

# The Register-Guard

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## Woman awarded \$8 million

■ **Civil case:** A state trooper shot the plaintiff during a 1997 drunken driving arrest.

By **JOE MOSLEY**  
The Register-Guard

A U.S. District Court jury in Eugene awarded \$8 million on Friday to a 43-year-old woman who was thrown to the ground, pepper-sprayed, beaten with a baton and shot through the back and shoulder by a state police trooper after she allegedly failed to cooperate in a 1997 drunken driving arrest near Lakeview.

"It's pretty incredible," said Erik Heipt of Seattle, one of four lawyers representing Amy Conroy of Mosier in her federal civil rights lawsuit against retired Trooper David Henry.

"I think the jury was sending a message, and they wanted their

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# LAWSUIT

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voices to be heard loud and clear across the nation," Heipt said. "I really think they believed their role in that courtroom was to police the police."

The two-woman, six-man jury voted unanimously to award Conroy \$3.5 million in compensatory damages and \$4.5 million in punitive damages in what may be the largest-ever local civil judgment.

Jurors deliberated a total of six hours Thursday afternoon and Friday morning after a one-week trial before Judge Ann Aiken.

Conroy, who was left partially disabled with an artificial shoulder and upper arm, was unavailable for comment after the trial. Her lawyers said she was pleased with the outcome, despite her ongoing problems.

"She can't raise her arm, even parallel to her shoulder, and she's had a lot of emotional counseling for post-traumatic stress disorder," Heipt said. "She suffers from nightmares about police beating her."

"I don't think she will ever feel whole from what happened, but I think she feels vindicated and pleased with our system of government."

Henry, the retired trooper, was defended in the case by lawyers Bob Peterson and Tony Rudolfo of the state attorney general's office. Neither could be reached for comment Friday afternoon, but Kevin Neely, a spokesman for the attorney general, said no decision had been made on whether to appeal the verdict.

"Our next steps need to be determined," he said.

Lt. Gregg Hastings, a state police spokesman in Salem, said the agency stands by Henry, who retired four months after the incident.

"Our review (of Henry's treatment of Conroy) is that the shooting was justified," Hastings said. "It fell within our department policy, rules and regulations."

Hastings acknowledged that no outside agency investigated the incident, but said a local prosecutor in the south-central Oregon community of Lakeview concurred with the conclusions in the state police internal review.

"The Lake County district attorney's office reviewed the investigation when it was completed," he said. "If I remember right, I believe the D.A. made a decision not to bring it before a grand jury."

The incident began about 8 p.m. Nov. 22, 1997, when Conroy and Henry had each stopped at a market near Lakeview — Conroy to adjust a roof rack on her car and Henry to buy a snack. When Conroy pulled out of the parking lot, Henry followed in his patrol car, eventually stopping Conroy's car in a remote area for speeding.

Heipt — who took Conroy's case along with fellow Seattle lawyers Edwin Budge and Joseph Grube, and Portland attorney Chris Bottoms — said evidence showed that Henry detected alcohol on Conroy's breath and ordered her out of her car for sobriety tests.

Conroy apparently failed the tests, then disputed

Henry's decision to place her under arrest.

"Over the next several minutes, (Henry) admittedly threw her to the ground three or four times, emptied an entire can of pepper spray in her face and around her head and hit her well over a dozen times with his steel baton," Heipt said. "Then he ended up shooting her in the back when she was sitting in her car with her doors locked — she had gotten back inside for her safety."

Henry maintained in the trial that he shot Conroy in the left shoulder after she had escaped into her car and reached into a bag for what he thought might be a gun.

But Heipt said trauma surgeon James Kreig of Portland's Emmanuel Hospital testified that Conroy was shot in the back and the bullet exited through her shoulder.

Conroy was taken by ambulance to a Lakeview hospital after the shooting but an air ambulance flight to the trauma center in Portland was delayed until the next day because no police officer was available to accompany her on the flight,

Heipt said.

"This is a woman they knew was unarmed, at least after the fact," he said. "She wasn't even charged in this case with resisting arrest ... or anything to do with assaulting a police officer. The only thing she was charged with is driving under the influence, and she got into a diversion program and that was dismissed from her record."

Blood tests taken shortly after the incident showed that Conroy had a blood-alcohol level of 0.17 percent — more than twice the legal limit for driving in Oregon.

However, Heipt said evidence in the trial also showed that Henry tested positive for barbiturates as well as for cold medicine.

The plaintiff's lawyers also introduced evidence that Henry was reprimanded for failing to radio his dispatcher to report that he was stopping Conroy's car.

Conroy is a clothing maker who owns a small company called Fiasco Sportswear. She was an avid mountain biker, wind surfer and kayaker prior to the 1997 incident but can no longer participate in those activities, her lawyers said.

Her lawsuit originally named the state police as a co-defendant in the case, along with Henry. The agency was dropped from the suit because state government is responsible for paying any civil judgments against its on-duty police officers, Heipt said.

The written complaint didn't seek a specific amount in monetary damages but Conroy's lawyers suggested to jurors during closing arguments that \$4 million would be a reasonable amount for compensatory damages — for their client's pain and suffering.

"We didn't give an exact number for punitive, but we asked them to send a message," Heipt said. "We basically let them know that the higher their award, the louder they'll be heard."

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**ERIK HEIPT**

*Lawyer representing Amy Conroy*