

And The Defense Wins

Published 12-20-17 by DRI

Matthew Moffett and Jacquelyn Smith



A Gwinnett County State Court jury awarded zero after a weeklong wrongful death trial in which the plaintiffs' attorney urged \$20 million in damages for the life of a pedestrian run over by a truck. The jury appears to have done so based on something simple: the flashing orange hand that lights up when the time to walk is ending.

The defense team, DRI members [Matthew Moffett](#) and [Jacquelyn Smith](#) of **Gray, Rust, St. Amand, Moffett & Brieske** in Atlanta, told the jury that the white walk sign had gone away, and the orange hand was flashing when Brandon Lanier stepped into the cross walk on Main Street in downtown Tifton on April 22, 2014.

The plaintiffs' team, Katherine McArthur, Caleb Walker, Jordan Josey and Laura Penn of the McArthur Law Firm in Macon, asserted that the orange hand didn't start flashing until Lanier was already in the crosswalk, which would have been a legal crossing.

No one suggested that the "don't walk" sign had appeared.

"My hat is off to Matt Moffett," McArthur said Tuesday. "He managed to convince the jury of one of the most unlikely defenses I've ever heard."

McArthur had eyewitnesses, including two police officers, testifying that Lanier had pressed the pedestrian crossing button, waited for the signal and let an approaching truck come to a stop before crossing. The witnesses then saw Riley Jake Hulseley turn his truck right, knock down and run over Lanier, she said. Hulseley was cited and has a vehicular homicide charge pending, she said.

"This was a very surprising verdict," McArthur said. She said she believes the verdict went against the weight of the evidence and she will appeal. The case was tried before Judge Joseph Iannazzone.

Moffett said he believes he simply convinced the jury that it wasn't reasonable to place all of the responsibility on either the pedestrian or the truck driver and that both contributed to the accident. The verdict assigned 50 percent of the fault to each party—which in Georgia means no damages are awarded.

Moffett said he, for one, wasn't so surprised. He said his focus group and two-day mock trial predicted the outcome.

"The jurors did what they should do," Moffett said. "They followed the law and kept their natural feelings of sympathy out of their decision."

Both sides agreed that this case was a tragedy full of emotion. Lanier was 31 and the sole caregiver for his ailing mother and brother, who both passed away after he did. His mother died of a heart attack at the bedside of his brother, who had to move to a nursing home, and then died there himself. The executor who filed the lawsuit was a close friend of

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the mother and was in a wheelchair and suffering from cancer. The only heir to the estate, a brother, was a genuinely nice gentleman, Moffett said.

Moffett said he had frustrations of his own about the outcome.

“The competitor in me is happy, but I’m not excited about a defense verdict,” Moffett said. “I try to settle my cases. My goal is resolution. That’s best for everybody.”

Moffett said he and McArthur worked on a settlement and then a high-low agreement that would have controlled everyone’s risk, “but our numbers were too far apart.”

The estate had already received \$1 million in a settlement from the primary insurance carrier. Moffett represented Ironshore Specialty Insurance Co., which carried approximately \$25 million in excess coverage for Hulsey’s employer, TriEst Ag Group Inc.

The case is *Nancy Quynn, as administrator of the estate of Brandon Lanier v. Riley Jake Hulsey and TriEst Ag Group*, No. 15C04812-4.

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