

# Jury orders transit agency to pay the firms it sued

**Civil court case involved costs and delays in new MetroLink line.**

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**CLAYTON** • After spending millions of dollars on lawyers, accountants and expert witnesses, the Metro public transportation agency got nothing Friday for its investment in its \$81 million civil damage suit against four design and construction management companies.

Instead of verdicts in favor of Metro — which alleged negligence, breach of contract and fraud by the four companies in the delays and cost overruns of the eight-mile light-rail extension to Clayton and Shrewsbury — the jury found in favor of the joint venture.

Jurors in St. Louis County Circuit Court awarded \$2.56 million to the Cross County Collaborative consisting of Parsons Brinckerhoff, STV Inc., Jacobs Engineering Group Inc. and Kwame Building Group.

Officers of those companies were jubilant over the verdicts. They included Bob Niemietz and Robert St. John, both St. Louis-area residents who have worked for years on MetroLink design

here; Tony Thompson, president of locally based Kwame; and the defendants' battalion of lawyers.

"I don't think people have an appreciation for what all the firms had to go through the last four years," Thompson said after the verdict.

Metro lawyers sat in stunned silence as presiding Judge Carolyn C. Whittington read the nine verdicts — seven of them with zero damages for Metro and two with the awards for the collaborative for work it claimed it had performed but wasn't paid for.

Then Whittington read each verdict again at the request of Metro lawyer Gordon Ankney and asked jurors if that was their verdict and their signature on each one.

"We're disappointed," Ankney said in an interview. "The saving grace is that we have a great (light-rail) system and we are happy about that, and we feel the actions we took were necessary to do that."

Ankney said Metro will consider an appeal.

Thus ended a trial that began 100 days ago Friday, on Aug. 22, with another Metro lawyer, Jan Paul Miller, alleging that the delay of the MetroLink opening by 15 months and most of the project's cost overruns were the fault of the design and management companies.

Between the openers and the verdict, Metro put on about 30 live witnesses and another two dozen by videotape, and put up scores of documents on two screens for the jury to read. Then the defense put on more than a dozen witnesses of its own, plus numerous exhibits. Metro concluded with four more rebuttal witnesses.

"There were days that seemed longer than the whole trial," said juror Charles Seris, an art teacher in the Ferguson-Florissant School District. Seris said he had some difficulty reading corporate e-mails on the large screen, and even got a new pair of glasses during the trial.

At the beginning, jurors also complained about fluorescent lights above the judge's bench that were either flickering or burned out. The judge had them fixed at the jury's request.

At the jury's request, Whittington brought a gavel to court Friday — she had never used one during the trial — and slammed it down to formally end what attorneys have called the longest civil trial in St. Louis County history.

Before officially declaring it over, Whittington told the 12: "We are so lucky in St. Louis County to have you and people like you to come to court and serve as jurors."

## MEDIATION FAILED

As lawyers, jurors and reporters mingled in the courtroom and talked about the case, Metro President Larry Salci slipped out a back courtroom door and was unavailable for comment.

Salci and then-Metro Vice President Steve Knobbe were the primary movers in the summer of 2004 to terminate the contracts with the four companies and to take over the project itself.

On the day Metro took over, it sued the collaborative, and that sparked a three-year legal war. Metro hired experts: accountants, engineers, lawyers. Trial testimony gave only hints at how much has been spent — a million dollars on that expert, \$3 million on another, so many million in legal fees. Metro had three law firms representing it.

At one point, Whittington sent the case to mediation. That failed. Recently, Judge Bernhard C. Drumm Jr. was asked to intervene and attempt to work out a settlement. That, too, failed.

There were no allegations in the trial that the major contractors that actually built the system were at fault. Their officials testified about the delays they encountered.

They complained about some of the design work. But they also testified about other problems

that could not be attributed to the joint venture.

On Monday, Whittington read page after page of legal instructions and gave the jury nine verdict forms. Seven accused the companies of either negligence, breach of contract, negligent misrepresentation or civil fraud.

Metro lawyers urged jurors to make the joint venture partners pay — and pay big — more than \$81 million.

The evidence didn't prove it to the jurors — 10 of them voting for the joint venture on almost every verdict, and two siding with Metro. Nine jurors were needed to reach a verdict.

Defense attorneys Tim Thornton and James Bennett made it personal, saying the reputations of the individual engineers and architects who worked on the project had their professional lives at stake.

"We are quite satisfied that our clients have been vindicated," said lead defense lawyer Richard Hardcastle. "After four months, we think they got it right."

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