
Home » Crime » Retrial of Volpe drowning lawsuit scheduled for June

Retrial of Volpe drowning lawsuit scheduled for June

March 22, 2012 ⌚ 3 Mins Read

By Megan Shaw

The retrial of the wrongful death lawsuit against the city of Lexington over the 2006 drowning of 16-year-old Charles O. Volpe is scheduled for late June, but it might be held in another location.

A change of venue hearing April 13 will determine the location of the retrial. Mark Obenshain, the attorney representing the Volpe family, said he worries a local jury might be prejudiced against the Volpe family. He has asked for a new location.

Volpe drowned April 23, 2006, in the Maury River below a low-head dam. The teenager entered the water from Jordan's Point Park, a facility owned by the city.

The Volpe family filed a lawsuit in 2007, seeking \$9 million in damages from the city for gross negligence, willful and wanton negligence, and public nuisance.

In 2009, Rockbridge County Circuit Judge Michael Irvine ruled in favor of Lexington after the jury was unable to reach a verdict.

The Volpe family appealed to the [state Supreme Court](#), which sent the case back to the Rockbridge County Circuit Court for another jury trial. Volpe asked for a change of venue.

In September 2011, Irvine held a change of venue hearing in which attorneys representing both the Volpe family and the city presented arguments, but no witnesses testified. Irvine scheduled a second hearing for April of this year, which will include witness testimony.

Obenshain, the Volpe family's lawyer, said he wants to move the trial because the extensive media coverage of the accident could make it difficult for a local jury to be impartial. He also

said the victim's father's criminal record should not be involved in the jury's decision.

Charles "Chuck" Volpe spent six months in jail in 2009 for embezzlement. According to court documents, in the years after his son's death, Volpe embezzled more than \$63,000 from the [scholarship fund](#) he set up in memory of his son and also took money from landlords and real estate agents who worked with him.

Volpe was indicted on Feb. 1, 2009 on nine counts of embezzlement. He pled guilty, agreeing to pay restitution to those he embezzled from and to repay \$52,828 to the memorial fund.

Obenshain said Volpe was "depressed and withdrawn" after his son's death.

"His actions during that time should be completely separate from what happened in 2006," he said.

John Zunka, the attorney representing the city, said the whole case is all about risky teen behavior.

"This is something that you can't blame the city of Lexington for," he said. "The river speaks for itself."

On the day of Volpe's death, he and a friend, Bryc Talley, went to Jordan's Point to swim. Obenshain said the two friends assumed that the area was safe for swimming.

As Volpe swam and got closer to the dam, he was swept over it. The water carried Talley through the water, but he was able to swim to safety.

"They went to Jordan's Point that day specifically to jump off the dam," Zunka said. "It's a public place."

Neither Obenshain nor Zunka has released a list of witnesses for the change of venue hearing.

[Tweet](#)