



CLIFFORD'S

notes

A Newsletter from Clifford Law Offices, P.C., a Chicago Law Firm • Summer 2002 • Vol. 6 No. 1

Clifford's Corner

Clifford's



Robert A. Clifford

Robert Clifford was selected as one of *Chicago Magazine's* 30 Toughest Lawyers in its May 2002 issue. The profile stated, in part, "Clifford excels at using potentially damaging information to his advantage."

Mr. Clifford also was asked to be the Honorary Chairperson for the 19th Annual Fundraiser for the Center for Disability and Elder Law. The July 25 event to be held at Navy Pier in Chicago will benefit the non-profit agency that provides pro bono legal services to people with disabilities and the elderly.

Final Judgment

Robert Clifford and Timothy Tomasik obtained a \$12.6 million verdict June 13 for a retired orthopedic surgeon from Florida whose right leg was partially paralyzed after anesthesia fluid was negligently injected into his spine prior to knee surgery. Mr. Clifford obtained the verdict on behalf of Dr. James York, 72, a former marathon runner and missionary to Africa. He can no longer operate on needy children in Third World countries after the incident. The jury reached its verdict against Rush Presbyterian St. Luke's Hospital and the anesthesiologist in just two and a half hours following a three-week trial.

Robert Clifford and Kevin Durkin reached a \$35 million settlement in the celebrated case of internationally acclaimed violinist Rachel Barton against Metra and the Chicago NorthWestern Railroad. Ms. Barton was severely injured in 1995 when she was exiting the train and the conductor failed to take a second look to see if the platform was clear of passengers. She was pinned to the closed train doors and dragged for some 300 feet before she freed herself.

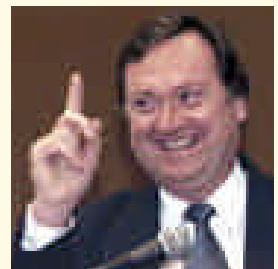


Dr. James York in Kenya

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ANNUAL MEETING • APRIL 24-27, 2002 • BOSTON

ROBERT A. CLIFFORD, CHAIR



Clockwise from left: Town Hall Meeting with Bill Kurtis as moderator; John Barket of Miami, FL asks a question; Professor Charles J. Ogletree, Jr. moderates the Diversity Luncheon; Legal Services meeting; Hon. Barbara Lynn, Patricia Lee Refo, and Bob Clifford; Tim Russert of NBC News, luncheon speaker; The Boston Massacre mock trial with Judge Margaret Marshall
Center: Oklahoma Governor Frank Keating, Bob Clifford, and Bill Kurtis

Bill of Particulars

Study Says Seatbelts Safer Than Airbags



A recent study published in *The British Medical Journal* found that seatbelts are safer than airbags.

The study, conducted by the Harborview Injury Prevention and Research Center in Seattle, Washington, found that airbags reduced the risk of driver death by 8 percent whether or not the driver was wearing a seatbelt. However, the use of seatbelts alone reduced

the risk of death by 65 percent. When the driver was both belted and had an airbag, the risk was 68 percent lower.

Suit Against Gun Makers Gains Ground in Illinois

In a major victory for advocates of gun control, a state appellate court in Illinois has ruled that gun makers and gun dealers can be sued for distributing firearms in a way that makes it easy for criminals and juveniles to obtain them, a practice that creates what the court said could amount to a public nuisance.



Judge William Cousins Jr., wrote for a unanimous three-member appellate panel. The decision is the first by an appellate court to uphold a new legal approach being taken by many cities, lawyers and victims of gun violence. The case holds that gun makers knowingly create a public nuisance by the way they distribute their products.

Young v. Bryco Arms, 327 Ill.App.3d 948, 765 N.E.2d 1 (1st Dist.2001).

Employees Seek Workers' Compensation for On-the-Job Stress

Workers are asking employers to pay for mental and physical ills they say are triggered by on-the-job stress. In New York, nearly a third of the 6,000 workers' compensation claims related to the World Trade Center attack involve some component of stress.



Workplace Injury Costs Rise

Payments to injured workers and their medical care providers rose 3.6 percent from 1998 to 1999, according to a report issued by Liberty Mutual Insurance Company, the nation's largest workers' compensation insurer. Workplace injury related costs totaled \$40.1 billion in 1999, up from \$38.7 billion in 1998.

"Overexertion" injuries—those involving excessive lifting, pushing, pulling, holding, carrying or throwing—accounted for about one-quarter of the direct costs associated with those injuries.

The survey data was compiled from the company's own records, Bureau of Labor Statistics information and data compiled by the National Academy of Social Insurance.

WORKPLACE INJURY COSTS

1998	\$38.7 billion
1999	\$40.1 billion

Survey Finds Attitude Towards Lawyers Improves Following Sept. 11 Attacks

Despite overwhelming sentiment that lawyers have significant expertise and knowledge, work hard and generally meet their clients' needs, public confidence in lawyers has not improved over time due to the profession's poor handling of basic client relationships and absence of attention to communication. These are among the finds of a new national survey commissioned by Robert Clifford and conducted by a prestigious research group on behalf of the American Bar Association Section of Litigation.

"Public Perception of Lawyers" found that attorneys are not doing a good job of developing and maintaining good communication with their clients, that there is a general misunderstanding and mistrust of lawyers' fees, and that lawyers need to police themselves more vigorously. Survey participants from five cities across the country also said that lawyers need to communicate with the public about lawyers' public service and pro bono activities.

The survey suggests, however, that public confidence in the courts, lawyers and legal institutions generally improved in the wake of the events of September 11, 2001. For example, a representative sample found that only 24 percent of the public had confidence in the U.S. justice system in general prior to September. That number rose to 39 percent in January, 2002.



APPROACH THE BENCH

Why is it that it seems that all Notre Dame graduates are fanatical fans about the school and its teams? Tim Rhatigan is no exception.

Tim, a 1989 graduate with a major in government, decided to pursue an MBA there, but when he realized business was not for him, he turned to Notre Dame's Law School where he earned his J.D. in 1993.

Still not saturated with the rays from the Golden Dome, Tim worked as a special assistant to the Vice President for University Relations and in the Athletic Department over a 12-year period.

At first, Tim thought about pursuing a legal career in athletics, representing athletes or college athletic departments in their pursuit of compliance with NCAA regulations, but then he realized he wanted to do something in life that impacted people on a more personal level. Perhaps it was the influence of his dad, a lawyer in Virginia who has worked over the years for insurance defense firms "on the other side of the fence."

A dinner discussion doesn't go by without the two Rhatigan attorneys arguing over philosophical differences in the law, knowing each will never convince the other.

"My dad would always talk about his cases with a passion as I was growing up. I guess it was contagious," Tim said of his father's influence on his career choice. "My father is my hero. He's the reason I went to Notre Dame and the reason I became a lawyer."

Tim's father Brian is a graduate of the university and his mother Maryalice also is a great influence in Tim's life. "My mother has tremendous compassion which is probably why I decided to work on the plaintiff's side as opposed to the corporate defense side." But as much respect and love as he has for his family, Tim thought it was important to "make his own mark" and moved to Chicago rather than live in the shadow of the renowned elder in Virginia, a route that certainly would have been an easier one to travel.

"I love Chicago and had visited it many times with friends from Notre Dame," Tim says. "It just seemed like a natural transition."

Tim fondly recalls working one summer at a major Washington, D.C. law firm which represented Oliver North during the Iran Contra hearings. "All of the major networks were outside our doors every day. The firm had to rent secret office space a few blocks away to conduct business," Tim said. "It was an exciting time."



Timothy Rhatigan — a die-hard Cubs fan

Perhaps his decision was made easier, though, because of his other passion: the Cubs. He recalls watching Cubs games on the WGN superstation. Now, as a resident of Wrigleyville and a season ticket holder, Tim can be found taking friends to the games, win or lose.

But as much as he loves baseball, his real sport is golf. "It's a challenge because it's just you and you have no one else to blame if you play poorly." Both he and his younger brother Kevin learned at their father's knee. Kevin is a former golf pro while Tim has a low handicap of which he rarely speaks, yet they both struggle to beat their dad who has enjoyed as much success on the golf course as he has in the courtroom.

It's apparent Tim approaches his profession with the same passion as his other interests in life. He devotes hour after hour on a case, preparing for trial or for motions as if each case were his only one. He gives the attention and expertise to his numerous clients who have come to rely upon him for his honesty and integrity. Take, for instance, the 25-year-old truck driver killed in an explosion at a tire factory in Iowa. Take, for instance, the child who died due to a physician's failure to diagnose pneumonia. Or take, for instance, the inmate who died because of the prison doctors failure to diagnose a heart attack in downstate Illinois. Perhaps, though, he devotes the greatest portion of his time to premises liability and vehicular accidents, the types of cases that require a great number of depositions and court appearances.

All of these families and many others have come to rely upon Tim to see to it that justice is done through the court system. "I know that although my heart goes out to these people because I am there in their darkest hour of need, they are not looking for my sympathy. They need a lawyer who is strong and capable of looking out for their interests as well as to insure that such negligence does not occur again."

Already Tim has a successful string of settlements and trials behind him. He worked on the high-profile case involving a Chicago fire-fighter who died in a training exercise in 1993. He was involved in numerous depositions in the litigation involving United Flight 585 that crashed in Colorado Springs in 1991. And he is proud of his work involving a commercial litigation matter against Motorola that settled for eight figures last year. Tim has handled a variety of cases—from product liability to automobile crashes, from medical malpractice to premises liability.

It led to his being named one of Chicago's Top 40 Lawyers Under 40 this year by the Law Bulletin Publishing Company.

"Tim is a hard working, nose-to-the-grindstone type of lawyer," says Robert Clifford. "Our office is fortunate to have an in-the-trenches type of attorney who puts forth 110 percent effort every day. But what most clients find endearing is Tim's sincerity, his caring nature and his honesty."

Although still single, Tim dotes on his newborn nephew, Brian, who was born in January. For now, though, the lawyers and staff at Clifford Law Offices have become Tim's new "family," as he calls it. "I love working here because besides everyone being a very accomplished attorney, they are also some of my best friends. It's the family atmosphere that I really like."

Clifford Law Offices is proud to have Tim Rhatigan as part of the family.



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

Communications Partner:

Pamela S. Menaker

Associates:

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

Some of the recent verdicts and settlements obtained by Clifford Law Offices include:

Amount	Date	Attorney(s)	Facts
\$35 million	March 4	Robert Clifford Kevin Durkin	Internationally acclaimed violinist severely injured due to negligence of train company
\$12.6 million (verdict)	June 13	Robert Clifford Timothy Tomasik	Retired orthopedic surgeon suffers partial paralysis after anesthesiologist punctures spinal cord
\$10 million	March 8	Robert Clifford Susan Capra Jeffrey Kroll	Four-year-old boy suffers permanent brain damage after doctors fail to perform timely cesarean section on his mother at the time of delivery; the \$10 million annuity is expected to yield \$54 million over the course of the child's lifetime
\$7 million	January 2	Kevin Durkin	Woman in crosswalk struck by bus and suffers permanent brain damage
\$6.85 million	January 2	Jeffrey Kroll	Driver crosses center line and strikes other car head-on; suffers multiple fractures and chronic pain
\$6.8 million	May 24	Richard Burke Brian Nash	Female passenger suffers head trauma and multiple limb fractures when small aircraft crashes in northwestern suburbs after running out of gas
\$4.75 million	April 30	Jeffrey Kroll	42-year-old construction worker shatters right leg after falling 20 feet when steel beam collapses
\$3.7 million	May 2	Keith Hebeisen	Doctors and hospital fail to diagnose aneurysm; 61-year-old man requires round-the-clock care in nursing home
\$3.2 million	January 24	Susan Capra	Baby injured when hospital and doctors fail to timely diagnose and treat a prolapsed umbilical cord
\$3.015 million	March 22	Robert Clifford Timothy Tomasik	Girl X, a nine year old, is brutally attacked and poisoned at a Chicago housing project

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

New Cases at Clifford Law Offices

- Two women die when improperly attached scaffolding to the Hancock Building collapses on their car; their mothers are injured when witnessing the incident from the back seat.
- A dozen patients had false positive test results from Abbott Laboratories test kits and had unnecessary treatment based upon those findings including multiple rounds of chemotherapy.
- Man dies of misdiagnosed meningitis after doctors fail to properly examine patient who fainted in physician's office.
- Illinois couple dies when truck strikes their car on Interstate 94.
- 47-year-old man is electrocuted when air conditioning coils touch a high-voltage exposed wire on a job site.
- Woman develops flesh-eating bacteria infection when undergoing c-section.
- Patient suffers third-degree burns from warming blanket at hospital after surgery.
- 68-year-old man dies and his wife suffers leg amputation when they are involved in traffic accident which was the result of a blackout on the road from smoke and fire caused by Union Pacific Railroad.

TRIAL NOTEBOOK

Robert Clifford and Clifford Law Offices have generously funded closed-captioning for all local programming at WTTW, the public television station in Chicago. For the first time in the station's 47-year history, the hearing impaired are able to utilize this special feature for all locally produced programming.



• THE PRESS ROOM •

Kevin Durkin was elected Treasurer of the Chicago Bar Association in June. As Committee Co-Chair of the American Bar Association Aviation Litigation Committee, he moderated the 8th Annual Aviation Seminar held in New York in June.



Kevin Durkin

Keith Hebeisen was elected Third Vice President of the Illinois Trial Lawyers Association in June. This means he is in the line of succession to be President of the statewide organization in 2005-06. Mr. Hebeisen also was appointed Editor of the Illinois Bar Journal for a two-year position. He spoke to a packed audience at the Chicago Bar Association about amendments to Illinois Supreme Court Rule 213 in June.

Jeffrey Kroll is teaching Trial Advocacy at Northwestern University School of Law.

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



CLIFFORD LAW OFFICES, P.C.

120 North LaSalle Street
31st Floor
Chicago, Illinois 60602

Telephone (312) 899-9090
Fax (312) 251-1160
Web site: www.CliffordLaw.com