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DAILY REPORT

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► VERDICTS & SETTLEMENTS

A FULTON COUNTY JURY declined to assign liability to a woman who struck and killed a Georgia Tech researcher when he skated in front of her car at an intersection near Alpharetta's Big Creek Greenway Park, handing down a defense verdict after a little more than hour of deliberation, said the defendant's lawyer.

Ilia R. Vassiliev, a Russian-born research assistant in the field of photosynthesis, was 46 and "by all accounts a genius," said defense attorney Matthew G. Moffett of Gray, Rust, St. Amand, Moffett & Brieske. The scientist had been rollerblading along the path that runs the six-mile length of the linear park and was leaving the park near the intersection of Kimball Bridge and Rock Mill roads on July 31, 2005, according to court documents.

"He was crossing Kimble Bridge at a crosswalk at about 2 o'clock in the afternoon," said Moffett. "He's rollerblading, he's got [a cell phone] earpiece in his ear, talking to his father back in Russia."

Vassiliev made it across the westbound lane of traffic, which had stopped for a red light, but as he crossed the eastbound lane he was struck by a car driven by Corry M. Crowe, then 57. He died 10 days later, according to a complaint filed the following year on behalf of his widow and executrix, Elena V. Vassilieva, by Thomas A. Withers of Savannah's Gillen, Withers & Lake. I. Gregory Hodges and William J.

Hunter of Savannah's Oliver Maner subsequently joined the plaintiff's team.

As the case progressed, the plaintiffs said they found evidence that Crowe, too, had been talking on her cell phone, although she denied it, said Moffett.

"She denied being on the phone, so they got her cell phone records that showed an



Matthew Moffett

incoming call having been received exactly at the time overlapping the accident; she still denied it," said Moffett. "Her only explanation was that the cell phone bills were wrong. So they deposed a phone company expert who said the bills were not

wrong, but she maintained it was in her purse all the time."

When trial commenced March 22 before Fulton County State Court Judge Brenda H. Cole, both sides were concerned about the jurors' possible interpretations of the facts.

During voir dire, said Moffett, all of the prospective jurors "felt there was a serious safety issue with people driving and using cell phones, so we've got a hot issue there."

On top of that, he said, for several weeks before trial TV talk show host Oprah Winfrey had been pumping a "No Phone Zone" campaign aimed at getting drivers

to stay off their phones, "so I wondered how many people went home and had TiVo'd that show," said Moffett.

On the plaintiff's side, there were fears that the jurors would decide that, since both Crowe and Vasiliev were on the phone, they were both at fault.

"I think we did prove [Crowe] was on the cell phone," said Hodges, who was lead trial counsel, but "the most difficult thing for us was that jury could conclude that the parties were equally negligent, rather than breaking out percentages. That's the toughest obstacle to overcome."

The trial lasted four days, and the jury reached a unanimous defense verdict almost immediately, said Moffett, who spoke to several members.

"Based on what I was told, it did not seem to involve a debate over who was on the phone," he said. "It came down to [the fact that] she had a green light, and he did not have the signal."

"It was tough case," said Hodges. "We admitted that Dr. Vassiliev had entered the intersection against the light, and that Ms. Crowe had a green light. She was a very nice lady and a sympathetic defendant."

The lawyers said that a high-low agreement between the parties precluded any appeals; neither would discuss specific figures of that arrangement.

The case is *Vassilieva v. Crowe*, No. 2006EV001256. ☐