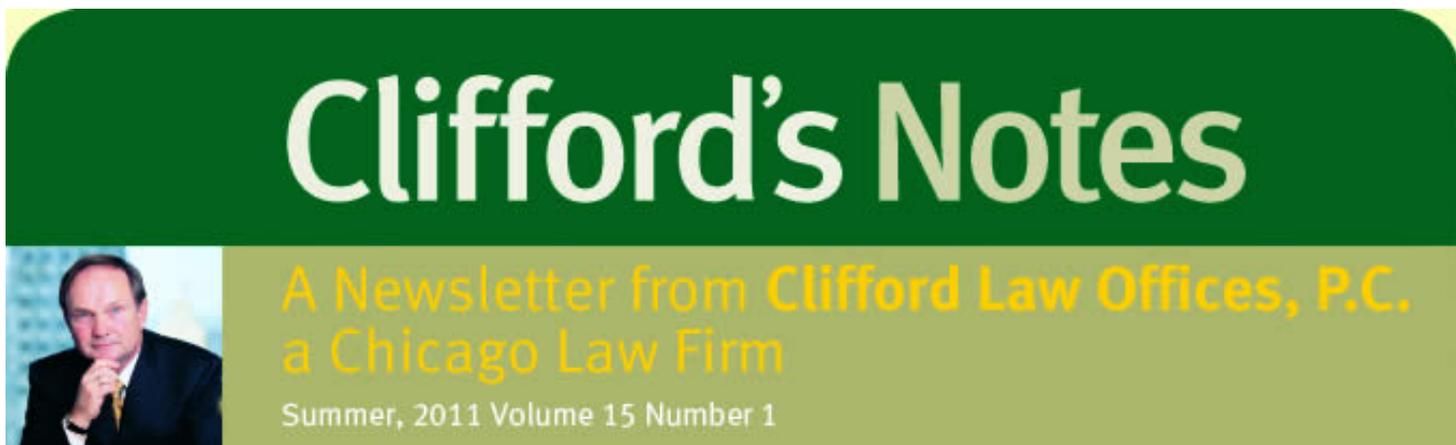


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### Clifford's Corner

**Robert Clifford** hosted an hour-long conversation with Illinois State Senate President John Cullerton on April 10 on WYCC, Channel 20 in Chicago. Clifford and Cullerton discussed many issues impacting the state senate, the justice system and the state of the state on "Justice and the Law." Bob Clifford also sat down and spoke with Illinois Supreme Court Chief Justice Kilbride for an hour in April on the justice system. The program is a regular feature on the public broadcast station owned by City Colleges.

*Chicago Magazine* featured Bob Clifford in a lengthy profile that featured his 32-year career as an attorney in Chicago, including his work over the past decade as liaison lawyer for the property damage claims in the destruction of the Twin Towers on September 11, 2001.

Bob Clifford spoke before the Illinois Association of Defense Trial Counsel at its 2011 Spring Symposium on "The Discovery Process is a Mess: Too Long, Too Expensive and Too Liberal?"

Bob Clifford will begin his third three-year term in August as the American Bar Association Chair of the Illinois State Delegate to the House of Delegates, the governing body of the national legal organization made up of nearly 400,000 lawyers.

**Robert Clifford is  
congratulated by**



**Illinois Governor Pat Quinn in being inducted June 16 as the 135th President of the Chicago Bar Association.**

## **Press Room**

Ten attorneys at Clifford Law Offices have been named to the peer-reviewed 2011 Leading Lawyers in Illinois. Leading the list is **Robert Clifford** who also was named one of the Top 10 Leading Lawyers in the state, an honor he has consistently received over the years. He also is listed as one of the Top Ten Consumer Leading Lawyers in Illinois. Other attorneys recognized by the organization are **Richard Burke, Jr.**, **Susan Capra**, **Kevin Durkin**, **Keith Hebeisen**, **Michael Krzak**, **Thomas Prindable**, **Robert Strelecky**, **Timothy Tomasik** and **Robert Walsh, Jr.** The peer-reviewed selection process involves thousands of lawyers.

**Susan Capra** was selected as one of the top women attorneys in Illinois Making an Impact by the Law Bulletin Publishing Company. She was profiled in a publication that was distributed to lawyers across the state.

**Keith Hebeisen** spoke at the Illinois Trial Lawyers Association (ITLA) Medical Malpractice Seminar on “Plaintiff’s Experts – Picking, Preparation and Presentation.”

**Tim Tomasik** spoke at a trial advocacy seminar on the use of demonstrative video evidence at trial and in settlement discussions. Sponsored by the Lorman Education Association, the program was aired live on the internet in March.

**Michael Krzak** was featured on the *Washington Post*’s interactive webpage, Conversations. He engaged in a live one-hour discussion with the public, answering questions about the legal ramifications surrounding the recent incident with air traffic control at Ronald Reagan National Airport in Washington, D.C.

**Tomasik** and **Krzak** spoke at the New York City Bar/American Bar Association 2011 Aviation Litigation seminar in June. Tomasik spoke on expert depositions and Krzak on electronic discovery.

**Kevin Durkin**, **Timothy Tomasik** and **Craig Squillace** have been elected to the ITLA Board of Managers.

## Final Judgment \$85 Million Whistleblower Settlement



Clifford Law Offices represents a number of whistleblowers in what is known as qui tam cases. These cases involve corporate or individual fraud that a person brings through the False Claims Act to recover government funds that have been paid based upon the fraud of the defendant companies or individuals. Persons responsible for bringing a successful suit can receive compensation based on the recovery.

Medline Industries, Inc., one of the nation's largest suppliers of medical and surgical products to healthcare providers throughout the United States, along with its charitable arm, The Medline Foundation, agreed to pay \$85 million to the federal government to resolve whistleblower Sean Mason's False Claims Act allegations against Medline. Mason alleged that Medline engaged in a widespread illegal kickback scheme targeting hospitals and other healthcare providers that purchase medical and surgical products paid for by federal healthcare programs, resulting in violations of the federal False Claims Act. Although a party to the agreement, the U.S. Department of Justice elected not to intervene in the lawsuit, which Mason pursued as a qui tam action on behalf of the federal government on a nonintervened basis. The settlement is among the largest settlements of a False Claims Act case in which the government declined to intervene.

Robert Clifford and Courtney Boho Marincsin of Clifford Law Offices and two other firms served as co-counsel to Mason, a former Medline employee who oversaw and administered rebates paid to hundreds of hospitals, skilled nursing facilities, hospices and other healthcare providers that entered into annual requirements contracts for Medline's medical and surgical products. Mason alleged that many of these customer rebates were in fact disguised kickbacks which comprised Medline's illegal kickback scheme targeting hospitals and other healthcare providers that purchase medical and surgical supplies paid for by federal healthcare programs such as Medicare and Medicaid. Federal statutory and regulatory law forbids suppliers from providing remuneration to induce purchasing by providers, and the False Claims Act prescribes that any claims for payment submitted to the government that are tainted by such unlawful remuneration are per se improper. The False Claims Act allows private citizens to sue companies that they discover are defrauding the government, and to receive an award for their efforts. The Department of Justice approved the settlement agreement.

## Bill of Particulars

### Entrapments on the Rise



Clifford Law Offices represents the families of a 13 year old and a 19 year old killed in a grain entrapment incident in downstate Illinois. The tragic story surrounding the deaths of Wyatt Whitebread and Alejandro Pacas was detailed in the *Chicago Tribune* on March 8, 2011.

According to a Purdue University report issued last month, 2010 saw an increase in grain entrapment with 51 instances last year. Grain entrapment happens when a person is engulfed in the grains that fill the steel silos commonly seen on farmland. 2010 also saw the highest number of fatalities from grain entrapment with a total of 26 deaths, according to the report. This number represents the highest on record, with a 34 percent rise in deaths over the 2009 number and a 183 percent increase over the 2001 low of 18 deaths.

In 2010, the highest number of grain entrapment fatalities nationwide, 10 deaths, occurred in Illinois.

The report makes note of the likelihood that these numbers do not reflect the true volume of incidents because of the "lack of a comprehensive reporting system." The report's authors estimate that the true number of cases could be 20-30 percent higher nationwide.

According to Robert Aherin, a professor in the agricultural engineering department at the University of Illinois, a person can become immobilized in flowing corn in under 10 seconds and subsequently become unable to breathe.

## Ralph Nader Gets it Right

In a Feb. 25, 2011 article written by consumer rights' advocate Ralph Nader, the tort "deform" issue is succinctly and accurately explained.

Nader reveals how Governor Andrew Cuomo has let down his constituents by selling out to the health insurance industry. The New York Governor is proposing to limit the rights of victims of medical malpractice by including harsh tort reform measures, including caps on damages in the state budget. That means, as Nader explains, that in order to vote them down, the New York state legislature has to vote down the entire state budget.



After researching all aspects of the issue of rising insurance premiums, Nader gets it right when he explains how the insurance industry has created hysteria among doctors and are allowed to charge "exorbitant amounts" while the insurance industry profits rise. The real heart of the matter – identifying and disciplining or getting rid of bad doctors – is nowhere in the equation. Patients remain in the dark and the focus, which should be on malpractice prevention, instead is put on the backs of innocent patients when legislatures cap damages instead of allowing a jury to determine the issue.

As Nader concludes, "Tort reform means less deterrence, which means more injuries, more uncompensated victims, and tremendous overall costs transferred to society." To read Nader's article, go to <http://www.nader.org/index.php/?/archives/2248-Selling-Out-Injured-Baby-Rights.html>.

## Cell Phones May Be Dangerous After All

Americans may want to be a little more cautious about the amount of time that they spend on their cellular phones after a panel of experts released the results of a study that indicated cell phones may be carcinogenic.



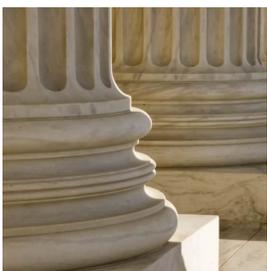
The International Agency for Research on Cancer, the cancer department of the World Health Organization, classified cell phones in category 2B meaning that they are possibly carcinogenic. Other materials found in category 2B are the pesticide DDT and gasoline engine exhaust.

Although the panel completed a similar study last year claiming that there was no link between cell phones and cancer, they attribute this year's deviance to the increasing and ever changing use of cell phones.

## Families of Airline Crash Work for Aviation Safety

Immediately following the tragic crash of Flight 3407 near Buffalo, New York, on Feb. 12, 2009, The 'Families of Continental Flight 3407' was organized as a support network and an activist group to work on aviation safety reform.

Part of their work is preventing the language in the Shuster Amendment being included in the final Federal Aviation Administration (FAA) Reauthorization Bill.\* The Shuster Amendment has language that would jeopardize current and future FAA safety rulemaking efforts.



They stated that the amendment they oppose would add "layers of complexity to the FAA's already painstakingly slow rulemaking process ... and also aims to offer legal grounds to challenge the FAA's in-progress rulemaking on pilot flight and duty time limitations." The group has been working hard to educate members of Congress, particularly freshmen who were not in office on Capitol Hill when the crash of Flight 3407 occurred.

That Continental flight crashed killing all 49 people aboard and one person on the ground. Clifford Law Offices represents a number of families who lost loved ones aboard that tragic flight in trying to find out what occurred and in seeking justice.

The courage of these parents and relatives who lost their loved ones is to be commended as they work for the safety of others. To learn more about the activities of The Families of Continental Flight 3407, please visit their website at [www.3407memorial.com](http://www.3407memorial.com).

*\*On May 20, 2011, Rep. Bill Shuster (R-PA) withdrew this controversial amendment from the Reauthorization Bill after families met with House Speaker John Boehner (R-OH).*

## Approach the Bench

### Mary Sweeney

Mary Sweeney has one heck of a career – she has done everything from insurance defense work to aviation work to trying medical malpractice cases at Clifford Law Offices for the last five years.

A sweet, soft-spoken woman, Mary is not to be underestimated. She works up the most difficult of cases and fires questions at opponents during cross examination side by side with the best of Chicago’s trial bar. “Like my husband tells me during trials, ‘Kill them all. Let God sort them out,’” she says with a laugh.

She recalls jousting with her father, also an attorney, at the dinner table every evening, developing a wonderful relationship, not knowing she was actually practicing for her successful law career.

“Saturday was the day my dad, who was an Assistant U.S. Attorney, would take all of us kids to work, packing up baloney sandwiches and milk, and we would sit in the lock-up while he would prepare for trial,” Mary says with a wistful smile. “I grew up with the law. I remember reading depositions aloud to him while he took notes in preparation for trial.”

She recalls one of her dad’s proudest moments was when he beat Phil Corboy in the early 1970s in a diving accident trial. “He had the bragging rights that he was the last person to beat Phil Corboy,” she said. “Or at least so the story goes. He always got a kick out of that as a testament to his insurance defense work.”

Mary’s own interest in medical malpractice work stems from her love of science and the law. She initially worked on aviation cases, utilizing her science background. After law school, she started work in California for two years on a major airline crash case, then moved to Chicago for an aviation firm in the 1980s. Her reputation preceded her when she was asked by a major New York firm to work on airline crash cases there before coming to Clifford Law Offices in 2006.



“I enjoy all of the cases I work on because I view them as a learning experience,” Mary says. “I am always amazed at the courage and bravery I see in my clients as they deal with the horrible experiences that tragically come their way. When you go to trial for them, you get very close to your clients and learn things about them that no one else does. You see their amazing strength and it makes you want to work even harder for them and feel very proud to stand next to them.”

Her husband is her biggest supporter. She met him in 1993 while volunteering at a fundraiser for hospice care. He was a male “celebrity model” for the Chicago Bulls basketball team; Mary was on the charity’s board of directors. Her husband, John Bach, was coach during the Bulls’ championship era. They rarely miss a home game and the players still have an enormous respect for the Coach who was the architect of the Michael Jordan-Scottie Pippen-Horace Grant defense.

She had virtual front-row seats, witnessing the road to the championship game. She is probably the Bulls’ biggest fan, but it wasn’t always that way, she admits.

When she first attended Bulls games, she would bring a book and read in her seat while John coached until one day the camera captured her on the jumbo-tron. John sent up a ball boy who confiscated the book from her. It wasn't a funny story then.

And after the Bulls' spectacular season this year, that came to an end all too soon, Mary will be the first to tell you of her disappointment. She speaks of the players as if they were all family, knowing details of their ups and downs, and often hosting their families for dinner. The oldest of six children, she exudes that maternal instinct, even when she talks about the players. It's what inspired the foundation she and her husband started – the Johnny Bach Sports Foundation that helps autistic children socialize with others through playing sports. Teaching them the rules and etiquette of the games helps them to socialize and gain confidence to play. This summer, the Foundation is sponsoring a family day of golf.

"It is our passion," Mary says. "My husband wanted to use his talents and spirit of giving, and we thought this would be a great way for us to help so many who need the help of others. We enjoy doing it together and the satisfaction we get is enormous in helping so many children." Her husband also coaches the wheelchair-bound at the Rehabilitation Institute of Chicago (RIC) and does volunteer coaching at St. Ignatius College Prep.

"I have been blessed by being mentored by my dad, so many excellent lawyers and my husband," Mary said. "And, of course, there's Bob Clifford. He is amazing. I can talk to him and in just 30 seconds he can distill the essence of the matter. He has a receptive ability I have never seen in anyone. He has instantaneous processing.

"I am so fortunate to be working at Clifford Law Offices and to be doing the work that I'm doing. I really feel this is where I belong, helping people every day."

## Trial Notebook

Please visit [our website](#) for some of the recent [new cases](#) in the last year.

## Clifford Law Scrapbook



### More Than 1,000 Attend Clifford Law CLE Program

Clifford Law Offices, an accredited continuing legal education provider in Illinois, hosted a free seminar on "Ethical Applications of the New Illinois Rules of Evidence." More than 1,000 lawyers attended in person or on the web to learn from Justice Donald Hudson, Chair of the Special Supreme Court Committee on Evidence, Yale Law School Visiting Lecturer of Law Lawrence J. Fox and DePaul Evidence Professor Stephan Landsman. As a public service, the program was offered free to all attorneys.



### Helping Underprivileged Children

Bob and Joan Clifford are Co-Chairs of the 12th Annual Naples Winter Wine Festival, founded by The Naples Children & Education Foundation. The Foundation is committed to supporting charitable programs that improve the physical, emotional and educational lives of underprivileged and at-risk children in Collier County, Florida. Since its inception in 2001, the Festival has raised over \$94 million dollars and has improved the lives of more than 125,000 children. Bob and Joan take pride in being part of an event whose funds are 100 percent allocated to children in need.

### ABA Day at the Law Schools

As Chair of the Illinois State Delegation of the American Bar Association House of Delegates, Bob Clifford helped to spearhead a day of activities at John Marshall Law School in February, acquainting law students with the benefits of bar association membership. One-on-one



career counseling, resume review and a networking reception were held. He also moderated at ABA Day at the University of Chicago Law School in late April where the Honorable Tony West, Assistant Attorney General, Civil Division, U.S. Department of Justice, addressed the law students on "Litigating Guantanamo Bay Habeas Cases." Bob Clifford generously pays attending students' ABA memberships which has led to hundreds of new student members of the ABA since his being elected Illinois State Delegate six years ago.



#### **Bob Clifford on Voir Dire at ABA Miami Meeting**

Robert Clifford was selected to speak on a panel at the American Bar Association Section of Litigation conference held in April in Miami, Florida, on the topic, "If You Can't Pick A Jury, You Can't Win A Trial." Before a packed room of hundreds of lawyers, he conducted a mock voir dire in a hypothetical involving a small plane crash. The Criminal Justice Section also was a sponsor of the program.



#### **Bob Clifford Speaks at CBA on Jury Selection**

Robert Clifford spoke at a program on "Picking the Best Jury: Effective Techniques" at the Chicago Bar Association. Clifford, along with moderator George Apostolides of Arnstein & Lehr, as well as five other panelists discussed effective techniques and strategies for selecting a jury, preparing for voir dire, courtroom demeanor and using challenges effectively as well as recognizing improper challenges, preserving the record for appeal and ethical issues regarding the use of jury consultants.



#### **Tom Prindable Receives Pro Bono Award**

Thomas Prindable received the inaugural IIT Chicago-Kent College of Law Outstanding Pro Bono Service Award given to a Chicago-Kent alumnus for his dedication to pro bono service throughout his career. Dean Harold Krent (at left) presented the award at its Fourth Annual Public Interest Awards Night. Also, Colin Dunn was named a recipient of the William J. Harte Amicus Volunteer Award for 2011 by the Illinois Trial Lawyers Association (ITLA). He was among 15 lawyers recognized in the state for their dedicated volunteer service and professional efforts in preparing legal briefs before the Illinois Supreme Court over the past year at the ITLA Annual Meeting.

## **Advertising Material Only**

Clifford Law Offices has prepared this newsletter for its many friends, clients and colleagues world-wide. It is purely a public resource of general information. Although it is not intended to be a source of either solicitation or legal advice, it must be regarded as an advertising or promotional communication in the terms of the lawyers' professional responsibility law. Accordingly, it is necessary that certain information be supplied to and noted by the reader.

This newsletter should not be considered as an offer to represent in any legal matter, nor should it be the basis of legal hiring decisions. Thus, the reader should not consider this information to be an invitation for an attorney-client relationship, should not rely on information provided herein, and should always seek advice of competent counsel.

All lawsuits are different, and Clifford Law Offices makes no representation or promises that it can obtain the same results as reported in this newsletter in other legal matters. Nothing in this newsletter constitutes a guarantee, warranty or prediction regarding the outcome of any future legal matter. Further, it should be

noted that even where the fee arrangements are on a contingency basis, clients will still be responsible for payment or reimbursement of the costs and expenses of litigation.

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Finally, this newsletter is disseminated to our many friends around the world. We hope you find the information here useful and informative. Anyone, however, who does not wish to receive future newsletters can contact us at the numbers or locations listed here, and the matter will be promptly attended to.

Very Sincerely Yours,

Thomas K. Prindable, Managing Partner, Clifford Law Offices, P.C.

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