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Allegheny County Jury Awards \$109 Mil. in Electrocution Case

When an Allegheny County jury announced a \$109 million verdict Thursday, including \$61 million in punitive damages, in favor of a woman who died three days after receiving an electric shock from a fallen power line in her yard, it was the largest award in the county's history, according to annual statistics compiled in The Legal's sibling publication, PaLaw.

The verdict appears to be covered by insurance, said the plaintiffs' lead counsel, **Shanin Specter** of Kline & Specter in Philadelphia, who explained that defendants West Penn Power Co. and Allegheny Power have a \$5 million self-insured retention, a \$35 million policy with Aegis and a \$75 million policy with EIM.

Carrie Goretzka went outside her Irwin, Pa., home to call 911 from her cellphone, which was in her car, because the power went out at her home and the pine trees in the yard were on fire, according to plaintiffs' court papers.

While Goretzka was outside, a power line fell from the power pole in her yard and hit Goretzka, leaving her with burns on 80 to 90 percent of her body, according to the plaintiffs' papers in the case. Goretzka died three days later.

"There is a significant public safety issue in Western Pennsylvania with the power lines of West Penn Power: they are falling and they are falling because they are improperly installed and there is nothing more dangerous than a fallen energized power line," Specter said.

The jury's verdict includes \$48 million in compensatory damages and \$61 million in punitive damages.

The compensatory damages includes \$10 million for a wrongful death claim and loss of companionship; \$29 million to Goretzka's estate for pain and suffering as well as survival claims; \$1 million to Goretzka's mother-in-law for her emotional distress in seeing the incident and for a personal injury claim for burns sustained in trying to rescue Goretzka; and \$8 million, or \$4 million a piece, for Goretzka's daughters for their emotional distress in seeing their mother receive a fatal electric shock.

"We respect the work and efforts of the jury during this lengthy trial and thank them for their service," a spokesman for West Penn Power said in a statement. "We will carefully review the verdict during the next several days to determine whether an appeal of any or all of the verdict is warranted."

The plaintiffs' demand was \$50 million, as well as a demand for West Penn to take remedial measures such as having a monitoring regime using infrared technology to detect potential defects on power poles and retraining linemen on inserting conductors into splices, Specter said.

Allegheny County Court of Common Pleas Judge Michael A. Della Vecchia presided over the trial.

Defense counsel was Avrum Levicoff and Elizabeth E. Deemer of Levicoff, Silko & Deemer in Pittsburgh.

The jury was unanimous in finding that West Penn Power was negligent, that its negligence was a factual cause in Goretzka's death, that Goretzka was not herself negligent in causing the injuries complained of, and that West Penn Power's conduct was outrageous, according to a trial transcript.

West Penn Power denied that it was negligent, and the power company also argued that Goretzka was negligent in "approaching the fallen energized power line and that this negligence, as opposed to anything the defendant did or did not do, was the factual cause of the harm claimed by the defendants. The defendant had the burden of proving by a preponderance of the evidence that Carrie Goretzka was negligent and that her negligence was a factual cause of her own injuries. Thus, you must determine whether or not the defendant has shown that Carrie Goretzka, under all the circumstances, failed to use reasonable care for her own protection," the judge instructed the jury, according to the transcript.

The judge also instructed the jury, according to the transcript, that "anyone who provides, supplies or use an inherently dangerous instrumentality, such as the high-voltage electricity current supplied by the defendant in this case, is required by law to use the highest degree of care practicable to avoid injury to everyone who may be lawfully in the area of such activity."

The plaintiffs argued that there was not proper fusing and grounding in place on the power line to cause the fuse to trip when Goretzka came into contact with the power line. The plaintiffs also argued that a conductor on that pole was not cleaned with a wire brush per the manufacturer's instructions and West Penn Power's own standards prior to installation.

The defendants, however, argued that Goretzka's entry wound was in the palm of her left hand, and "the evidence is clear, and unmistakable that she deliberately walked to a point within no more than a few feet from where the downed line laid burning in the trees. The evidence leaves open to inference whether she also deliberately reached out and attempted to pull the energized line out of the trees."

West Penn Power also argued that the separation of the conductor was not because of a failure to clean the conductor.

While West Penn Power brought in the manufacturer of the splice from which the power line fell as a defendant, West Penn Power dismissed them before trial, Specter said.

The plaintiffs said that Goretzka's medical expenses were a little over \$94,000 and that her mother-in-law's medical expenses were close to \$2,600.

Plaintiffs' co-counsel were Dominic C. Guerrini and Kila B. Baldwin.

The next highest award out of Allegheny County was the \$106.1 million award in a coal mining contract dispute from the spring of 2011, but the state Superior Court vacated \$90.3 million in future damages in Allegheny Energy Supply v. Wolf Run Mining because the trial judge calculated the damages based upon the market price of coal from when the case went to trial.