

Utility appeals verdict of suit in pole accident

By **JOAN DEMIRJIAN**

FirstEnergy is appealing a jury verdict a year ago that found in favor of a motorcyclist who was seriously injured after hitting a utility pole on Savage Road in Bainbridge.

The Cuyahoga County Court of Common Pleas judgment was against Cleveland Electric Illuminating Co. and parent company FirstEnergy. The jury found that the poles, which weren't relocated, constituted a nuisance and endangered the comfort, health and safety of the public and Douglas Link, who was injured, according to his Solon attorney, Joseph Triscaro.

CEI and FirstEnergy appealed the jury's decision to the Eighth District Court of Appeals in Cleveland. State Sen. John Eklund (R-Munson), who also is an attorney, is representing the utility companies.

A spokesman for CEI and FirstEnergy wouldn't comment on the reason for the appeal, but Mr. Triscaro said the appeal is an effort to get the court to agree with the defendants that they can place poles wherever they want.

Mr. Triscaro filed a brief in response to the appeal. He said his concern is that if CEI is successful in its appeal, it could lead to utility poles being placed in close proximity to roadways. "They are saying they can place them wherever they please in townships."

In the incident, Mr. Link of Bainbridge was driving south at about 10 p.m. on Savage Road in October 2010, when a deer leaped out from the east side of the road, linking his antlers into the handle bars of the motorcycle and striking Mr. Link in the side. His cycle was forced into a CEI utility pole on the west side of the road.

The pole was one of several that Geauga County engineer and the township had asked CEI to move back from the roadway after a road-widening project. The township requested the utility company to relocate 10 or so poles for safety reasons. CEI didn't move the poles at that time.

In the collision with the utility pole, Mr. Link sustained several injuries and

permanent injury to his right leg and pelvis. He also is represented by attorney Robert DeMarco, who has an office in Solon.

Based on the findings and judgment against CEI and FirstEnergy, the jury awarded damages to Mr. Link and his wife. The court awarded a monetary judgment to Mr. Link of \$798,532, which was reduced to \$367,324 by the jury based on the percentage of fault attributed to CEI and FirstEnergy.

At the time, the jury also placed some fault on the Geauga County Engineer's Office and Bainbridge Township, likely due to re-opening Savage Road prior to resolving the pole relocation issue, Mr. Triscaro said.

An accident involving the poles preceded Mr. Link's in which David Bidar, who was driving on Savage in May 2010, swerved to miss a deer. He struck a utility pole about 30 inches from the roadway in the same area and was seriously injured. He also filed a suit against CEI. That case was settled in the same court as Mr. Link's case.

The pole Mr. Link hit was 6 feet, 3.6 inches from the edge of the pavement, Mr. Triscaro said, who claimed the pole didn't meet or come close to CEI's internal design standards or Ohio Department of Transportation requirements.

CEI moved some poles away from Savage in the vicinity of East Washington Street, but didn't move poles near Chagrin Road.

Mr. Triscaro noted that industry standards require clear-zone distances of 17 to 23 feet. The pole Mr. Link hit was 6 feet from the edge of the roadway and 8 feet from the road's white line. The pole Mr. Bidar hit was less than 3 feet from the roadway.

Since the accidents, CEI moved poles away from the roadway. Geauga County Prosecutor James Flaiz also approached CEI and presented concerns of the Geauga County engineer, himself and township trustees. At the time, Mark Durbin, spokesman for CEI, said eight to 10 poles would be moved.