

INSIDE THE CLUBHOUSE: ONE ON ONE WITH A HELLS ANGELS BOSS

# BC Business

OCTOBER 2005 \$4.95

2005  
ENTREPRENEURS  
OF THE  
YEAR

**BEAT  
THE RAP**  
B.C.'s best  
lawyers when  
the heat is on

**DRESSED  
TO THRILL**  
Ken Hegan  
wants to  
funk you up

# Telfer on top

**GOLDCORP CEO IAN TELFER:  
FROM DOT-COM DEBACLE TO  
ENTREPRENEUR OF THE YEAR**

PM40065475 R07956



**Most of the lawyers** cited in the following pages are among the best in their field according to the 2005 *Canadian Legal Lexpert Directory*, a ranking compiled by surveying over 10,000 legal professionals in Canada. For experts in criminal law, an area not covered in *Lexpert*, we phoned local criminal lawyers and asked who they would go to if their neck was on the line.

What we came up with is some pro bono advice that will help you know when to confess and when to deny, when to run straight to your lawyer's office and when to roll the dice and go it alone.



**MICHAEL SMITH**  
SMITH & THOMAS

### **You've been nailed for drunk driving**

Smith, a lawyer in Penticton, has handled thousands of DWI cases.

"The first way to deal with this problem – don't drink and drive. It's amazing that people still think they can sit in a bar for four hours and drive home. Taking a vehicle to a drinking establishment is pure insanity.

Having said that, lawyers who specialize in drinking and driving cases have an incredibly high acquittal rate. There are hundreds of defences, but it's incredibly expensive. Why pay a lawyer thousands and thousands of dollars when you can get a cab for 20 bucks?

If a police officer says you're being investigated for drinking and driving, they will say you have the right to talk to a lawyer. Say, 'Yes I will. Right now.' It's absolutely the golden rule. Be very polite, don't answer any questions and talk to a lawyer. The more serious the accident you're in, the better chance you have of being acquitted. In a bad accident, the fact you're unsteady on your feet, have slurred speech and staggering around could be because you hit your head in the collision.

People believe that breathalyzers are infallible instruments, but they're not. Breathalyzer results are excluded from evidence in many cases. The breathalyzer tries to measure blood alcohol by measuring breath alcohol. Lawyers who understand these types of things know that the process is not an exact science. If five people say they saw John Jones come out of a bar, he only had four drinks and looked cold sober but he blew over 80 milligrams of alcohol in 100 millilitres of blood on the breathalyzer, it's up to the judge who to believe.

There are dozens of other defences and most of them come down to sloppy police procedure. A defence lawyer's dream is a young police officer a few months out of the training barracks because that officer is going to make a lot of mistakes.

Should you ever confess that you were drunk? Never. Are you asking me as a lawyer or as a priest? As a lawyer, it's insanity. If you're in an accident, your insurance won't cover you if you're convicted with drinking and driving. You may think you will only get a \$600 fine and a 12-month suspension, but you may be liable for \$100,000 or even \$1 million worth of damages. Sometimes a lawyer will say that if the case against you is strong, it's a waste of time to go to court and you should plead guilty. But generally, the reason people pay a lot of money for legal advice is because, often, it's successful." □

**PETER GALL, QC**  
HEENAN BLAIKIE

### **You've been fired**

Gall has acted in labour relations cases before the Supreme Court of Canada and represented the B.C. government in a constitutional challenge over collective bargaining in health care and education.

"If you're not being fired for cause, typically your company will offer some sort of severance package. You should be getting advice about the reasonableness of the package. If there is cause, there may be some sort of investigation within the company and you should get advice before entering into the investigation. This is an area that is fraught with pitfalls for all concerned. Both employers and employees have to act calmly, not emotionally. The worst thing to do is fly off the handle and start yelling and screaming at your employer.

It's a high hurdle to prove that you fired somebody for just cause. The courts say there are lots of valid reasons why a company would want to get rid of their employees, but in order to do it without notice or pay in lieu of notice, it has to be in a special category. Even theft isn't necessarily just cause; it all depends on the circumstances.

The severance you're entitled to depends on the nature of the job, your salary, your age and, probably most importantly, how long it will take you to find alternative employment. Without a formula it's difficult for the average person to figure out whether something is reasonable or not. Simplify this at the start of your employment by entering into a written contract of employment that sets out what severance you're going to get in advance. People in senior positions typically do this.

Most people don't realize that if you're terminated without cause, you're not necessarily entitled to severance pay. If they're downsizing and they don't need your position, you are entitled to notice or pay in

anywhere from one day to several years – but that’s unusual. Typically, a case, whether it goes to court or not, lasts about 12 to 18 months. Less than 10 per cent of cases end up in court. Most settle. There is a real focus within the courts to move toward a resolution. As soon as your proceeding starts, a judicial case conference will occur, where settlement prospects are discussed.

The best thing you can do is to get a reasonable settlement and move on – and keep in mind a reasonable settlement is one neither spouse is happy with. The worst case is when protracted litigation takes place – extended, lengthy court proceedings that make no sense whatsoever. People will use up their assets just to fight. The worst is when parents involve children.

You always see the ugly ones that involve children, but most people really want what’s in their children’s best interest. So bundle up your emotions and stuff them in your back pocket.” □

– Chelsea Whitteker



**ART VERTLIEB, QC**  
VERTLIEB ANDERSON

### You’ve been injured in a car accident

Vertlieb focuses on personal injury law, medical negligence and criminal law.

“Always try to phone a lawyer before you get interviewed by ICBC. Every lawyer will talk to you for half an hour without charge. There’s no reason not to do it. The lawyer will pick up

on possible issues of contention and you can avoid saying something that could later be used the wrong way by ICBC. Often there are wrinkles. I’ve even had ICBC contest rear-end collisions.

The lawyer will ask if there is any possibility you might be at fault in any way. Did you have any warning that you were going to be hit? Could you have done anything to try to avoid it? Were you wearing a seat belt? What is your previous accident history?

ICBC might ask you to sign a medical release that can be used to get information

they’re not otherwise entitled to. It might give them the right to get a computer print-out of all the doctors you’ve seen in the last seven years. They’ll see if your doctor referred you to a psychiatrist, even if the referral had nothing to do with the accident. If you’re asked to sign a medical release, take out the words that allow them to go back indefinitely.

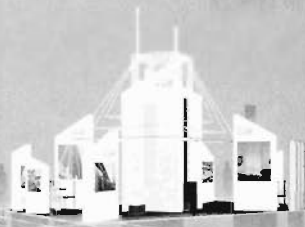
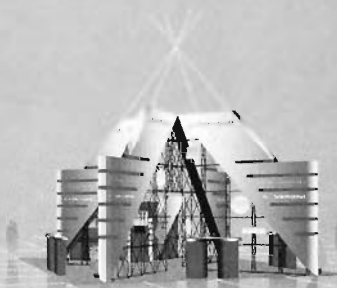
I’m happy if people go to ICBC and get an offer to settle a claim. Then I can decide if it’s a reasonable offer and you can decide if you will hire a lawyer or not. If the offer is reasonable, there’s no point in hiring a lawyer. If the case is worth \$10,000 and ICBC offers \$8,500, it doesn’t make sense to hire a lawyer because the money won’t end up in your own pocket. If they offer \$1,000 and the case is worth \$10,000, then it does.

These cases can take from a few weeks to a number of years to resolve. In some cases, time needs to lapse before you can understand the full extent of the injury. If you have a brain injury and you lose five per cent of your intellect, you may lose the ability to handle pressure and deadlines. You could be continually late and that could cause problems in your career. You look normal, you sound normal, but in reality, you wouldn’t be.

People adapt to pain, but the real emotional issue is the uncertainty people face in their careers.” □

**PORTABLES**  
THE CUSTOMER MARKETING PEOPLE

How do you blend the show-stopping beauty of a custom tradeshow exhibit with the cost-savings of a portable tradeshow exhibit?



**THE CUSTOM PORTABLE EXHIBIT EXPERTS**

Take the first step towards exhibiting success! Call us today to arrange for a tour of our 22,000-square foot showroom and production facility.

604.276.2366 (Lower mainland)

1.800.663.1737 (Toll-free, North America)

[www.theportables.com](http://www.theportables.com)