

2020 Lawyers of the Year



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JOHN RODDY

Bailey & Glasser



MERRILL SHEA

On Sept. 13, 2018, the unthinkable happened. While Columbia Gas was performing repair work in South Lawrence, its distribution lines became over-pressurized, triggering explosions and fires in Lawrence, Andover and North Andover.

Eighteen-year-old Leonel Rondon lost his life. But thousands more were affected in some way, whether they were displaced from their homes or had their businesses shuttered.

The ensuing class action led to a settlement that, at \$143 million, was about four times larger than the next largest private state court class action settlement in the state's history, noted Superior Court Judge James F. Lang, who nonetheless found that it was not a "close call" to approve the settlement.

“It’s very satisfying to fight for five years and finally have somebody say, ‘Yeah, you’re right.’”

But before that historic settlement could be reached, someone had to lead the legal team through the pleadings and negotiations. Lang tapped Boston lawyer John Roddy for the challenging job, along with Elizabeth Graham of Delaware and Frank M. Petosa of Fort Lauderdale, Florida.

Not only did Roddy and his team secure the settlement, they convinced Lang to award them their full fee request — 16.5 percent of the settlement fund, or nearly \$23.6 million — over the vocal objection of Lawrence Mayor Dan Rivera.

But the Columbia Gas settlement was not Roddy's only major win of 2020.

On Jan. 29, U.S. District Court Judge Douglas P. Woodlock approved a \$3 million settlement on behalf of a class of Uber riders who were charged a non-existent \$8.50 “Logan Massport surcharge” on rides to and from the airport.

The settlement came after Roddy, partner Elizabeth A. Ryan and appellate co-counsel Matthew W.H. Wessler of Washington, D.C., got the 1st U.S. Circuit Court of Appeals to revive the case after Woodlock had dismissed it based on an arbitration clause, which the 1st Circuit found too inconspicuous to bind a reasonable consumer.

Q. How did you first get involved in the Columbia Gas case?

A. A Boston lawyer named Al Farrah gave me a call about 24 or 48 hours after the incident. He and his brother, Lou, both were raised in Lawrence. I also reached out to Leo Boyle, who is one of the premier trial lawyers in the country. Leo is not a class action lawyer, but I've known Leo and his partner, Brad Henry, for probably 30 years now. I just thought that they would bring a lot to the table.

Q. How do you begin putting together a class action as big as this one?

A. It starts with getting chapter and verse from the plaintiffs to find out exactly how it affects them on a human scale and then translating that into potential legal claims. Somebody might have a 78-year-old grandparent who's

on oxygen and had to be relocated. And somebody else might have four kids under the age of 7 and scrambling to find a place where they could land on short notice.

Q. How do you get to the point where you're getting the largest private state court class action settlement?

A. That's a long and winding road. There were two huge obstacles to recovery for the class. The first is the tariff itself, which absolutely prohibits any kind of incidental or consequential or indirect damages. The law is that if Columbia Gas blows up your house or burns it down, they have to rebuild your house. But the emotional distress, the PTSD, the difficulties with shuttling your kids to school or continuing to work when you've been stuck in a mobile home somewhere for the next four months? They are literally immune from any kind of suit on those issues.

Secondly, if you're a business, there's a thing called the economic loss doctrine. The short version is, unless you've got some kind of direct loss that is caused by, for example, Columbia Gas blowing up your laundromat, all of the other consequential issues that flow from that are economic losses, and you don't get

to recover against the utility for any of those.

Q. Given those obstacles, why can't the utility just say, “Sorry, you're out of luck”?

A. Well, it did. There were a dozen or more class action suits filed in the wake of the incident, and in every single answer, the utility said, “Go read the tariff and read these cases that discuss the economic loss doctrine, and then we can maybe start to talk to you.”

But the flip side of that is, as we all know, you never can tell what happens when you go to court. If they wanted to roll the dice on these defenses, they're dealing with a lot of experienced class action lawyers. We basically came up with a few interesting and creative theories that we threw at Columbia Gas during the following year or so. It created some leverage and a little bit of momentum for negotiation.

Q. Is it true that the average family of four would recover approximately \$8,000?

A. The average turned out to be closer to \$10,000. The median family income in South Lawrence is a little bit below \$40,000 a year. That is really a life-changing number for people. The other thing is that those payments are scaled to give much more money to people who are in the midst of the maelstrom, so to speak.

Q. What did you make of Mayor Rivera's objections, first to the settlement and then to your fees?

A. I don't know why the mayor took the positions he did. All I can say about the mayor is that he hears music that I don't.

Q. Given the way arbitration clauses continue to be the bane of consumers in any number of different circumstances, you must have been happy to be able to achieve such a good result in *Cullinane v. Uber*.

A. Very much so. Eight dollars and 50 cents isn't going to really change anybody's life, but it's that kind of nickel-and-dime fraud that, when people find out they're being taken advantage of that way, it really [makes them mad]. It shouldn't be just a get-out-of-jail card, where you say, “Arbitration clause. It doesn't matter that we made up the fee. You lose.” It's very satisfying to fight for five years and finally have somebody say, “Yeah, you're right.”

— Kris Olson

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We salute Boston's finest, our partner and friend,
John Roddy, one of Massachusetts Lawyers
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