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Jury finds woman not liable for fatal accident 3-year-old killed crossing road in '05

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LAWRENCEVILLE - A jury deliberated about two-and-a-half hours Thursday before finding a 39-year-old woman not liable in a traffic accident that killed a 3-year-old child in 2005.

The child's mother, Eriberta Mota, brought the \$2 million wrongful death suit on behalf of her late son, Aldair Hernandez, who died when he was struck on Beaver Ruin Road just before 9 p.m. on Nov. 27, 2005.

Mota and her two sons were walking back to their East Hill Way home after using a convenience store pay phone.

Yoonhae Lee was driving her 2004 Volkswagen Passat toward Grayson, where she and her sister were going to visit their parents.

In the suit, Mota alleged Lee failed to maintain proper lookout and failed to take evasive action. Lee contended that visibility was poor on the unlit roadway and that the pedestrians should not have been crossing where the accident happened.

A Gwinnett police spokesman said the site was not a designated crosswalk. According to reports, Mota and her children had "travers(ed) almost five lanes" and were within 18 inches of the curb when they were struck.

Hernandez died at the scene and Mota and 1-year-old Miguel Angel Jaimes, who was being carried by his mother, were taken to area hospitals.

No criminal charges were ever filed.

Lee's attorney, J. Robb Crusier, said the accident likely wouldn't have happened had it been daylight.

"There was basically a pretty good line of sight if it were day, but (Lee) just had no opportunity to miss (the pedestrians) or react," Crusier said. "I think the jury concluded the pedestrian saw lights coming and should not have crossed the road."

Crusier called the case a difficult one but said he is pleased the jury "focused on the liability and not the damages."

"(Lee) is pleased with the outcome," Crusier said. "She feels like a chapter has closed but still feels somewhat humbled by the loss of life."