

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - OHIO**

### **Link v. FirstEnergy Corp.**

**Supreme Court of Ohio - July 26, 2016 - N.E.3d - 2016 WL 4010020 - 2016 -Ohio- 5083**

Motorcyclist injured when he struck utility pole after being hit by deer filed action against utility companies for qualified nuisance, negligence, and other claims.

The Court of Common Pleas entered judgment on jury verdict in favor of motorcyclist. Utility companies appealed and motorcyclist cross-appealed. The Court of Appeals affirmed in part, reversed in part, and remanded. The Supreme Court accepted utility companies' appeal.

The Supreme Court of Ohio held that:

- Companies complied with all applicable law governing placement of utility pole, and thus were not liable for motorcyclist's injuries, and
- Evidence was insufficient to demonstrate that utility pole interfered with usual and ordinary course of travel, and thus companies were not liable for motorcyclist's injuries.

Public utility companies complied with all applicable law governing placement of utility pole located in clear zone in right-of-way following road-widening project, and thus companies were not liable for motorcyclist's injuries from accident involving pole, though county engineer sent letter to utility company expressing disapproval of company's plan not to relocate pole out of clear-zone and chairman of township board of trustees sent letter requesting relocation of disputed poles. Highway-use manual did not require permit for pole installation or relocation, letters, without more, did not carry force of law requiring company to move utility poles, and board reopened road after completion of construction instead of initiating legal proceedings requiring companies to move poles.

Evidence was insufficient to demonstrate that utility pole located in clear zone in right-of-way following road-widening project interfered with usual and ordinary course of travel on road, and thus utility companies were not liable for motorcyclist's injuries from accident involving pole, though pole did not meet 17-foot clear-zone standards in Department of Transportation's location and design manual. After completion of road-improvement project, pole was approximately six feet from edge of pavement, had motorcyclist stayed within marked lanes, or even on improved portion of roadway, his motorcycle would not have come in contact with pole, and noncompliance with manual's guidelines, without more, did not establish unsafe condition.