



## **Defense Attorney Defies New York State Cell Phone Law and Decries Global Research**

*A niece of the Buffalo Police Chief is claiming that she is a responsible driver despite using a cell phone while driving. And although blatantly contravening New York state law, her defense attorney claims that global research is "nonsense" and boasts that he still uses his own phone while driving.*

([PRWEB](#)) February 3, 2005 -- Tracy Diina, a niece of Buffalo Police Commissioner Rocco Diina, was back at Kenmore Village Court on Tuesday evening, to take another step in her case challenging the New York state law that bans the use of hand-held cell phones while driving.

Village Justice J. Mark Gruber started by pointing out that the Attorney General had reserved the right to appear in the case if it proceeds further. He said: "The defendant has failed to prove that the [cell phone] law is unconstitutional," and added "New York state has a vital and compelling interest in highway safety." He also commented: "Twenty-three nations, including Italy, Great Britain, Israel and Japan have enacted legislation banning the use of cell phones by drivers." And he stated that the defendant's motion to dismiss the case was denied. Outside the court, Ms. Diina's attorney, James Ostrowski, said: "We don't agree with that and we intend to appeal."

"We believe that the Government has gone too far. This is just another tax," he added. He was then asked by one of the television reporters "What about the flip side, that lives may be lost because of drivers using cell phones?"

"No," said Ostrowski. "150 million people have used cell phones without having an accident. That is complete nonsense. That was destroyed in my brief."

"What about the overseas research?" another asked. "For example, what about the report from the Transport Research Laboratory in Great Britain, that states that driving while using a cell phone is as dangerous as driving with a blood alcohol concentration of point zero eight?"

"Who?" said Ostrowski. "Their study is incorrect." Ms. Diina answered various questions from reporters. "When the law was passed, I didn't agree with it," she said. And in the context of her doing something about it, she added, "I guess I had to wait until I got pulled over. I'm a responsible driver who chooses to talk on her cell phone."

"Do you still talk on your cell phone while driving?" asked a reporter. "No comment," said Diina. "I do!" said Ostrowski. Eddie Wren, executive director of the road safety not-for-profit organization, Drive and Stay Alive, Inc., said The Transport Research Laboratory, which Mr. Ostrowski was so quick to dismiss, is one of the world's oldest and most respected independent facilities in the traffic safety arena, and the study in question compared driving while using a cell phone to driving while legally intoxicated, in order to benchmark one problem against the other."

The conclusion of the research report reads: "Driving while intoxicated is clearly dangerous and this study further confirmed that alcohol impairs driving performance. However, this study also found that certain aspects of driving performance are impaired more by using a phone than by having a blood alcohol level at the legal



limit [0.08% BAC]. It is concluded that driving behavior while talking on a phone is not only worse than normal driving, it can also be described as dangerous. "Although using phones while driving is illegal in many countries and can be considered irresponsible and dangerous, this behavior is common. Drivers need to be strongly discouraged from engaging in any phone use when behind the wheel. It is hoped that this research will contribute to the growing evidence on the hazards of phone use and convince people to turn off their phones while driving."

Notes for Editors:

1. The court case in question is:

The People of the State of New York -vs- Tracy Diina; Kenmore Village Court, Western New York.

2. Drive and Stay Alive operates what is apparently the largest international road safety news service in the world (i.e. over 3,000 articles from 116 different countries in 2004, alone).

[www.driveandstayalive.com](http://www.driveandstayalive.com)

Media assistance is willingly provided.

3. The full (but copyright) TRL report is available for reference from Drive and Stay Alive.

4. TRL: [www.trl.co.uk/](http://www.trl.co.uk/)

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