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Clifford's Notes

A Newsletter from **Clifford Law Offices, P.C.** a Chicago Law Firm
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Clifford's Corner

Robert Clifford was named one of the Top 100 Most Powerful Chicagoans by *Chicago Magazine* in 2013 in its February issue.

Robert Clifford was named the #1 Super Lawyer in Illinois in 2013. Super Lawyers, a highly respected organization that recognizes top lawyers in various states, named Clifford the number one lawyer based upon peer nominations as well as independent and colleagues' evaluations.

Bob Clifford was selected as one of *Crain's Chicago Business* 2012 Who's Who in Chicago Business in the area of Law.

Robert Clifford was selected as the State Chairman of the American Bar Fellows. The Fellows represent the top third of one percent of lawyers of each state.

On May 12, WTTW aired 10 Buildings that Changed America, a documentary project generously helped made possible by Robert and Joan Clifford. WTTW also aired Mary Todd Lincoln in February, which examined the insanity trial of America's First Lady during the Civil War. Closed captioning for that show was made possible by Clifford Law Offices.

Mr. Clifford participated in the 2013 Conference, "Shaping the Future of the Illinois Courts: Vision, Values and Strategies." The two-day conference was marked by judges and lawyers assembling to discuss how to improve the state justice system including technology and court funding.

How many more crashes until the FAA acts?

Reprinted from the San Francisco Chronicle, July 12, 2013

By Robert A. Clifford, Senior Partner, Clifford Law Offices

We don't know yet what caused Asiana Flight 214 to crash at the edge of San Francisco International Airport's runway. It's easy to blame pilots for accidents, but crews are human and human error is inevitable, so we need to backstop human fallibility with the right technology.

One of the real tragedies of this air disaster is that the crew did not have the technology

that might have alerted them that they were coming into SFO way too slowly and would have given them enough time to pull up and abort the landing.

They needed an airspeed warning alert that would blare, "Airspeed low, airspeed low!" Even worse, the National Transportation Safety Board has been recommending the use of such alerts for years, but the Federal Aviation Administration has failed to implement those cries for help and give pilots this lifesaving tool.

In 1996, the FAA's Human Factors Team concluded that flight crews needed better warnings that the aircraft was reaching low airspeeds. Then in 2002, a working group of the FAA's Aviation Rule-making Advisory Committee proposed issuing new regulations requiring the low airspeed alert technology. After a series of low airspeed accidents, including the 2002 crash where when Sen. Paul Wellstone died in Eveleth, Minn., the NTSB asked the FAA to require low speed alerter systems on commercial planes — and was ignored twice more.

In 2009, after a Colgan Dash-8 crash near Buffalo, N.Y., and a Turkish Airlines accident in Amsterdam that same year, the FAA finally said it would study the low speed alerter issue. Now, 17 years after the FAA's own advisory committee demanded the warnings and more than 10 years since the NTSB issued its Wellstone recommendations, isn't it about time to do something to ensure that our flying public is safe?

What's the FAA waiting for? So far, it has passed off the issue to the advisory committee for more study.

More study? Seriously?

We already have the technology needed to put the alert system on every commercial airliner. Honeywell has developed a low airspeed alerter software add-on to its Terrain Awareness Warning System, which cries out a warning when a plane's flying too slow. The other tragedy is, although Boeing upgraded the existing TAWS software to include the "air speed low" voice callout in all of its new Boeing 737 airliners after the Turkish Airlines Boeing 737 low airspeed accident the year before, it has not yet made this simple software change on any of its Boeing 777s — or, for that matter, any other aircraft.

Responsible and well-informed industry experts believe that if an aural low airspeed alert like the TAWS "callout" had been on the 777s, the Asiana crash, most likely, would not have happened.

Why does improved technology keep colliding with bewildering bureaucracy and then sliding into a decades-long sinkhole of studies, recommendations and inaction, which then repeats after each major low speed plane crash?

Some experts call it tombstone technology. The simple truth is that most of the highly effective safety systems in aircraft cockpits have not been required until after numerous fatal accidents. While the FAA administration and its staff have done many things that have helped us operate the safest aviation system in the world, calamities such as Asiana Flight 214 will keep on occurring until the agency takes action on issues that its officials have been fully aware of for many years.

It's time for the FAA to take a far more proactive role in combatting pilot error with the timely implementation of another modern cockpit safety tool: both aural and visual versions of low airspeed alerts.

We've already got the technology. Now, let's start using it everywhere — immediately.

Robert A. Clifford, a senior partner at Clifford Law Offices in Chicago, has handled and led litigation on behalf of aviation crash victims nationally and internationally for three

decades.

Press Room

Clifford Law Offices partners **Keith Hebeisen** and **Kevin Durkin** as well as Managing Partner **Thomas Prindable** were named among the top 100 lawyers in the state by Illinois Super Lawyers.



Bradley Cosgrove has become a partner at Clifford Law Offices. He previously had worked in the area of personal injury law at another Chicago law firm.



Shannon McNulty was named a partner at Clifford Law Offices. She has been an associate since 2004. Shannon recently spoke on professionalism at the Illinois Trial Lawyers Association annual program on Ethics of Deposing a Witness.

Pamela Menaker was appointed to serve on the Host Committee of the Illinois State Bar Association/Seventh Circuit Bar Association's 120th Anniversary of "30 Female Blackstones," marking the 1893 gathering of women lawyers from across the United State who met in Chicago for the first-ever national meeting of women lawyers. Pam also was appointed to the Chicago Bar Association Public Affairs Committee. She was appointed to the Illinois State Bar Association (ISBA) Committee on Marketing and Communications and begins her second term on the ISBA Assembly.

Kevin Durkin spoke to a standing-room-only crowd at the American Bar Association Section of Litigation Conference on Improper Arguments and Statements in Chicago.

Sean Driscoll spoke at a Chicago Bar Association webinar on "How to Succeed as a New Lawyer."



Sarah King was selected as the Illinois Trial Lawyers Association delegate to the Women Everywhere Planning Committee, a collaborative effort of nine women's bar groups that work together to plan and coordinate volunteer activities on behalf of high school girls as well as women and children in need.

Bill of Particulars

Magnetic Toys Remain for Sale on Shelves as a Danger for Children



It was six years ago that the Chicago Tribune did an investigation of hazards from magnetic toys for children that helped touch off the government stiffening standards on the small pieces that can be swallowed by the unaware.

At the time, Sen. Dick Durbin (D-IL) and Rep. Bobby Rush (D-IL) held a public hearing in Chicago on consumer safety. One of the clients of Clifford Law Offices, a mother from the far northern suburbs, Sharon Henry, explained at the hearing how she had innocently bought the toy, Magnetix, for her young son. She always carefully monitored him playing

with it, but as boys will be boys, he swallowed a couple of the pill-sized pieces and they began to attach together in his digestive track, perforating his bowel.

Durbin, head of the Senate Appropriations Subcommittee on Finance Services and General Government that oversees the Consumer Product Safety Commission (CPSC) and Rush, chairman of the Energy and Commerce Subcommittee on Commerce, Trade and Consumer Protection that has jurisdiction over how the CPSC operates, listened intently as the mother told the story of her anguish before television cameras on how she almost lost her son. And she was not alone.

The Tribune earlier had reported that at least more than a dozen other children had done the same. It is difficult for the magnetic toys to pass through a digestive track and, instead, when multiple magnets are swallowed, they can attract in the body, causing the intestine to twist and pinch, causing holes, blockages, infections, and even, at times, death, particularly if not discovered.

Sharon Henry testified in 2007 explaining how doctors had caught the problem just in the nick of time to save her son's life. She was told had she waited 24 hours, her son would have died, so she bravely stepped forward because she didn't want this to happen to another unsuspecting parent.

Now, six years later, the Chicago Tribune again covered the issue in a front-page story ("Still a dangerous attraction," April 14, 2013), reporting how even adult toys, like Buckyballs that people may keep on their desks, have become a dangerous attraction for children. The Tribune wrote, "Although no one keeps exact records on the problem, one medical group estimated from national surveillance data on injuries that ingesting magnets led to more than 16,000 emergency room visits by children under age 18 from 2002 to 2011."

The story went on to report that last week (April 12, 2013) the CPS announced that six major retailers including Barnes & Noble, Bed Bath & Beyond and Brookstone, are voluntarily recalling Buckyballs and Buckycubes (the square version of the product) that were bought at their stores and offering various incentives for anyone who brings them in. The CPSC estimates some three million sets have been sold in the U.S. since 2010.

Although many of the toys are no longer manufactured, they still are in people's homes. And other high-powered magnets, like adult toys and jewelry, are around many people's homes. The website of Ann & Robert H. Lurie Children's Hospital of Chicago talks about magnet safety and explains the symptoms to look for: "watch for suspect systems like nausea/vomiting, diarrhea, and/or pain, especially if you think magnets may be involved." Robert A. Clifford, senior partner at Clifford Law Offices, wrote about toy safety nearly 20 years ago in a column for the Chicago Lawyer magazine.

Parents and government officials have to remain vigilant for our young children.

Mom's Text and Drive With Babies in the Car

A new survey reveals an alarming rate of new mothers texting, checking emails or talking on the phone while their babies are in the car, according to a story published in USA Today (Wed., 1/23/2013).

The survey conducted by Safe Kids Worldwide and American Baby magazine, two child protection advocacy groups, found that 78 percent of moms with children under the age of two acknowledged talking on the phone while driving with their babies. As many as 64 percent said they turn around to tend to the child in the back seat. The survey, which was conducted last July, surveyed 2,396 mothers who were licensed drivers with children

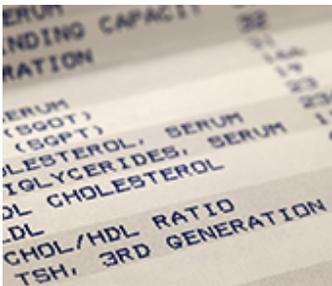
under the age of two.

The story explained how, of the 10 percent of the mothers surveyed who drove an average of 150 miles per week, had been in a crash, a figure that is three times higher than the national average.



Safe Kids' President Kate Carr recommended that mothers pull over if they need to tend to their children in the car and that all drivers leave their phones in the back seat and not attempt to answer them while driving.

Patients may face higher risk of heart disease due to inaccurate cholesterol readings



A widely used method of calculating patients' cholesterol levels by doctors across the United States may actually be failing many Americans. Researchers at the Johns Hopkins University of School of Medicine found that the standard formula used for decades to determine a person's low-density lipoprotein (LDL) cholesterol levels is often inaccurate, and underestimates the risk of heart disease for many.

The method, known as the Friedewald equation, has been used since 1972 and is supposed to measure "bad" cholesterol; higher readings usually signal greater risk of plaque in heart arteries and heart attack. However, while examining data of 1.3 million Americans, the researchers found that one out of every four times, the Friedewald measured cholesterol wrong.

"As a result, many patients may think they achieved their LDL cholesterol target when, in fact, they may need more aggressive treatment to reduce their heart disease risk," said Seth Martin, lead author of the study and a clinical fellow at the Johns Hopkins Ciccarone Center for the Prevention of Heart Disease.

Steven Jones, senior author of the study and director of inpatient cardiology at The Johns Hopkins Hospital and a faculty member at the Ciccarone Center, also said the Friedewald equation is giving patients a false sense of security.

Final Judgement

\$171,843,816.66 Verdict



The *National Law Journal* recognized the \$171,843,816.66 verdict last year as the top 11th Verdict in the country. Robert Clifford, Kevin Durkin and Colin Dunn, partners at the firm, secured nearly \$112,000,000 of the record verdict on behalf of two grain bin operators who were burned when the bin exploded in downstate Illinois. A one-month trial in federal district court in St. Louis resulted in the record verdict for the workers.



The firm also was recognized by the *National Law Journal* as one of 2013's Top 10 Litigation Boutiques in the nation. In bestowing this honor, the publication wrote, "They may be small but they command attention. ... [W]hen it comes to high-stakes cases it's all about skill, not size. [T]he lawyers practicing at these streamlined shops set precedents, righted wrongs or served companies during 2012." Clifford Law Offices is proud to be on the National Law Journal's Hot List for 2013.

Trial Notebook

- five people injured in Megabus crash in downstate Illinois
- patient has to have his defective left hip Stryker implant removed and replaced in a second surgery
- esophageal cancer patient undergoing chemotherapy suffers severe burns to his face when the port catches fire
- couple is killed when a Union Pacific coal train collapses on Willow Road in the northern suburbs, crushing their car below
- young husband and brother are killed on Interstate 294 when he is rear-ended by a large van that pushed his car into a dump truck
- father of two children riding his motorcycle is killed when a truck makes a sudden U-turn in front of him
- a passenger in a cab is injured when it crashes into a street light, flips over, and kills a pedestrian
- toxic mold in condo that developed from water seepage developed black fungal infection in couple's lungs requiring hospitalization and medication
- truck driver is severely burned when his rig is struck by construction equipment near Aurora, causing it to catch on fire
- mother undergoes partial hip surgery and never wakes up after anesthesia
- young husband and father of two is killed in Tennessee truck accident
- couple suffers severe injuries when a Walgreens' truck strikes them from behind at 55 miles per hour
- back-seat passenger suffers serious injuries when driver over-corrected on the highway and slammed into a tree
- U.S. Fish and Wildlife Services employee failed to stop and rear-ends driver who suffers serious neck and back injuries
- carpenter suffers severe injuries when aluminum roofing material hits electrical line where he is standing causing burns, broken shoulder and nerve damage
- driver runs a red light and strikes SUV on passenger's side, killing son in that seat as mother watched in SUV driver's seat
- cab driver backs up and strikes pedestrian, fracturing her pelvis

Clifford Law Offices Goes Mobile



Nearly one third of mobile users conduct searches on their devices, including finding a business. And that number is expected to double in just the next couple of years. In response to how much people love the devices in their hands, Clifford Law Offices has created a more user-friendly website on a handheld device. It is easier to read and simple to navigate with the smaller screen that can be bookmarked.

Clifford Law Scrapbook



Anatomy of a Trial

Robert Clifford participated in a day-long Anatomy of a Trial sponsored by the America Bar Association, re-creating the opening statement in the 1920's Sacco and Vanzetti criminal trial.



Illinois Trial Lawyers Association Seminar

On President's Day, Bob Clifford participated in an Illinois Trial Lawyers Association seminar on closing arguments and damages.



The Trial of Socrates

Bob Clifford defended Socrates in a mock trial of Socrates in a sold-out crowd sponsored by the Hellenic Museum. He and co-counsel Dan Web "saved" Socrates from death.



Bob Clifford Press Interview

Bob Clifford is interviewed by Fox Chicago's Larry Yellen on medivac helicopter crash that killed three in Illinois. He also spoke to him later on the Asiana Airlines plane crash.



Clifford Law CLE Program “Ethics of Witness Preparation at Deposition and Trial”

Bob Clifford once again hosted the continuing legal education program sponsored by Clifford Law Offices at DePaul University College of Law. The program was attended by more than 2,500 people in person and on the web. Other panelists included Cook County Circuit Court Judge Kathy Flanagan and George Washington University Law School Professor Stephen Saltzburg.



Lawsuit Filed for Unpaid Hotel Taxes

Clifford Law Offices held a press conference on the filing of a class action lawsuit on behalf of seven Illinois municipalities who are suing to recover unpaid taxes from online travel agencies. Managing Partner Tom Prindable (second from left) along with partner Michael Krzak (far right) spoke at a press conference that was streamed live across the internet. Four other law firms have joined in the effort.

Clifford Law Offices’ Giving Back



Clifford Law Offices Helps at WTTW Pledge Drive



The employees at Clifford Law Offices dedicated an evening to answering telephones at a recent pledge drive at WTTW, Chicago's public television station. Led by senior partner Robert A. Clifford, who also serves on the WTTW Board of Trustees, the evening was a busy night, raising thousands of dollars for programming.



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.

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.

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