

Area Section D

Jury awards couple \$615,000 in lawsuit

By RENEE BROWN
The Staff Writer

A Baltic area man and his wife were awarded \$615,000 by a jury Tuesday for injuries he sustained after his pickup slammed into a Tuscarawas County dump truck in 1989.

Donald J. II and Jill Richardson of 31792 Township Rd. 236, Fresno, were awarded \$315,000 and \$300,000 in individual damage awards after the jury deliberated about 1 1/2 hours. Because jurors decided Donald Richardson was 10 percent negligent in the Dec. 28, 1989, accident involving a county Road and Bridge Department dump truck, the Richardsons' total monetary award will be reduced by 10 percent, bringing the total to \$553,500.

All eight jurors unanimously decided Road and Bridge Department employee Michael Aubihl of New Philadelphia was 90 percent negligent in the accident. They also unanimously decided Richardson's actions contributed to his own severe head and brain injuries.

Robert Royer and Maura Scanlon, attorneys for the Richardsons, claimed Aubihl was negligent because he parked his truck on Crooked Run Rd. to assist a stranded motorist but didn't turn on his flashing lights or use road markers to alert oncoming traffic. Royer said in his

closing argument that Aubihl had the best opportunity to keep the accident from happening.

"They (county officials) want to blame Don for what happened," Royer said. "They created the hazard they are blaming Don for not avoiding. They created a hazard that created a trap for Don."

Defense Attorney Roy Battista claimed Richardson was driving too fast for the snowy conditions that dark morning and he violated the assured clear distance law by not being able to stop. No citations were issued by state troopers in the crash.

Aubihl testified Monday that when he got out of the dump truck to hook up a chain to the other motorist's vehicle, the truck's headlights, taillights, plow lights, flashing lights and overhead beacon light were on.

Battista said that according to law, if a vehicle is going to block a lane of the road, the vehicle must be visible at least 200 feet away. He said the truck's lights were visible 340 feet away and the entire tailgate of the truck was visible at 243 feet away, well within the law's parameters.

"The truck as it was parked was in compliance with statute," Battista said. "The law doesn't say to put out flares, reflective triangles, traffic cones or signs."

Injured man gets \$185,000

Flagger for Davey was hurt in 1991

By Bernie Gearon
Record-Courier staff writer

An Akron man who was struck by a truck in Hiram Township while flagging traffic in 1991 was awarded more than \$185,000 in damages Thursday by a jury in Portage County Common Pleas Court.

Thomas Mishler was working as a flagger for Davey Tree Expert Co. in Kent when he was struck by a North Shore Express truck on Jan. 31, 1991 on Ohio 82, according to court records.

Mishler was awarded \$185,783 in damages. He had sought \$300,000 for permanent injuries to his left foot and leg.

Attorney James Rudgers of the law offices of Glinsek, Higham and Kristoff represented Mishler.

Mishler can walk but is no longer employed with Davey Tree, according to Liz Bever, a spokesperson for the law firm.

"His foot required three major surgeries, 50 doctor visits and 50 physical therapy sessions," Bever said. "He ended up leaving Davey Tree since his job required a lot of standing and he could not stand for long periods of time after his rehabilitation."

North Shore Express could not be reached for comment.

Judge George Martin said cases with awards this large are relatively rare, but a jury in his court had awarded a \$15 million judgment in the past, a state record.