

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

THOMAS NEELY

Plaintiff,

vs.

CIVIL ACTION NO.: _____

**FOX OF OAK RIDGE, INC. and
BENJAMIN H. CURD,**

Defendants.

COMPLAINT

(1) Jurisdiction in this matter is based on amount of controversy and diversity of citizenship, 28 U.S.C. Section 1332(a)(1) and (c). Plaintiff is a citizen and resident of the State of Kentucky. Defendant Fox of Oak Ridge, Inc. is a Tennessee Corporation. The Defendant Benjamin H. Curd is a resident of Tennessee. The incident complained of herein took place in the State of Tennessee. The matter in controversy exceeds, exclusive of interest and costs, the sum of \$75,000.00.

(2) Defendant Fox of Oak Ridge, Inc.'s address is 799 Oak Ridge Turnpike, Oak Ridge, Tennessee 37831-6077, where the registered agent, Lester F. Fox may be served with process. Defendant Benjamin H. Curd's address is 1610 Red Cedar Avenue, Apartment #114, Jefferson City, Tennessee 37760, where he may be served with process.

(3) On July 12, 2004 at or about 3:19 p.m. Plaintiff Thomas Neely was driving his automobile in a westerly direction on State Route 61/North Charles Seivers Boulevard in Anderson County, Tennessee in a safe and cautious manner near the junction with Park Avenue.

(4) At said time and place Defendant Benjamin H. Curd, during the scope of his employment for Defendant Fox of Oak Ridge, Inc., was operating a 1998 Chevrolet Van in a westerly direction on said State Route behind the plaintiff and he approached Plaintiff's vehicle much too fast, not keeping proper lookout ahead, driving recklessly, failing to keep said vehicle under due and reasonable control, and operating said vehicle without regard for the safety of Plaintiff and other motorists.

(5) As the sole, proximate result of said negligence, Defendant Benjamin H. Curd disregarded the slowed and/or stopped traffic facing him, and he disregarded Plaintiff's vehicle which had slowed for the traffic. Defendant Benjamin H. Curd consequently caused said Chevrolet Van to crash into the rear of Plaintiff's automobile with such force and violence, that Plaintiff suffered severe, painful, permanent and disabling injuries and damages.

(6) Defendant Benjamin H. Curd was guilty of negligence per se by violation of Tennessee Code Annotated as follows:

§55-8-124(c), Following too closely;

§55-10-205, Reckless Driving - A. Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(7) All allegations of negligence and gross negligence on the part of Defendant Benjamin H. Curd are imputed to Defendant Fox of Oak Ridge, Inc. as Defendant Benjamin H. Curd was the agent and employee of Defendant Fox of Oak Ridge, Inc.

(8) As a direct and proximate result of the negligence of the Defendant, Plaintiff suffered serious personal injuries, which are permanent, and as a result the Plaintiff has suffered continuous physical and mental pain, he has suffered a permanent diminished capacity to enjoy life; he has sustained loss of income and permanent diminished earning capacity; he has incurred extensive medical bills for treatment and care, and he will continue to do so in the future.

WHEREFORE, Plaintiffs demand a jury to try this cause and award judgment in such amounts as the jury deems fair and just but not to exceed Two Million Five Hundred Thousand (\$2,500,000.00) Dollars in compensatory damages; and all costs of this action.

Thomas E. Neely

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