



# CLIFFORD'S **notes**

A Newsletter from Clifford Law Offices, P.C., a Chicago Law Firm • Summer 2001 • Vol. 5 No. 1

## Clifford's **Corner**

Clifford's



Robert Clifford has been elected Chair of the Section of Litigation for the American Bar Association. The gavel will be passed to him at an ABA Annual Meeting luncheon August 6 in Chicago. The Section, numbering 60,000 trial lawyers from around the country, is the largest of the ABA. He will be on an all-star panel in Chicago, including television

news documentarian and attorney Bill Kurtis, discussing "Ethics in the Media: Are You Crossing the Line?"

Robert Clifford celebrates his 25-year anniversary as an attorney this year. It also marked the 50-year anniversary of the DePaul Law Review of which Mr. Clifford was Research and Development Editor while a law student. Mr. Clifford recently sponsored a reception for all of the editors since the inception of the Law Review.

## • THE PRESSROOM •

**Keith Hebeisen**, partner at Clifford Law Offices, received the prestigious Weidemann Wysocki Award from the Association of Trial Lawyers of America. The President of the national organization recognized Mr. Hebeisen for his vital and unprecedented contributions as immediate past Chair of the ATLA State Delegates as well his continuing efforts and commitment in promoting the organization's principles of achieving equity and fairness in the country's civil justice system in Congress and across the nation.

Clifford Law Offices welcomes a new partner to the fold. **Robert A. Strelecky**, formerly a partner at a large Chicago firm, joined Clifford Law Offices earlier this year. He continues to concentrate his efforts in medical malpractice work involving doctors, hospitals, health maintenance organizations and pharmaceutical companies.



**Robert A. Strelecky**

**Michael Krzak** and **John Karnezis** were named among Chicago's "40 Under 40 Attorneys to Watch." The Law Bulletin Publishing Company recently named the city's top 40 young lawyers and Clifford Law Offices again is the only personal injury firm to boast two among its ranks. We congratulate Mike and John for their hard efforts and fine work.

Voice of the People

Chicago Tribune

Friday, June 8, 2001

## Living by the Decisions of the Supreme Court

To call Casey Martin's case "a wrongheaded lawsuit" is a cheap shot at the Supreme Court of the United States in the Tribune's criticism of the recent ruling allowing a disabled golfer to ride in a cart during professional tours ("The Court's Errant Shot," Editorial, May 31). Martin was not looking for sympathy; he was seeking justice against the backdrop of the Americans With Disabilities Act.

Whether one agrees with the decision or not, the Tribune forgets that the Supreme Court is charged with interpreting laws. It is a branch of government set up by our forefathers grounded in constitutional principles.

It wasn't so long ago on the same editorial pages of the Tribune was found praise for this same Court, applauding its brave, precedent-setting decision that President George Bush was to be the leader of this country for the next four years, despite a popular vote that favored Al Gore. At that time, the Tribune stated: "The court majority took the long view: Sorry, folks, but rules really do matter. And without fair rules, this game is over." ("Don't Blame the Supreme Court," Dec. 15).

The same is true in the game of golf.

The Tribune must be reminded that it cannot be a fair-weather friend, supporting the rule of law when it finds a decision it likes and then criticizing a singularly unsuited ruling.

History demonstrates that certain self-correcting measures are in place in a democracy. In the case of the president of the United States, voters will have a chance again to vote in four years, and maybe the court's decision will cause more to turn out at the polls.

In this latest decision, the court may open doors for some while causing professional sports to examine what is important to the competition.

Over the centuries, many decisions by the highest court have affected the way we live. For instance, it is the Supreme Court that established a constitutional right to an abortion. It was judicial initiatives, not legislative or political action, that brought about school desegregation. And it was the courts who upheld suspects' assurance of being read the Miranda rights.

Although many of these decisions have aroused considerable political opposition, as may prove to be so in the disabled golfer case, these landmark rulings have the potential to produce changes in institutional as well as personal behavior. When such issues have social consequences, we as a nation may need this type of guidance from the judicial branch of government, whether directly or indirectly, in helping to shape our beliefs and attitudes.

Critics may call it interference; some may even have harsher words like a dramatic expansion of judicial legislating. I call it practicing traditional principles of federalism.

Our nation is built upon the authority of the national government to meet basic economic, environmental, privacy and other civil rights. When some of these areas touch moral issues, we need not recoil when the courts are asked to respond to a dilemma. The changes are specific and realistic. The court's analysis is sophisticated and thoughtful. It is endowed with the authority to speak as a national sovereign.

Admittedly, some of the justices are elevated to the nation's highest court for political reasons, but that does not detract from the court's dignity, power or symbolic value. If judges are to resolve disputes, their decisions must carry binding authority. Furthermore, a body of nine justices in and of itself represents a check and balance, and as officers of the court, each and every one of them must commit themselves to the needs and objectives of the Constitution, with all of this occurring under the greatest scrutiny.

Although the stakes may be high at times and the social consequences sobering, the Supreme Court of the United States is the branch set up to make just those types of decisions. And we must all learn to live by them, whether we agree with them or not. And that includes the *Tribune*.

—ROBERT CLIFFORD, PARTNER, CLIFFORD LAW OFFICES

## Final Judgment

**Robert Clifford** and **Richard Burke** recently received a \$22 million settlement in the case involving the death of two teenagers and severe permanent injuries to a 15-year-old girl when the sport utility vehicle in which they were passengers rolled over several times on an expressway. The settlement was reached against Ford Motor Company, a Ford dealership and a tire retailer and manufacturer.



For more million-dollar-plus verdicts and settlements this year obtained by attorneys at Clifford Law Offices, turn to back page.

# Bill of Particulars

## Cell Phone Use in Cars



Both houses of Congress have introduced bills that would ban motorists from using hand-held cell phones while driving. The proposed law calls for states to require establishing

a cell phone while driving. Failure to do so would cause states to lose federal highway funds.

The House bill allows drivers to use a speaker or headset. The Senate version gives states more discretion to determine what constitutes a violation. Both bills are currently in committees.

*H.R. 1837, "Call Responsibly and Stay Health AC 2001"; S. 927, "Mobile Telephone Driving Safety Act of 2001."*

## Trampoline Safety

The Illinois Supreme Court will consider a recent appellate court decision that found that recreational users of trampoline equipment do not appreciate the hazards and risks of injury posed by the thrust capacity of the mat. The court further ruled that the instructions and warnings demonstrate that the consequences of encountering these hazards are not obvious and are not appreciated or understood by foreseeable purchasers and users.

The risk and severity of the injury is reduced when the user is instructed on fundamental landing techniques to manage that impact. The court held because of the manufacturer's superior knowledge, it has a duty to warn purchasers and users of the hazards and risks of harm of this product.

*Sollami v. Eaton, NO. 91284 (decided June 6, 2001); 319 Ill.App.3d 612, 747 N.E.2d 375 (5th Dist.2001).*



## Reporting Incompetent Doctors

Doctor errors are being underreported by hospitals and health maintenance organizations, according to the U.S. Department of Health and Human Services. Congress passed legislation in 1986 making it mandatory to report medical errors to the National Practitioner Data Bank. The database is not available to the general public but is used by state licensing boards and health care providers to make decisions regarding doctors.

### National Practitioner Data Bank

44,000–98,000  
Americans die  
annually from  
medical errors

84% of all HMOs and 60% of all  
hospitals failed to report even  
one physician from 1990–99  
to a government database of  
doctor errors

100 million  
individuals  
enrolled in  
HMOs

Less than 1,000  
adverse action  
reports over  
nearly a decade

## Computers Could Catch Medication Errors

Medication errors in the nation's hospitals can be cut by more than two-thirds if doctors enter prescriptions into a computer rather than scribbling them on paper, according to the U.S. Health and Human Services Department. It is estimated some 770,000 people each year are injured or die because of mistakes made with their medicines. Regular computer tracking of dosages could cut errors 28 to 95 percent according to a report by the agency.

## Tighter Standards on Food Labeling Set by Industry

Many of the country's largest food companies have agreed to specify whether the products they sell contain even tiny amounts of everyday ingredients that can cause potentially fatal allergic reactions. Under the current law, manufacturers can add very small amounts of allergens as incidental ingredients without mentioning them on the packaging but instead listing them as "natural flavors."



# APPROACH THE BENCH

Every office should have a Richard Burke.

A tireless work horse, Rich is one of those quiet, behind-the-scenes leaders who knows how to get things done.

He just wrapped up a case involving the rollover of a sport utility vehicle where with Robert Clifford he received a \$22 million settlement against Ford Motor Company, a Ford dealership and a tire retailer and manufacturer. A 15-year-old girl was severely injured, and two teenage girls were killed, when the SUV rolled over on a Chicago expressway.

Rich is involved in a number of rollover cases and has become a "turn to" type of guy in these tragic accidents, having taken dozens of depositions and reviewed thousands of pages of records involving the design and safety of SUVs.

"These cases are particularly tragic because they generally involve unsuspecting drivers and occur during very common and foreseeable driving conditions. So many involve children in the back who are injured for life or die when the vehicle rolls over and oftentimes ejects them," Rich said somberly. "I would like to think that our fighting the SUV manufacturers and tire companies is helping to make these highly popular family vehicles safer."

Rich spends a substantial amount of time on product liability and vehicular safety cases and has seen some substantial results. He has obtained a \$3.45 million settlement on behalf of a girl who was rendered a quadriplegic when she was struck by a police car. He recently received an \$11 million settlement in the death of an executive who was killed in a small corporate jet crash.

One of his most memorable trials, though, involved the death of six-year-old Hiroaki Ishiguro. He came to the United States with his parents who were set to return to their homeland, Japan, in just two weeks when he was struck and killed by a garbage truck. Hiroaki was on his bicycle and the truck driver did not see him because his vehicle was without proper side

and back mirrors to spot children nearby.

"That was a particularly heart-wrenching case because it was so easily avoidable had the garbage truck company taken some easy and inexpensive safety precautions," Rich said. He received a \$6 million jury verdict for the family who had already moved back to Japan after Hiroaki's father completed a fellowship in orthopedic surgery.

Rich's successful career started 12 years before he joined Clifford Law Offices. He learned his craft as an Assistant State's Attorney in Cook County where he rose up the ranks among his peers to supervisor of felony trials. At that point, Rich decided to use those litigation skills in the civil arena. After

prosecuting cases on behalf of crime victims injured during shootings, rapes and armed robberies, Rich considered it a natural transition to represent persons injured by negligent misconduct. He was named a partner last year at Clifford Law Offices.

The law must pulse through the Burke family's veins. Rich's three sisters are attorneys as well. He grew up on Chicago's far south side in the Beverly neighborhood. He recalls his fondest childhood memories of playing baseball games every day with the kids on the block. "Any intersection became a baseball diamond and there were always plenty of kids around," he says with a smile.

He went to Loyola University where he earned his bachelor's degree in biology and later went on to the University of Chicago where he earned a Master's in Business Administration. "The skills and knowledge I learned there have been very useful in the financial aspects of substantial settlements in catastrophic injury cases," he said.

It probably is just coincidental that his wife Cecilia also has an MBA and law degree. Being from the south side, Rich is an avid Sox fan, but his wife is an avid Cubs fan. They met through a mutual friend at the State's Attorneys' office and

got married in 1992, despite their differences in baseball. As for their three children, Ricky, age 8, is a Sox fan. Therese, age 7, is a Cubs fan, and Marie, age 3, also is a Cubs fan because as her dad puts it, "she doesn't know any better." But he's trying to educate her.

Much to his wife's dismay, he took Ricky on a White Sox training camp vacation in Tuscon, Arizona, this year. But he's waiting to see if Cecilia pushes for the north side team's camp next year.

At the office, Rich has many die-hard fellow Sox fans, but partner Bob Walsh, who is also his brother-in-law, is another Cubs fan. Although they get the families together frequently, they rarely talk "family stuff" around the office because their schedules are so different, and both are constantly on the run to court, to depositions and to see clients.

"My type of work is particularly gratifying, helping people whose lives have been catastrophically altered as a result of serious injury through someone's negligence," Rich says. "Sometimes the most rewarding aspect of my work is comforting and counseling people shortly after traumatic occurrences or incidents when they really don't know where to turn or how to deal with monstrous medical bills, an inability to work, and sometimes they even are unable to engage in basic daily care needs.

"I like to think that Clifford Law Offices is there for people who need us at their worst hour."

And we are glad Rich Burke is around to help others as well.

Richard Burke examines a defective tire tread.



## CLIFFORD LAW OFFICES

### Partners:

Robert A. Clifford	Keith A. Hebeisen
Kevin P. Durkin	Robert P. Walsh, Jr.
Susan A. Capra	Jeffrey J. Kroll
Richard F. Burke, Jr.	Robert A. Strelecky

### Managing Partner:

Thomas K. Prindable

### Associates:

Isobel S. Thomas	Timothy P. Rhatigan
Michael S. Krzak	Timothy S. Tomasik
Brian T. Nash	Sheri L. Tarr
Kimberly A. Braband	John T. Karnezis
	Katherine L. Dzik

### Counsel to the Firm:

Robert P. Sheridan

# ON THE DOCKET

Clifford Law Offices has been recognized as one of the leading personal injury firms garnering multi-million dollar awards. Some of the verdicts and settlements attained this year include:

Amount	Date	Attorney(s)	Facts
\$22 million	May 23	Robert Clifford Richard Burke	15-year-old severely injured and two teenagers killed when SUV rolls over on expressway
\$7 million	March 22	Kevin Durkin	Semi-tractor trailer driver slams on brakes, jack-knifes and hits father and 2 sons in car who suffer severe injuries
\$3.25 million	April 20	Keith Hebeisen Susan Capra	55-year-old man dies when doctors fail to diagnose pulmonary embolism
\$1.375 million	April 11	Keith Hebeisen	56-year-old man suffers from severed artery during surgery which required two further surgeries to repair, resulting in severe complications

Personal Injury | Transportation | Aviation | Medical Malpractice | Product Liability | Wrongful Death

## Recent case filings by Clifford Law Offices

- 15-year-old west side Chicago girl run over by a Chicago Transit Authority bus driver who then drove away leaving her severely injured at the curb
- 14-year-old suburban boy drowned in unattended southern Illinois hotel pool while on school field trip
- Six families suffered from contaminated well water due to improperly buried oil tanks at an Amoco service station nearby
- Four women suffering unnecessary cancer treatments including crippling chemotherapy treatments and a hysterectomy after Abbott Laboratories conducted flawed diagnostic tests
- Eight patients of a west suburban kidney dialysis treatment center suffered aluminum toxicity from their dialysis baths which was discovered only after a nurse, since fired from the center, informed patients of the medical risks
- 53-year-old woman dies following undetected infection from kidney stone operation
- 10-year-old attacked by Rottweiler dog which bit off boy's nose
- Navistar employee witnesses murders of several co-workers February 5 when employee goes on shooting rampage
- Aluminum ladder comes in contact with low-hanging power line and electrocutes 41-year-old man trimming tree
- 3-year-old passenger suffers serious injuries when fire blows out on SUV and rolls over on interstate highway
- Construction worker falls through defective floor on the job and is paralyzed

TRIAL NOTEBOOK



Clifford Law Offices was invited by WFMT, 98.7 FM, to sponsor a new series of information programs at the top of the hour on Chicago's only classical radio station. "Clifford Law Market Updates" is heard four times daily which provides daily stock market reports along with news headlines as a result of the generous sponsorship of Clifford Law Offices. Robert Clifford kicked off the event with host Carl Grapentine at the WFMT studios located at Channel 11, Chicago's public television station.



Robert Clifford recently spoke at an American Bar Association meeting in Phoenix, Arizona, where he presented a multi-media presentation on Clarence Darrow. Mr. Clifford also is scheduled to be part of a symposium on "Civility in the Practice of Law" where he will share his thoughts with a distinguished panel of judges and lawyers at Northern Illinois University's Naperville campus Aug. 1.

Clifford Law Offices has prepared this newsletter for its many friends, clients and colleagues worldwide. 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

## ADVERTISING MATERIAL ONLY

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*  
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