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Canadians infected with tainted blood before January 1, 1986 and after July 1, 1990 can finally obtain closure and will receive financial compensation now that a lengthy legal battle has come to an end.

A team of lawyers, with David Klein as a lead negotiator, reached an agreement with the federal government in July 2006. This settlement ends years of litigation for thousands of innocent Canadians infected with the hepatitis C virus through blood transfusions.

While a tentative agreement had been reached with the Liberal government in November 2005 in the form of a Memorandum of Understanding, negotiations had been slow, according to Klein. “It wasn’t until after the Conservative minority government was elected that we were able to obtain a firm commitment as to how much money the federal government was prepared to pay.” In July the gov-

ernment committed to a specific dollar amount of \$1.028 billion, which will be divided among the estimated 6000 – 7000 claimants. (So far about 5000 people have come forward.)

“The approach that the Liberals had taken was more cautious,” says Klein. They wanted to obtain more information about the characteristics of the pre-1986, post-1990 class members before agreeing to a dollar amount. Factors considered were the number of claimants, their ages and their disease progression.

“I can still see [then Health Minister] Allan Rock standing up in the House [of Commons] saying the file is closed,” says Vancouver resident Darlene Nicolaas, who was infected 21 years ago when she underwent

an emergency hysterectomy at Richmond General Hospital. Each day Nicolaas relives the horrors of living with Hep C. Not only does she suffer from intense fatigue, she must warn doctors, nurses, even manicurists about her illness so that they can take the necessary precautions. Her illness precludes her from obtaining life insurance, a mortgage or even a business loan.



With the change in government, however, came a shift in attitude. “The priority for the newly elected government was to get the very much needed financial assistance into the hands of the tainted-blood victims as quickly as possible,”

says Klein.

To expedite the process, lawyers relied on data readily available from the existing settlement set up for people infected between 1986 and 1990.

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They then extrapolated that information to arrive at a set of numbers that would provide comparable levels of compensation to the pre-86/post-90 group.

The time frame for the original settlement is based on the gap between the year when blood banks in the United States started testing for the virus (1986) and when Canada's Red Cross started to do the same (1990).

The previous government had cited legal grounds for refusing to compensate victims who were infected outside of the original time frame. These grounds did not stand up, however, for some U.S. blood banks had

indeed been testing prior to 1986, all New York blood banks had been testing since 1982, and many blood banks in Europe had been testing long before that. "There was a legal foundation for compensation," says Klein.

The government also expressed financial concerns, with early estimates indicating 20,000 tainted-blood recipients in the original group and 50,000 in the excluded group. In reality, the numbers are much smaller: just over 3000 successful claims in the 1986 – 1990 group and an estimated 6000 – 7000 in the pre-86/post-90 group.

In the 1990s, a Royal Commission

headed by Ontario Justice Horace Krever looked into the entire tainted-blood scandal and recommended compensation for all victims regardless of the date of transfusion.

Currently, lawyers for both sides are working on the final terms of the agreement. Klein hopes that the agreement will be settled by the end of the year and expects those involved in this class-action suit to receive compensation in mid-2007. For Nicolaas, whose own life as well as the lives of family members have been drastically altered, it's not over yet. "I'll believe it when I have a cheque in my hand," she says.

ARRIVE ALIVE *Back to School Safety*

Now that the kids are back at school, drivers need to be extra-vigilant. But there's more to back-to-school road safety than maintaining an under-30-kph speed in school zones. Take this short quiz to test your knowledge of the rules.

1) You arrive at a four-way stop. To your right, a vehicle signaling to turn left has come to a complete stop. On the curb to your right stand four schoolchildren waiting to cross in front of you. In what order should everyone proceed?

- A The other car goes first, you go second and the kids cross last.
- B The kids go first, you go second and the other car goes last.
- C The kids go first, the other car goes second and you go last.

Correct answer: C. The pedestrians have the right of way. After they are safely across, the car to your right goes. You go last.

2) You're driving in the curb lane of a road with two lanes going in each di-

rection. On your right is a cyclist going at a much slower speed than you. What do you do?

- A Honk your horn and speed up to pass.
- B Slow, down, shoulder-check and, if safe, move into the left lane to pass.
- C Slow down to the cyclist's speed and wait for the cyclist to turn onto a different road.

Correct answer: B. There's no need to honk your horn and potentially scare the cyclist, nor do you need to follow him or her closely. Safely passing the cyclist is best.

3) You are approaching an unmarked intersection. The car in the curb lane stops, but you can't see any reason to. What do you do?

- A Go through the intersection. It looks safe.
- B Pull up directly behind the driver and honk your horn angrily.
- C Slow down and cover your brake pedal in preparation to stop.

Correct answer: C. Just because you can't see a pedestrian doesn't mean one isn't there. Be aware of other drivers' actions. It could save a life.

4) A school bus, with its red lights flashing, stops in front of you. What do you do?

- A Stop and wait until the lights stop flashing. Once they do, proceed carefully.
- B Maintain the speed limit and pass the school bus.
- C Pull over and stop behind the school bus.

Correct answer: A. Children may be crossing the street in front of the bus. When the bus driver turns off the flashing lights, he or she is telling you that it is safe to go.



I just wanted to take a few minutes to let you know how wonderful I think Klein Lyons is. My family and I have relied on Klein Lyons on a few occasions and each time we have been very happy with the service we received. You answered our questions promptly yet patiently. Thank you again for taking the time to speak to us on the phone and giving us advice. I have referred you to a few people and will continue to do so.

Thanks again,
Elizabeth Steeves



How Kids Can Play a Role in Traffic Safety:

In the Car

- Try not to fight or argue with each other or with the driver.
- Pre-program radio stations before hitting the road, and don't ask the driver to change stations while the car is in motion.
- Stay buckled in and don't jump around.

Forensics at Work in Motor Vehicle Accident Case

Forensic science is a hot topic these days, judging from the number of people who turn their living rooms into courtrooms during prime time. But forensic science is not just for TV. By definition relating to a court of law, forensic science is used regularly in real life to assist in determining liability.

Accident reconstruction, just one of the many facets of forensic science, can play a valuable role in



verifying the chain of events that lead up to a motor-vehicle accident. Because of this, in some cases Klein Lyons calls on specialists such as Craig Luker, an accident-reconstruction engineer for Forensic Dynamics, who can apply his skills to verify what happened to whom, and how it happened.

In the case of a collision occurring at an intersection, for example,

Luker can ascertain which driver entered the intersection first and approximately how fast each driver was going, based on estimated peak speeds, distanced travelled and the damages sustained by each vehicle.

This detailed scientific evidence can even bring into question the accuracy of eyewitness accounts. Forensic accident reconstruction "show[s] the limitations of eyewitness statements," says Luker, who adds that "humans are horrendous at estimating speed." In fact, Luker often wonders why the courts place so much emphasis on eye-witness accounts, noting that many people who witness an accident forget details such as which lane the driver was in, whether the light was red or green, and more.

Forensic accident reconstruction lets the facts speak for themselves — and for you.



On the Street

- Look both ways before crossing the street, and make eye contact with drivers so you know that they've seen you.
- Don't ride your bike or skateboard in the middle of city streets. Stick to the right side of the road, or skateboard on the sidewalk.
- When you're waiting at an intersection, don't push or shove your friends — even if you're just fooling around. It distracts drivers, and one wrong step could lead to someone ending up in the intersection, or worse, in front of a car.



Disability Benefits from ICBC

If a car accident renders you disabled, you're entitled to benefits under your ICBC insurance policy, regardless of who's at fault.

Basic coverage provides you with 75 percent of your average gross weekly earnings to a maximum of \$300 per week, after a one-week waiting period. For wage-loss payments in excess of this amount, ICBC customers can purchase an "Income Replacement Policy." The four options available increase weekly benefits by \$150, \$250, \$350 or \$400, with premiums dependant on the amount of additional coverage purchased. (Current premiums for Option 4, which provides \$400 additional coverage, cost \$84 a year.)

Being unable to work due to injury or disability is stressful enough without added financial strain. The Income Replacement Policy is an inexpensive way to provide peace of mind. For more information, ask your insurance agent about Income Replacement Policy APV197 or visit www.icbc.com/claims-repairs/bi_what-cant-work.asp.



**3^{1/2}
TIMES
MORE
MONEY**

Insurance companies do not want you to hire a lawyer. Why not? Because they know they'll have to pay larger, fairer settlement amounts! The Insurance Research Council found that the settlement figure was 3 1/2 times higher for claimants represented by lawyers.* Statistics prove you benefit! Talk to an experienced injury lawyer. Don't go it alone.

* Source: Insurance Report Council 1999 study



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