

Daily Journal

Cameraman Hurt in Filming Awarded Nearly \$4 Million

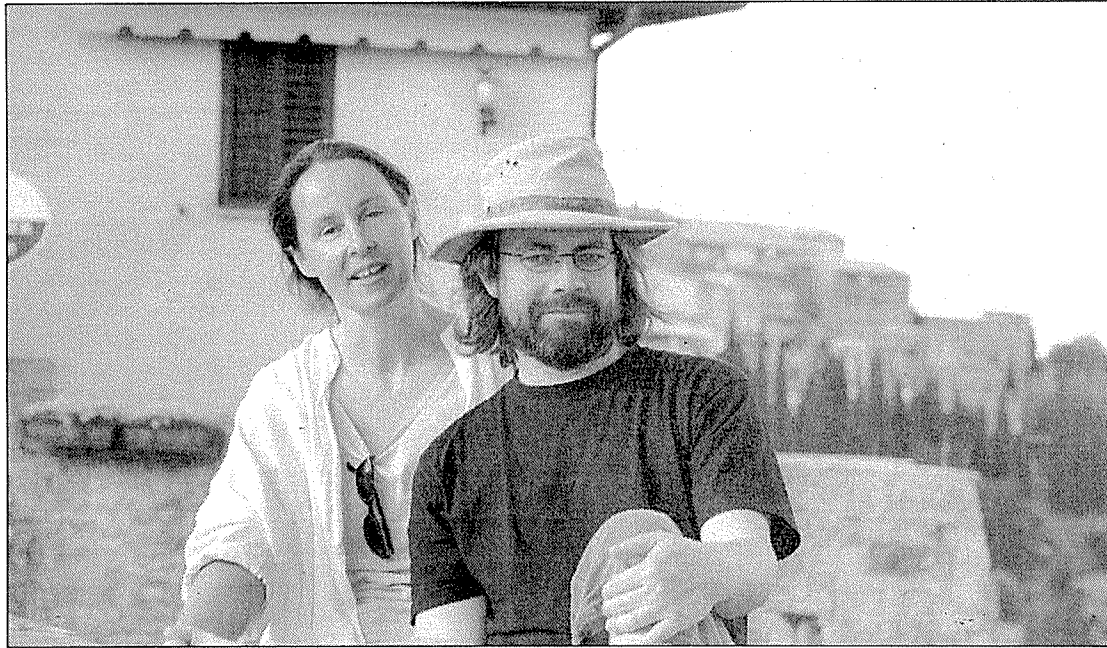
By Catherine Ho
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A Los Angeles jury awarded nearly \$4 million to a cinematographer Tuesday who suffered two broken legs when he was struck by an 800-pound model airplane while shooting a 20th Century Fox movie in 2004.

Ciaran Barry, a cameraman working on the studio's remake of "Flight of the Phoenix," will receive \$1.3 million in economic damages and \$2.6 million in non-economic damages. His wife Elizabeth Barry, the co-plaintiff in the lawsuit, was awarded \$75,000 for loss of consortium.

Barry was hit by the plane, which has a 20-foot wingspan, while shooting the film's opening scene in Namibia in which a plane crashes into the desert. The impact broke both of his legs and left him with nerve damage, said his lawyer, Katie Grassini of Grassini & Wrinkle.

Barry sued Fox and Flight Productions, Inc. – which contracted with Fox to produce the film – for damages resulting from negligence, peculiar risk and ultrahazardous



Courtesy of Grassini & Wrinkle

Ciaran and Elizabeth Barry sued 20th Century Fox after an 800-pound model airplane fell on him during filming, breaking both his legs.

activity.

At issue during the trial was whether Barry was an employee or an independent contractor. Grassini argued that her client was treated as an independent contractor until

he asked the studio to pay for his future medical expenses – at which point Fox wanted to designate him an employee so the company could handle the expenses through its workers compensation carrier,

Grassini said.

"They wanted him to be an independent contractor until they were confronted with a lawsuit," she said.

Fox was found 75 percent liable

in the accident. Flight Productions was found 25 percent liable.

But Richard Charnley of Ropers Majeski Kohn & Bentley, who represented Fox and Flight Productions, said Barry was in fact an employee of Flight Productions, and was approached by that company's workers compensation carrier after the accident but chose not to pursue it.

Charnley added that the judge erred in allowing the plaintiffs' lawyers to argue without sufficient evidence that Barry would be unable to work in the future because of his injuries.

"There was no evidence of long-term permanent disability and they clearly awarded him loss of earnings, based on a permanent disability," Charnley said.

"He may not have been able to return to work as an active camera operator, but I believe he could have returned to work easily as a director of photography or engineer," he added. "The judge allowed plaintiffs to argue permanent disability without any evidence, and that added a bunch of money to the award."

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