

The Story of Kim Clark: Sovereign Immunity Is a Barrier to Justice for Amputee

by Michael J. Levine

Friday, February 1, 2002, started out like any typical weekday for Kim Clark. She and her son, Scott, were on the road to Scotland High School by 6:30 A.M. As they drove along US 401 in Laurinburg, she saw a white truck out of the corner of her eye. She screamed to Scott, who was already swerving to the left, but it was too late. Two hundred fifty-nine feet and two flips later, Kim's new Mercury Mountaineer came to rest in the median of the highway.

Scott, badly bruised and bleeding, watched in horror as emergency care was administered to his mother for, among other injuries, a right foot degloving. Kim was eventually airlifted to Duke University Medical Center, where it was necessary to amputate her right foot.

The next day, Kim received a phone call from the driver of the truck that struck her. She learned that it was a maintenance vehicle from the Scotland County School Bus Garage, and that the driver was on a test drive after servicing the brakes. Police investigation at the accident scene revealed that the master cylinder on the maintenance vehicle was empty.

Kim's medical costs are in excess of \$100,000, excluding the expense of being treated and hospitalized in Durham. Her health insurance carrier has only paid a portion of the bills and is now denying further payment for necessary prosthetic devices. Kim could not have foreseen the difficulty of her recovery or that the Scotland County Board of Education would claim sovereign immunity when confronted with her damages.



Kim Clark with her family.

The doctrine of sovereign immunity arose centuries ago from the notion that the English monarchy was sovereign and could not be held liable for damage to its subjects. Amazingly, North Carolina continues to recognize this ancient and antiquated doctrine that shields governmental entities from liability for the negligence of their employees.

Despite what appears to be an insurmountable financial situation and a debilitating injury, Kim returned to work as the operations manager of Four County Community Services, an agency dedicated to assisting low income families. She hopes and prays her story will inspire others and effect a revision of the archaic and unjust doctrine of sovereign immunity. ■