

**KMK Attorneys, Matthew K. Buck and Brandi M. Stewart, Hope the Jury Award of \$635,400 Will Help Clients Restore Lives After Vehicular Accident Devastated Family**

In a jury decision announced July 30, 2009, Keating Muething & Klekamp PLL (KMK®) attorneys Matthew K. Buck and Brandi M. Stewart won a \$635,400 decision for their clients, Lawrence R. (Rick) Roy and his wife, Kathy L. Roy of Loveland, Ohio, in a personal injury case resulting from a vehicular accident against The Shaw Group, Inc. and its employee, driver Daniel A. Gray. The trial was held this week in Hamilton County Court of Common Pleas before Judge Robert P. Ruehlman.

The decision is based on \$335,000 in compensatory damages to the Roys, including medical expenses, past lost wages, damage to their vehicle, the resulting loss of their business, and pain and suffering damages. In addition, the jury awarded the Roys \$300,000 in punitive damages based on the defendants' "conscious disregard for the safety of others." The trial started on Monday, July 27, 2009, and after approximately four hours of deliberation, the jury reached its verdict around 4:00 p.m. Thursday, July 30, in favor of the Roys.

The Shaw Group, Inc. offered \$50,000 to settle the lawsuit the week prior to the start of the trial. That offer was rejected.

The case arose from a traffic accident that occurred on April 24, 2006, on Montgomery Road in Kenwood, Ohio. Utility workers had been moving power line poles and installing new poles in the area. At the end of their work day, they had a pole that they could not install in the ground, and Shaw's onsite foreman made the decision to load the pole on the utility truck and drive it in rush-hour traffic approximately one-quarter mile north on Montgomery Road to a storage area. The foreman decided not to use a pole trailer or escort vehicle, which are regularly employed for safety purposes. The pole extended 16 feet off the back of the utility truck.

Roy, who had just finished delivering a piece of furniture he had upholstered as part of his family business, had picked up his wife to take her to dinner at the Red Lobster in Kenwood. The Roys were in the right lane, also travelling north on Montgomery Road, when the collision occurred.

In addition to Roy, a third-party eyewitness who was driving behind the Roys' van, and an expert witness all testified that the Shaw Group Inc. utility truck (driven by Daniel A. Gray), was in the left lane of traffic, and that when the truck turned left, the pole swung out into the right lane, smashing through the windshield of Roy's van – and striking him in the head.

In his testimony, Roy stated, "I saw the utility truck in the left lane, while I was looking forward. The next thing I knew, a monster was coming from the left, through my windshield, and hit me in the head." Roy's face was broken in five places, including his orbital bone and cheek bone, and he had injuries to his ear and eye as a result of being struck by the utility pole. Doctors surgically placed two plates secured by eight screws in Roy's face to keep it from collapsing.

Kathy Roy, who was in the passenger seat, sustained minor injuries from the accident.

Gray, the utility truck driver, testified that he positioned the truck to straddle the left and right lanes of traffic, moving into the right lane to block both of the northbound lanes. In trial, Gray admitted he knew that the pole would swing into the other lane of traffic. Further, he testified that he knew not to put a pole on the truck if it was more than 15 feet long because of the hazard it presents to other motorists; he admitted that he knew that poles swing out into other lanes of traffic during turns; and he testified that he knew that a pole entering another lane of traffic had the potential to cause serious injury to others. Gray further testified that he knew that to allow a utility pole to enter another lane of traffic would be a conscious disregard for the safety of others.

Both Roy and an expert in vehicular accidents testified that the utility truck was not straddling two lanes, and an eyewitness – a physician driving the car positioned behind Roy in traffic – also provided corroborating testimony that the truck was in the left lane only.

A Hamilton County Sheriff's Deputy testified that, per the laws of the state of Ohio, the pole should have been on a pole trailer, which would have prevented it from off-tracking (moving into another lane of traffic). Evidence also showed that, while four flaggers were used to stop traffic when the truck entered the work area, no safety precautions were taken to move the pole down a busy street during rush-hour traffic.

Roy was 52 years old when the accident occurred in 2006. He was working part-time running his own furniture upholstery shop, Roy's Upholstery, which was started by his grandfather in 1925, passed on to his father, and then later to Roy in 1981. He also worked 40-50 hours per week delivering furniture for Arhaus Furniture.

Dr. Thomas Sullivan, a neuropsychologist, testified that Roy has developed Post-Traumatic Stress Disorder and Major Depressive Disorder as a result of the accident. Roy has lost all interest in things that once provided pleasure, such as his family, his work, and hobbies, and that he suffers from high general anxiety, social anxiety, social withdrawal, memory loss, and that his relationships with others have greatly suffered. Roy was unable to operate his family business after the accident and had to close it – which took an additional emotional toll on Roy and his family.

"The jury found that The Shaw Group and its employee, Daniel Gray, consciously disregarded the safety of others by allowing the pole to travel into another lane of traffic, despite acknowledging under oath that he knew the action could be dangerous to others," stated Matthew K. Buck, lead plaintiff attorney for the Roys and a partner at KMK in Cincinnati. "In my opinion, that's the reason that the jury awarded the Roys \$300,000 in punitive damages as well as attorneys fees. Several things could have been done to protect the general public – flaggers stopping traffic, an escort vehicle, a pole trailer – but none of those standard safety precautions were employed. This accident should never have happened," stated Buck.

Brandi M. Stewart, an associate at KMK and second-chair in the trial, stated that she is pleased with the results for the Roys. "This was a serious accident where the family suffered real damages. Three years later, Mr. Roy continues to suffer as a result of this accident, and so does his family. He was a hard-working man who worked two jobs to support his family, and now all of their lives are changed as a result of this accident. I hope that this jury award helps them in their healing process," stated Stewart.

The jury verdict was reduced by 20% due to a finding of contributory negligence against Roy.

**Jury Award Details:**

\$193,929.92 in total economic damages

\$91,500.00 in total non-economic damages

\$50,000.00 in loss of consortium damages to Kathy Roy

\$300,000 in punitive damages

Total damages awarded: \$635,429.92. With the 20% reduction, total recovery is 508,343.94.

The Roys also were awarded attorneys fees which are not included in the total amount of recovery.

**About Matthew K. Buck**

Matthew K. Buck is a partner in the litigation practice at Keating Muething & Klekamp in Cincinnati, Ohio. Buck's practice is concentrated in the area of personal injury/wrongful death and class actions. He currently serves as national defense counsel for multiple companies and defends personal injury and products liability lawsuits brought throughout the country. In addition, Buck has successfully served as plaintiff's counsel in personal injury and wrongful death cases both in commercial and tort cases. Buck also currently serves as class counsel in a class action brought by descendants of homesteaders whose land was taken by the U.S. Government for use in building the Los Alamos National Laboratory and the

atomic bombs that ended World War II. This representation resulted in federal legislation to compensate the class.

Buck joined Keating Muething & Klekamp in 2001, after serving for more than five years as an Air Force Judge Advocate concentrating in the areas of military justice and criminal defense. Buck is licensed to practice law in the states of Ohio and Kentucky. He earned his J.D. from Temple University James E. Beasley School of Law, 1996, *cum laude*. He earned his B.A. from The Citadel, 1990.

**About Brandi M. Stewart**

Brandi M. Stewart is an associate in the litigation practice at Keating Muething & Klekamp in Cincinnati, Ohio. Her practice is concentrated in the areas of commercial and securities litigation, class actions, antitrust, insurance coverage, and personal injury/wrongful death. Stewart earned her degree from the University of Kentucky College of Law, 2007, and her B.A. from Vanderbilt University, 2004.

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