

# Appeals court upholds verdict in case against utility company

By **JOAN DEMIRJIAN**

The Eighth District Court of Appeals of Cuyahoga County has upheld a jury verdict against Cleveland Electric Illuminating Co. for actions involving failure to relocate utility poles on Savage Road in Bainbridge.

The case dates back to a traffic accident on Oct. 8, 2010. At around 10 p.m. Douglas Link of Bainbridge was traveling on Savage Road on his motorcycle when a deer struck him under his left arm causing him to veer to the right side of the road. He hit a utility pole owned by CEI causing serious and permanent injury to his right leg and pelvis, according to court records.

The pole was one of several that the Geauga County engineer and township had asked

CEI to move back from the roadway after a road widening project for the safety of the driving public. The county engineer said that some of the poles were in the ditch line and in other cases in front of the ditch and only 4 to 6 feet off the edge of the pavement.

The poles were located near the southern end of Savage Road. CEI stated at that time that the township would have to pay for moving the poles. Mr. Link's accident occurred 25 days later, according to records.

Mr. Link sued CEI and was represented by Solon attorneys Joseph Triscaro and Robert DeMarco. A Cuyahoga County Court of Common Pleas found that the poles which were not relocated constitute a nuisance and endangered the health and safety of the public.

Mr. Triscaro said the pole Mr. Link hit was

6 feet and 3.6 inches from the edge of the pavement. The pole did not meet CEI's own internal design standards or Ohio Department of Transportation requirements.

In the latest decision, the appeals court has agreed with the argument by Mr. Link's attorneys that there was substantial evidence in the record to support a finding that CEI consciously disregarded the safety of the driving public. The company had knowledge of a prior similar collision that had taken place at the same set of utility poles, according to court records.

With a speed limit of 45 mph on Savage Road, there is sufficient evidence presented from which a jury could conclude that the harm caused could be substantial, according to the decision by the appeals court.

The court of appeals upheld the jury verdict against CEI based upon its failure to relocate the utility poles along Savage Road, according to Mr. Triscaro.

The court of appeals has granted Mr. Link and his wife Diane an additional hearing to determine punitive damages against CEI.

The poles in question were moved back from the roadway by CEI last year. Mr. Triscaro noted that industry standards require clear zone distances of 17 to 23 feet.

In an earlier incident, David Bidar, who was driving on Savage Road on May, 23 2010, swerved to miss a deer. He struck a utility pole that was about 30 inches from the roadway in the same area and was seriously injured. He filed a suit against CEI and the case was settled in Cuyahoga County Court of Common Pleas.