



# Don't Drink & Drive.

The safety of our streets and highways is threatened every day by drunk drivers. Mothers Against Drunk Driving (MADD) reports that 4 Canadians are killed and 125 seriously injured each day by impaired drivers. \*

\* www.madd.ca

## Recent Class Action Victories

### CAPERS

Capers has agreed to compensate the 6,500 members of the public who were exposed to hepatitis A by consuming various contaminated products from their stores. Depending on the category of the claim, the settlement amounts range from \$250 in store credits (or \$150 cash) to store credits of \$750 (or \$450 cash) plus reimbursement for out-of-pocket expenses and income or wage loss. For more information visit our website at [www.kleinlyons.com](http://www.kleinlyons.com)

### AIR CANADA

This class action has been settled through the Air Canada insolvency process. Class members' interline travel benefits have been restored. As well, damages were awarded for the past loss of interline and ancillary benefits.

## Enter to win Earl's Gift Certificates!

Visit <http://www.kleinlyons.com/newsletter.html>, and register to receive email updates and our upcoming e-news. It is easy, fast and your name will be entered to win Earl's gift certificates.

## When You Need More Than a Promise

Suite 1100  
1333 West Broadway  
Vancouver, BC V6H 4C1  
Telephone 604-874-7171  
Fax 604-874-7180



# Full Disclosure

## Remarkable Results for Our Clients

### Head injury - ICBC offered \$50,000, settled at \$622,500

In late 1988 five-year old Darcy Cherot sustained a head injury when the car driven by his grandmother was struck in an intersection.

Darcy completed his elementary and junior high school education without apparent difficulty. However, in high school he showed behavioural problems that suggested the lingering effects of a brain injury.

The insurance company blamed Darcy's problems on "normal growing pains" and the fact that he had been raised by a single mother. The company offered to settle Darcy's claim for \$50,000, and tried to force the case to trial when he was doing well at school. David Osborne retained experts to investigate the injury.

When the insurance company offered \$200,000 at mediation, this offer was turned down. Prior to trial in January 2005 the claim was settled for \$622,500. Mr. Osborne arranged a structured settlement for Darcy that provided a down payment on a condominium, the purchase of a sensible automobile and a tax-exempt monthly income stream for his lifetime, indexed to the cost of living.



### Parking lot accident - \$1,000 offered, Klein Lyons negotiates \$575,000 settlement

In 2001 Andrew LaRocque was struck by a pickup truck in parking lot of a fast food restaurant, suffering some bruising and soft tissue pain.

After the accident Andrew developed a strong psychological reaction to the incident that affected his ability to continue work as a welder. I.C.B.C. offered \$1,000 to settle the claim.

Michele Ma and David Osborne prepared the case for trial, retaining medical experts to consider the medical and psychiatric issues. Mr. Osborne prepared computer presentations and interviewed people who knew Andrew before the parking lot incident. The insurance company made an offer of \$225,000 at mediation which was turned down.

Shortly before trial Ms. Ma and Mr. Osborne agreed their client could be examined by a defence psychiatrist who confirmed the seriousness of Mr. LaRocque's problems due to the parking lot incident.

The case was settled for \$575,000.

### Personality changes – Alberta insurer offered \$25,000, client receives \$437,000 settlement

Mr. Cal Jarvis, a 55-year-old film crew worker and truck driver suffered a mild concussion when his vehicle was sideswiped in 2001. He returned home after the accident expecting to be able to get on with his life.

Please see **Personality...** page 2

## Here's what you're saying about Klein Lyons:

Klein Lyons has been like a big brother to me and I felt protected and cared for. When your 76 and on your own it sure is nice to know that there is someone on your side.

– Robert Tait

I want to thank Mark for the great job he did that resulted in another “success story” for your firm and of course for myself. I will not hesitate to recommend your team.

– Frances Mehan

I expected you to be quick but that was amazing!! Your law firm has exceeded my expectations of service and client care. I will recommend your firm to anyone.

– Nicole Sharma

## Hormone Replacement Therapy

The increased risk of breast cancer has prompted the Canadian Cancer Society to urge women to avoid combination hormone replacement therapy (HRT) unless used for the most severe symptoms of menopause.

“Recent research shows that long-term use of combined hormone replacement therapy increases breast cancer risk in women over 50, as well as risk of other diseases including heart disease, stroke and blood clots in the lungs,” says Heather Logan, Director, Cancer Control Policy, Canadian Cancer Society. “Current evidence shows that risks of combined HRT use outweigh the potential benefits.”

According to Health Canada the use of combined estrogen and progestin are not recommended for prolonged use in post menopausal women, except in limited circumstances where other therapeutic choices are found inadequate. The risk of other diseases are considered to outweigh the benefits of fracture reduction and even the reduced risk of colorectal cancer.

For, decades HRT has been widely prescribed for millions of women. In Canada the most common HRT drugs are Premarin and Premplus, which are marketed by Wyeth Canada Inc.

If you or anyone close to you is suffering medical problems caused by the hormone replacement drugs Premarin or Premplus contact Shauna Tucker at Klein Lyons directly by phone, (604) 874-7171 or on the Internet at [stucker@kleinlyons.com](mailto:stucker@kleinlyons.com).



### Personality... from page 1

His family members noticed that he did not return to normal in the next year or two and consulted Mark Lyons for advice on what to do. Mr. Lyons met with Mr. Jarvis and his family, retained medical experts and prepared the case for trial.

The insurance company had offered \$25,000, claiming any changes in Mr. Jarvis were insignificant and not caused by the accident and that there had been no wage loss as a result of the accident.

The case was set down for mediation.

With the aid of David Osborne's extensive use of computerized and digital video presentations the Alberta insurance company understood the significance of Mr. Jarvis' injury claim.

The case was settled for \$437,000.

## Leading the Way for Victims

### Tobacco

Klein Lyons has had Canada's first tobacco class action certified. The class action lawsuit was recently certified against Imperial Tobacco Canada Limited on behalf of British Columbians who purchased so-called “light” and “mild” cigarettes. The lawsuit alleges that Imperial Tobacco Canada Limited engaged in deceptive trade practices contrary to the Trade Practices Act in the marketing of its light cigarette brands.

The lawsuit, the first of its kind in Canada, comes in the wake of a \$10.1 billion judgement against American tobacco giant, Philip Morris, in a light cigarette class action trial in that country.

### Labrador Hospital

Klein Lyons is co-counsel in one of the first class actions certified in Newfoundland & Labrador. The class action has been certified by the Newfoundland and Labrador Supreme Court against the Health Labrador Corporation on behalf of hundreds of residents of the Labrador city area who have been injured by the failure of the Captain William Jackman Memorial Hospital to follow proper sterilization procedures at gynaecology clinics.

### B.C. College Pension

Klein Lyons achieved a major victory in certifying a class action on behalf of pensioners of British Columbia's post-secondary colleges. This class action was recently certified by the Supreme Court of British Columbia against the British Columbia College Board of Trustees on behalf of several thousand members of the BC College Pension Plan in order to remedy the inequitable allocation of pension fund surplus.

After an actuarial evaluation the Fund was found to have a surplus in excess of \$120 million. Although retired and deferred vested members represent between 24% and 41% of the Fund they were only allocated 4% of the surplus. The remaining surplus was allocated to employers and active employees. The class action lawsuit claims damages for the amounts that should have gone to the pensioners.



## OUR GROWTH CONTINUES...

Nicola Hartigan has joined Klein Lyons as a member of its Class Action practice group. Nicola received her law degree in 2004 from the University of British Columbia. As part of her law program, she studied International Law at the University of Maastricht in the Netherlands. Prior to law school Nicola obtained a Bachelor of Science in Psychology at the University of Victoria. She is a member of the Canadian Bar Association and the Law Society of British Columbia.