

Clifford's Notes



Clifford's Corner

Robert Clifford once again was among the top three Leading Lawyers in Illinois as selected through an extensive research process that includes peer recommendation.

Mr. Clifford was selected to serve on the Executive Committee of the American Bar Association Conference of State Delegates. He currently serves as the Illinois Delegate to the ABA House of Delegates.

Clifford Law Offices was recognized as one of the top four Chicago law firms in the October issue of the Chicago Lawyer's Million Dollar Settlement Survey.

Parents Can Be Liable for Their Kids' Drinking

By Robert Clifford Chicago Lawyer, September, 2007

For two weeks the Hutsells became a household word in Chicago. They are the Deerfield couple who were convicted of endangering the life of a child and lying to police investigating a fatal car crash involving teenagers in an underage drinking party at their home.*

During the six-day trial, various teens who attended the party testified, some remembering seeing Jeffrey Hutsell, the father, in the basement with beer clearly evident. Mom and dad testified that they were upstairs watching a baseball game and were unaware of any drinking. Two 18-year-old party guests were killed when the car they were in crashed into a tree at the end of the Hutsell's driveway as they returned to the party. The 18-year-old driver's blood alcohol level was nearly twice the legal limit.

State Sen. Susan Garrett (D-Lake Forest) is the chief sponsor of SB158 that stiffens penalties for parents who knowingly permit underage drinking in their homes. A violation of the new law means if a person's conduct directly or indirectly results in injury or death, it would be considered a Class 4 felony instead of a misdemeanor. The new penalty would be one to three years in prison, probation and a fine of up to \$25,000.** Although a new criminal law would not affect the Hutsells, the civil consequences of their conduct await to be seen.

Another new law regarding the civil liability of providing alcohol to minors will be tested in state court. The Illinois legislature passed the Drug or Alcohol Impaired Minor Responsibility Act, 740 ILCS 58/1 (2004), that provides for damages against a person who willfully supplies alcoholic liquor or illegal drugs to one under 18 years of age. Effective in 2004, the injured person or the surviving next of kin can bring a lawsuit for economic and non-economic damages as well as attorneys' fees, litigation expenses and even punitive damages.

This case involves four 16-year-old Kenosha, Wisconsin girls who were invited to a Halloween party in 2004 in Lake County, Illinois. The driver of the car drank beer from a keg that was provided at the function, then drove her friends on Route 41 where she made an illegal left turn in front of an approaching semi-trailer. It struck their car and one of the girls in the back seat suffered severe permanent injuries.***

Not only have we been witness to the likes of celebrity Lindsay Lohan's mug shot after her car strikes a tree when her blood alcohol level is reportedly well over the legal limit, but it seems to be part of a new culture to drink and get into a car and drive. Last year even the President's twin daughters, Jenna and Barbara Bush, were busted for using false identification to try to obtain alcoholic beverages.

After years of trying to enforce laws banning the sale of alcohol to minors, the Underage Drinking Enforcement Training Center in Maryland, which was established by the federal government to support underage drinking laws, now has shifted its focus towards preventing adults from serving or providing alcohol to minors. Its statistics show hundreds of local communities and 33 states have social host laws on the books holding adults liable who serve alcohol to minors for any injury or damage caused by the intoxicated youths. Typically, ordinances call for a civil fine and often give law enforcement the authority to break up a party. Many statutes, like Illinois', provide for the recovery of damages.

In sending a message to teens and parents, it is clear that authorities are getting more strict in enforcing laws on parties involving underage drinking. Without vigilance and discipline, tragedy certainly can ensue. It is clear also that if kids won't change their ways, parents have to.

*Sara Hutsell was ordered to serve 18 months of probation, 250 hours of public service, a \$500 fine and a \$1,000 donation to Students Against Drunk Driving and to the Lake County Children's Advocacy Center. Her husband, Jeffrey, got 30 days of work release, 18 months probation, 100 hours of community service and similar fines as his wife.

**Governor Rod Blagojevich signed the bill into law Aug. 31.

***The case settled immediately prior to trial.

Press Room

Robert Clifford was part of an all-day conference entitled "Transparency in the Civil Justice System" at UCLA. His research paper will be presented at an event on Capitol Hill in Washington, D.C., next summer. To view his research, please visit www.cliffordlaw.com/ucla-rand

Mr. Clifford served as moderator of an American Bar Association (ABA) teleconference entitled, "Compensation Funds: Are They Enough?" Among the participants was Kenneth Feinberg, Special Master of the Federal September 11th Victims Compensation Fund.

Craig Squillace moderated a seminar for the Chicago Bar Association (CBA) Young Lawyers' Section entitled "Anatomy for Lawyers" in October. The three-hour-long program, hosted by the Tort Committee, featured a number of medical practitioners.

Sean Driscoll spoke at the Illinois Continuing Legal Education seminar in Springfield on "90 Day Trial Preparation Plan."

Richard Burke spoke at two ABA conferences on motor vehicle product liability cases.

Tim Tomasik spoke at the Illinois Trial Lawyers Association (ITLA) program on the Supreme Court Rules pertaining to experts. Tim also has been appointed Chair of the CBA Appellate Review Committee. He also will be returning in January as a faculty member of the University of Virginia's prestigious week-long Trial Institute program.

Keith Hebeisen participated in a Medical Negligence Seminar this month hosted

by ITLA entitled "The Plaintiff's Case: Winning Trial Techniques and Strategies." Keith also has been appointed as a member of the ABA Standing Committee on Medical Professional Liability.

Kevin Durkin was appointed to the American Association of Justice Aviation Legislative Task Force. He also was invited to participate at the Illinois Supreme Court's Commission on Professionalism's Conclave this month.



Final Judgment



Keith A. Hebeisen obtained a \$12 million verdict against a DuPage County doctor on behalf of a boy who was brain damaged at birth due to a delayed cesarean section delivery. It is a record verdict in a medical malpractice case in DuPage County. The previous high was \$7.3 million.

Benjamin Hayes was delivered by crash emergency C-section after doctors at Central DuPage Hospital waited too long to deliver him.

Experts said Benjamin would otherwise have been a healthy child.

Benjamin, now seven years old, has normal intellect but has no control over his limbs. He also has difficulty eating and requires tube feedings. He will be in a wheelchair the rest of his life and requires round-the-clock care.

"The story of Benjamin Hayes is a tragic one, and one that the jury understood," Hebeisen said after the verdict. "This child is expected to live a normal life span with full cognitive skills, yet he is forced to physically suffer injuries that could have been avoided. He deserved a better life than that. This verdict will provide him with the care that he requires."

Hebeisen tried the case before Judge Hollis Webster. Mary Sweeney, associate at the firm, assisted Hebeisen in the seven-day trial.

Keith Hebeisen tried or settled cases totaling more than \$50 million in the past year. See back page.

Judge Finds Cap Legislation Unconstitutional

A Cook County Circuit Court judge has ruled that Public Act 94-677, a law that imposes arbitrary caps on damages for victims of medical negligence, is unconstitutional because the law violates the Illinois Constitution as an improper exercise of legislative power.

The lawsuit that challenged caps on damages was filed on behalf of Abigaile LeBron, a young child who suffers brain damage as the result of medical malpractice. The law limited non-economic damages such as pain and suffering to \$500,000 against doctors and \$1 million against hospitals.

Judge Diane Larsen's 10-page opinion found that the law interfered with the right of juries to determine fair damages

and therefore violates the Illinois Constitution's separation of powers clause.

Judge Larsen's ruling marks the third time that Illinois courts have struck down limits on damages in medical malpractice cases. Twice before the Illinois Supreme Court, in 1976 and in 1997, has ruled that a cap on non-economic damages in civil cases is unconstitutional.

The Illinois Trial Lawyers Association has argued that the appropriate way to address underlying issues of rising medical premiums is meaningful insurance reform. This would preserve access to the courts and the right to trial by jury for victims of medical malpractice.



Hospitals' Profits Reportedly Soaring

Chicago's biggest hospitals are reporting record profits, in part, because of a boost in the receipt of federal health care dollars. These same hospitals, however, are being questioned about their policies in providing free care for the poor to justify their tax-free status.

For example, Northwestern Memorial Hospital's operating profit in the nine months that ended May 31 grew 70 percent from the same period a year before, not counting extra Medicaid funds. Rush University Medical Center's full-year profit from operations grew 12 percent, the highest in at least five years. The University of Chicago Medical Center attributes part of its record operating gain in fiscal 2007 to rapidly growing programs such as cancer and neuroscience.

While hospitals are investing in new facilities and construction projects, Illinois Attorney General Lisa Madigan is conducting a lengthy investigation into the charitable and billing practices of more than 50 Illinois hospitals.

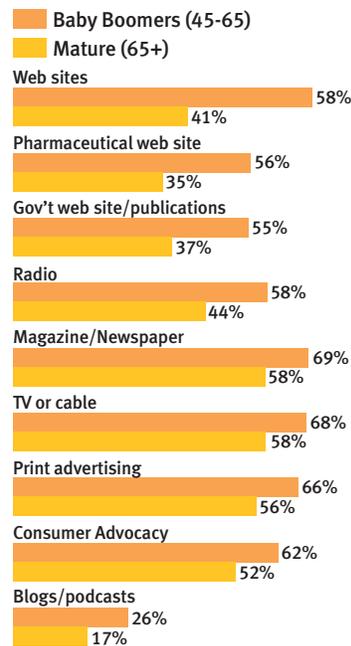
New Illinois Dental Law Protects Patients

As a result of a lawsuit filed by Clifford Law Offices on behalf of the family of five-year-old Diamond Brownridge, who tragically died after falling into a coma because her dentist over sedated her, Governor Rod Blagojevich signed a new law that will help protect patients during dental procedures.

The new law, SB 214, requires dentists to obtain a specific permit from the state before performing deep sedation procedures. It becomes effective Jan. 1.

Health Sources Used by Boomers and Matures

A recent Harris poll found that 52 percent of Americans "sometimes or frequently" go online for health information, up from 29 percent in 2001. The poll revealed that Baby Boomers (aged 45-65) are far more likely to seek out information from sources other than doctors.



SOURCE: FOCALYST

Study Shows Staph Infections Risk for Patients

Nearly 10 times more patients than previously estimated may be at risk to be infected with dangerous, drug-resistant staph infections. A new study released earlier this year revealed that as many as 1.2 million hospital patients are infected every year, according to the Association for Professionals in Infection Control & Epidemiology (APIC).

Medical experts have been increasingly concerned about the rise of superbugs which have been a leading cause of deadly blood infections and pneumonia in health care facilities. The study included responses from 1,200 hospitals and 100 nursing homes.



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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.

The owner of this newsletter is a law firm licensed to practice only in Illinois. In preparing and disseminating this newsletter, Clifford Law Offices has made a good faith effort to comply with all laws and ethical rules of every state into which it may be sent. In the event, however, that it is found not to comply with the requirements of any state, Clifford Law Offices disclaims any wish to represent anyone desiring representation based upon viewing this newsletter in such state.

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.

Approach the Bench

Shannon M. McNulty



Shannon McNulty was a freckled redhead, growing up on Chicago's south side. Shannon recalls her dad planning the family's annual vacations, and trips to her uncle's Michigan home, where the entire clan would gather for water-skiing. Shannon also recalls the many days she would spend with her grandmother, then a Chicago police officer. Her grandfather, too, was a Chicago police officer.

Although she describes her family as a "typical Irish Catholic household which didn't eat meat on Fridays," the McNultys are anything but typical. What is typical, though, is their heartwarming attitude, their fun loving ways, and their caring for everyone with whom they come into contact.

"Even though most people thought I would use my law license in the criminal arena, I wanted to go in a different direction, into civil law, and help people who are at the darkest times of their lives. I thought I could make a difference for them," Shannon said about her turning to tort practice: "I enjoy helping clients get answers to questions that were previously unanswered."

Shannon's travel schedule is hectic, with depositions of experts and witnesses, in preparation for trial. Nonetheless, she makes it a point to spend time with her family, usually for a Sunday dinner. Her brother, also a police officer; her sister, a teacher; and their spouses and children all make for a raucous afternoon, catching up on the week's events while eating mom's meatloaf, pot roast or lasagna.

At one point, Shannon thought she, too, was destined to become a police officer. She earned a bachelor's degree in criminal justice at Loyola University in just three years. She began working for the state, researching criminal justice issues such as homicides trends and serious youth offenders. She went on to work for the Chicago Police Department and soon rose to the ranks of becoming the Director of Administration for the Bureau of Operational Services working as Chief of Staff to the First Deputy Superintendent. She earned her Masters of Science degree from the School of Management of DePaul University while working for the Chicago Police Department. But one of her watch commanders saw that she could help so many more people if she followed her love of the law, and he encouraged her to enroll in law school.

Shannon attended night law school at DePaul, completing it in less time than the scheduled four years. Her boss then met Tom Prindable, Managing Partner at Clifford Law Offices. Recognizing Tom's kind, helpful way, Shannon's boss thought the firm would be a good fit and recommended to Shannon that she speak to him.

She followed up and Tom offered Shannon a clerk's position at the firm. Shannon took a risk in leaving a wonderful, secure job at the Police Department to follow her first love and worked round the clock between her clerking duties and her school work.

Upon graduation, Shannon was sworn in as an attorney in Illinois and became an associate at Clifford Law Offices. She still works round the clock, but now it is helping people involved in rollover cases, small plane crash accidents and tragic injuries on negligently kept premises. Recently, Shannon obtained a \$2.98 million settlement on behalf of a carpenter who fell through an unguarded opening at a construction site, suffering a spinal cord injury. She has worked on the cases involving the fire at the Cook County Administration Building which left several people dead and injured many others because of the alleged failure of the 911 response system.

As a young lawyer, she already has been recognized in 2007 by the Law Bulletin Publishing Company as one of the 40 Lawyers Under 40 to Watch in Illinois. The Chicago Bar Association has asked her to address its Young Lawyers Section in February about how to shape one's career and professional life. She has also been re-appointed to a second term as Vice-Chair of the Chicago Bar's Professional Development Committee.

In her personal life, she somehow finds time to give back to the community. When September 11th occurred, she immediately organized those in the police department to raise awareness and donations for the New York families who lost police officers in that disaster. Shannon still receives holiday cards from those families. She has worked on crime prevention efforts in the Albany Park neighborhood of Chicago and has been recognized for her outstanding service by the U.N.I.T.E. civic organization for trying to make it a safer place to live.

"Shannon truly is a one-of-a-kind individual who tirelessly gives of herself to everyone in need," said Robert Clifford. "She is an invaluable asset to the firm and to all whose lives she touches."

Where does she see herself in 10 years? One can see that she gropes for an answer, her busy schedule allowing her to see only as far as today and tomorrow in accomplishing all that she does. "I would hope my house would be decorated by then," she says with a smile. "And, with our resources at Clifford Law, I hope to have helped many more individuals in that time."

That's Shannon McNulty.



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WISHING YOU HOLIDAY GREETINGS FROM



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FROM THE CLIFFORD LAW OFFICES' FAMILY



PHOTO BY: BILL RICHERT

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On the Docket

Clifford Law Offices has been recognized as one of the leading personal injury firms, garnering multi-million dollar verdicts and settlements. Some of the recent successful cases in the last year include the following:

Amount	Attorney(s)	Case
\$12 million (verdict)	Keith Hebeisen/Mary Sweeney	record verdict in DuPage County on behalf of an infant who suffered permanent and severe brain damage as a result of a delayed C-section delivery
\$6.5 million	Robert Clifford/Keith Hebeisen	33-year-old woman dies of heart attack from complications of improper medication interaction
\$5.95 million (verdict)	Robert Strelecky/Brian Shallcross	39-year-old man suffers permanent leg injury following unnecessary and negligent stent procedure
\$5.8 million	Robert Clifford/Keith Hebeisen/Susan Capra	infant is rendered brain damaged at major Chicago hospital following negligent obstetrical treatment
\$4.405 million	Kevin Durkin	23-year-old tenant dies from carbon monoxide caused by a pool heater in the building's garage that was in violation of city ordinances
\$4.3 million	Keith Hebeisen/Susan Capra	negligent managing of labor and delivery of mother's first born results in infant girl suffering serious and permanent brain damage
\$4.25 million	Keith Hebeisen/Susan Capra	40-year-old mom of two dies from negligent care during gastric bypass surgery and post-operative care
\$4.19 million	Robert Clifford/John Karnezis/Brian Nash	city worker is killed while trying to protect family members during a fight with law enforcement personnel at a wedding
\$4 million	Keith Hebeisen	doctors and hospital personnel are negligent in delaying the C-section of an infant of a high-risk mother; baby boy dies 12 hours after delivery
\$4 million	Keith Hebeisen	27-year-old computer programmer develops Stage IV cancer of the lungs due to a delay in diagnosis from misread x-rays
\$3 million (verdict)	Keith Hebeisen	48-year-old mother of two dies from undiagnosed pulmonary embolism despite seeing emergency room doctor for symptoms two days before her death
\$2.98 million	Richard Burke/Shannon McNulty	20-year-old carpenter falls through unguarded second floor opening at construction site and suffers spinal cord injury
\$2.725 million	Keith Hebeisen	infant suffers severe and permanent brain damage after being dropped from scale by hospital nurse (Winnebago County, IL)
\$2.25 million	Kevin Durkin	truck driver loses control of vehicle and strikes a car, killing an Indiana woman
\$2 million	Keith Hebeisen/Susan Capra	baby dies following failure of doctors and hospital personnel to timely perform cesarean section
\$2 million	Keith Hebeisen	55-year-old woman dies following radiologist's failure to properly interpret MRI showing intra-spinal tumor
\$1.35 million	Keith Hebeisen/Susan Capra	young woman suffers extensive skin loss and grafting procedures from infection following negligent liposuction



Robert Clifford was the Co-Chair of the Illinois Bar Foundation's Annual Gala that raised more than \$200,000 for legal causes. His friend and respected colleague, Peer Pedersen of Pedersen & Houpt, was honored with the Distinguished Award for Excellence.



Clifford Law Offices received the "Distinguished Service Award" from the Chicago Volunteer Legal Services Foundation (CVLS) for its outstanding contribution to pro bono legal services. Attorneys at the firm have been working on CVLS's adult guardian ad litem program that helps the disabled and elderly. Heading the effort for the firm is its Managing Partner, Tom Prindable (center), who accepted the award from Meg Benson, CVLS Executive Director, and Peter Ashmore, CVLS Managing Attorney.



Robert Clifford spoke at the Australian Bar Association (ABA) Annual Conference in Chicago earlier this year.

Mr. Clifford addressed the group on "Working with the Media in High Profile Cases." Major themes explored were the U.S. Constitution and terrorism, litigation in the United States from depositions to witnesses, and tenure, confirmation and discipline of judges.

Other speakers at the conference included U.S. District Court of Illinois Chief Judge James Holderman; U.S. District Court Northern District of Illinois Judges Richard Posner and Suzanne B. Conlon; Honorable Abner Mikva, visiting professor at the University of Chicago; Victor Henderson, President, Chicago Bar Association; Joseph Bisceglia, President, Illinois State Bar Association; Professor Lee Epstein, Northwestern University Law School.



Robert Clifford spoke on "Negotiation Skills: The Essentials for Litigation and Your Practice" at a seminar sponsored by the Law Bulletin Publishing Company. Also on the panel was Sheila Mahoney, Assistant Director for the Program on Negotiation and Mediation at Northwestern University School of Law.

On the Web



Clifford Law Offices was approved by the state as a provider of continuing legal education. The first program we will be offering is a two-hour presentation by Northwestern University Professor Robert Burns. The live, interactive program is entitled "The Ethics of Trial Work." Registration will be available on the firm's website, www.CliffordLaw.com, and questions on this program can be directed to programs@CliffordLaw.com

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