care for Abbotsford Man

It's not money that brings a smile to 35-year-old Tyrone Lario's face: it's the authentic Roberto Luongo jersey, purchased especially for Lario by Klein Lyons.

In 2000, Lario sustained a compression fracture in his spine when a vehicle driven by his father, who lives with Tyrone, left the road. Victims in similar accidents often receive compensation for lost wages in addition to money for medical expenses and pain and suffering. Lario, however, has a developmental disability and was not gainfully employed prior to the accident, although the hockey fan has been active in his local community of Abbotsford, where he volunteers as a goal judge for his hometown team, the Abbotsford Pilots.

With the help of David Osborne, the Klein Lyons lawyer who represented him in court last year, Lario received a substantial jury award. "We achieved a very good outcome for Ty in terms of looking after his future care," says Osborne. "This money will provide him with long-term security for additional medical expenses and compensation for pain, suffering and loss of enjoyment of everyday activities. It will also enable the Larios to make renovations to the part of the house in which Ty lives, in order to make it safer for him."

In addition, Osborne is seeking to have the Ministry of Employment and Income Assistance continue Lario's Persons With



Jack Goeson and Ty Lario, outside GM Place

Disability pension, a necessary step when the amount of money held in a nondiscretionary fund exceeds \$100,000. A nondiscretionary fund allows the person with the disability, in this case Ty Lario, to have some control over the trust through his legal guardian as to how the protected funds are to be spent on his needs.

But for Lario, perhaps the biggest thrill was watching the Vancouver Canucks defeat the Nashville Predators on March 6, 2008, compliments of Klein Lyons, who bought tickets to the game for Lario and his hockey mentor, Abbotsford Pilots GM Jack Goeson.

"I had a really great time at the game," says Lario. "And this jersey is the greatest thing."

Announcement

Doug Lennox, class action lawyer at Klein Lyons, will be speaking at the following events:

- Atlantic Provinces Trial Lawyers Association (APTLA) Med School: Excellence through Understanding, a conference in Halifax from July 4 to 5, 2008
- Canadian Institute's 9th Annual National Forum on Class Actions Litigation, Toronto, September 22 and 23, 2008. Doug will be giving a presentation entitled Navigating the Patchwork of Class Action Litigation: A Cross-Canada Update



ARRIVE ALIVE

Sharing the Road with Motorcycles



It's a sure sign of spring when we see more motorcycles hitting the road. With rising fuel prices, this trend is likely to increase as commuters look for more cost-effective ways of getting around.

Motorcycle riders are as vulnerable as cyclist and pedestrian road users because they don't have the same protection as a vehicle motorist. There are no external frame, seatbelts or bumpers to shield them, and sometimes they can be difficult to see.

Be Watchful

- Motorcycles are easy to miss in traffic. Learn to watch for the narrow profile of a motorcycle.
- Pay extra attention at night. You can easily misjudge distance due to a motorcycle's single headlight and tail light, which can blend into the lights of other vehicles.
- Check your blind spots when changing lanes. Motorcyclists riding beside a lane of cars are often out of the view of the driver.

Read the Body Language

- Sometimes a motorcycle's turn signals are hard to see. Watch the driver's movements; if the rider shoulder checks or the motorcycle leans, the rider is probably planning to change lanes or turn.
- Establish eye contact with the rider whenever possible.
- Don't assume that a rider positioned in the left part of the lane is planning to turn left. Motorcyclists often ride in the left part of the lane to make themselves more visible.

Give Them Space

- Motorcyclists have the right to the full use of the lane. Never share a lane with a motorcycle rider.
- Pass as you would pass a car, and don't pass too close or too fast. A sudden blast of air can blow a motorcycle out of control, or your vehicle may throw dirt or water in the rider's face.
- Allow at least a three-second following distance so that the motorcyclist has enough time to maneuver or stop in an emergency.
- At intersections, wait until the rider's intentions are absolutely clear (turning or going straight) before making your move.

Sauder's Corporate Governance Programs Receive Funding Boost

On March 3, Mr. David Klein joined faculty and students of the Sauder School of Business at the University of British Columbia for an event celebrating a recent donation of over \$230,000 in support of corporate governance programs at the School. The funds represent Sauder's share of a \$1 million settlement from a class action lawsuit against Boliden Limited, the operator of the Aznalcóllar / Los Frailes mine located approximately 45 kilometres west of Seville, Spain.

Boliden raised money in Canada through a public offering of shares, issuing a prospectus in June 1997. In April 1998, the tailings dam at Los Frailes failed, releasing approximately 1.3 million cubic metres of tailings and 5.5 million cubic metres of tailings water into the nearby river systems. The slurry wave covered several thousand hectares of farmland, threatening the Doñana National Park, a United Nations World Heritage Area.

"The dam failing," explained Klein, "affected the company's earnings and therefore the value of the shares. We learned that there had been reports of problems at the Spanish dam prior to the issuance of the prospectus in 1997, so the allegation in the claim is that the company, by failing to disclose those problems, had violated Canadian securities legislation and that the shareholders who purchased under the prospectus were entitled to compensation."

After 5 years of litigation, a resolution was reached whereby Boliden agreed to pay \$1 million in settlement of the claim. Due to the administrative expense of distributing the net settlement funds to individual class members, it was decided no direct compensation would be paid to class members; instead, the net settlement funds would be paid to charitable and non-profit organizations appropriate to the allegations in the lawsuits.

"This type of resolution," noted Klein, "is not unusual in class actions. It's referred to as *cy près* distribution and

it happens in class actions where either the individual class members are very difficult to identify or locate, or where the amount of money is such that distribution of the funds will use up most of the settlement, and so it's felt that it's more appropriate to distribute the funds to some other recipient in such a way that the class thereby receives an indirect benefit."

Sauder's share of the settlement, in the amount of \$233,155.88, will be dedicated to the continued development of "The Responsible Trustee," a program created to promote understanding of the capital markets as well as informed and responsible investment practices.

Delivered through the Bureau of Asset Management at the Sauder School of Business, "The Responsible Trustee" includes annual courses aiming to educate trustees of pension and benefit funds. These courses are currently at the introductory and intermediate levels, and the program plans to develop more advanced and specialized courses in the years to come.

"The Sauder School of Business is already a leader in the field of business ethics research, which is a cornerstone of our curriculum," said Dean Daniel Muzyka. "This new investment in our research and teaching will allow us to delve further into issues of individual and corporate integrity and responsibility, and to examine the governance mechanisms businesses must develop to promote ethical decision making."

"We're very pleased that we were able to make this provision to the Sauder School of Business," added Klein. "Sauder has a superb reputation across Canada and throughout North America, and we're delighted that we were able to establish this relationship with the School."

by Cristina Calboreanu
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From Left: Dean Daniel Muzyka, David Klein and Mark Lyons

Chiropractic and More A One-stop Care Environment

Dr. Raj Mann has been practising chiropractic in Vancouver for six years. During that time, he has treated many clients of Klein Lyons. *Full Disclosure* recently spoke with Dr. Mann about his practice.

Where do you work?

I practise in South Vancouver, at the Victoria Drive Medical Clinic.

Where did you get your training?

I got my undergraduate degree, a Bachelor of Science in kinesiology, at Simon Fraser University. Then I went on to get my Doctorate in Chiropractic at the Western States Chiropractic College in Oregon.

Why did you go to the U.S. to study?

The only school for chiropractic in Canada is in Toronto, so Oregon was actually closer for me.

What type of injuries and claims do you get?

My practice is made up of about 50 percent ICBC and WCB claims and about 50 percent sports injury, arthritis, foot/gait problems and the like.

What is the most common motor-vehicle injury you see?

The most common motor-vehicle injury I encounter is whiplash.

How do you treat whiplash?

When treating whiplash, I try to get back the range of motion in the patient's neck, and try to reduce pain and inflammation. Depending on the patient and the severity of the injury, I might not start immediately with

chiropractic manipulation. I often start off by taking steps to reduce pain and inflammation, such as heat, ice or ultrasound. It's hard to do manipulation if there's too much inflammation, so I have to take care of that first. Later on, I'll set up an active rehab program to strengthen muscles. This is where my kinesiology degree comes in handy. The active rehab program is ICBC-approved, as well.

What other types of treatment do you provide?

I often try to incorporate other methods of treatment, such as massage, electrical modalities and ultrasound. I try to offer my patients a one-stop environment.

When's the best time to seek treatment after a motor-vehicle accident?

Right after the accident is okay, although I might not do manipulation right away. It depends on how injured the person is. He or she may need an x-ray. Also, it's important to get the patient's history, to document everything, and to do the necessary diagnostics.

Should an injured person seek non-chiropractic advice as well?

I like to work in conjunction with medical doctors. I can't offer medicine or anti-inflammatories, but a medical doctor can. It's good to keep tabs on the other treatment a patient is getting, so I send reports to the patient's medical doctor as well.

Where can *Full Disclosure* readers go for more information on chiropractic?

I suggest your readers visit <http://www.bcchiro.com/> for more information.



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