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Chagrin Valley Times

Volume 42 / Number 22, Chagrin Falls, Ohio

February 21, 2013 • 75¢

ISSN 0194-3685

Jury rules against CEI in accident with pole

By **JOAN DEMIRJIAN**

BAINBRIDGE – A Cuyahoga County jury found in favor of a motorcyclist who sustained serious injuries after striking a utility pole on Savage Road in 2010.

Now, a second lawsuit by another driver over the poles owned by Cleveland Electric Illuminating Co. is waiting in the wings.

On Oct. 8, 2010, Douglas Link was driving south on Savage in the Bainbridge Township on his motorcycle. Wife Diane was following in her vehicle.

Mr. Link had just passed the Frohring Meadows entrance when a deer leaped out from the east side of the road, linking his antlers into the handle bars of the bike and striking him in the side.

His vehicle was forced into the CEI utility pole on the west side of the road. The pole was one of several that the utility had been asked to move by the Geauga County engineer and township because of its closeness to the road.

Just before the accident, the township sent a letter to CEI asking for eight poles to be moved for safety concerns. The response from the utility was that the poles would not be moved.

Mr. Link sustained three fractures in his pelvis, a compound fracture of his

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Photo by Hope Kinchen

Lion dance

Aileen Chan, co-owner/manager at Hunan by the Falls in Chagrin Falls, and "Uncle" Wu watch as the lion gets the orange and lettuce, symbols of luck and wealth, during the lion dance on Sunday in celebration of the Chinese New Year.

Focus may be toward sharing services

By **SALI McSHERRY**

The emphasis of a Cuyahoga County study focusing on Moreland Hills, Orange, Pepper Pike and Woodmere may have shifted from the idea of merging communities to sharing services, Pepper Pike Mayor Richard M. Bain said.

Four public meetings earlier this month focused on the process Center for Government Research will use to gather and evaluate data. The Rochester, N.Y., nonprofit will produce by June a report on the merits of increasing shared services between the communities or possibly merging two, three or all four, said Ed FitzGerald, county executive.

"We're happy with the turnout," said Kent Gardner of CGR, which is serving as project manager.

In this stage of the process, it's unusual to attract as many people, 85 in all, to preliminary meetings, Mr. Gardner said. There was an afternoon meeting in Woodmere, two evening meetings – one in Orange and one in Moreland Hills – and an early-morning meeting in Pepper Pike that drew 20 people.

At each of the forums, there was representation from every community, Mr. Gardner said. Using smart phones and

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Utility poles

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right femur and permanently lost the use of his right leg from the knee down. He sued CEI and parent company First Energy and was represented by attorneys Joseph Triscaro and Robert DeMarco, who have an office in Solon.

The case was heard recently in Cuyahoga County because Mr. Triscaro said one of First Energy entities' principal places of business is Cuyahoga. The jury decided the pole in question was a nuisance that caused injury to Mr. Link and found in his favor. While the court did not find CEI negligent, it awarded a monetary judgment to Mr. Link of more than \$350,000.

The jury also found that the township and the county engineer should not have permitted the road to be reopened after a road-widening project in 2008 until the issue of the poles was resolved.

Another lawsuit over the poles has been filed by Bentleyville resident David Bidar. He was driving on Savage Road in May 2010 and swerved to miss a deer. He struck a utility pole about 30

inches from the roadway.

Mr. Bidar was seriously injured, according to his attorney, David Pomerantz. They maintain that CEI impermissibly maintained the pole in the clear zone, an area adjacent to the roadway that is supposed to remain free of fixed objects. That case is expected to be heard in Cuyahoga, as well, according to Mr. Pomerantz.

In 2006, the township and county began planning for widening Savage Road. Final plans were submitted to CEI by the county engineer. The project began in summer 2008, when a preconstruction meeting was held.

CEI acknowledged in September 2008 that it was required to move poles. Through the following winter, the road remained closed for the widening project.

The utility moved some poles away from Savage Road and to the vicinity of East Washington Street. Poles near Chagrin Road, however, were never relocated.

CEI representatives met with the

county engineer in December 2009 regarding the issues, but made a decision not to complete the project, Mr. Triscaro said.

After the accident involving Mr. Bidar, there was an onsite meeting in June 2010 with a CEI representative and a member of the Bainbridge Road Department. At that time, township trustees expressed their concern and asked that the poles be moved.

Mr. Link was involved in his accident about four months later, followed by his suit against CEI, First Energy Corp., a holding company, and First Energy Services Co.

It's hoped that the township, its legal counsel and the county can put their heads together to compel CEI to relocate the poles before anymore injuries or fatalities occur, Mr. Triscaro said.

Industry standards for guidelines require clear distances of 17 feet to 23 feet. The pole Mr. Link hit is six feet from the edge of the roadway and eight feet from the road's white line. The

pole Mr. Bidar hit is less than three feet from the roadway.

CEI had been requested to move all of the utility poles on Savage Road, Mr. Triscaro said. After Mr. Bidar's accident, township officials notified CEI that they wanted prompt notification of when the poles would be moved to prevent more accidents.

CEI notified the township that it does not relocate poles for clear zones unless the township pays.

"My hope and desire is that the township and the Geauga County prosecutor compel CEI to move the poles," Mr. Triscaro said.

Bainbridge Trustee Jeff Markley wrote the letter to CEI on behalf of the township. The pole relocation was part of the county engineer's original plan to widen the road, but CEI chose not to move the poles, he said.

Mark Durbin, First Energy spokesman, said the utility plans to appeal the verdict on the Mr. Link case. There are no plans by the company to move the poles.