

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

THOMAS NEELY,

Plaintiff,

v.

No.: 3:05-CV-304
(Phillips/Guyton)

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

Defendants.

ANSWER

Come the defendants, and in response to the allegations made by the plaintiff Thomas Neely would state unto this Honorable Court as follows:

1. Upon information and belief, the allegations of Paragraph One (1) regarding jurisdiction, citizenship and residency of the parties are admitted.

2. The allegations of Paragraph Two (2) are admitted.

3. It is admitted that the plaintiff Thomas Neely was driving his automobile on July 12, 2004, at the location alleged in Paragraph Three (3). The remaining allegations of Paragraph Three (3) are denied and strict proof is demanded thereof.

4. It is admitted that the defendant Benjamin Curd was operating a 1998 Chevrolet van in the course and scope of his employment with Fox of Oak Ridge, Inc. It is admitted that the vehicle operated by defendant Curd came into contact with the vehicle operated by the plaintiff Thomas Neely. The remaining allegations of Paragraph Four (4) are denied and strict proof is demanded thereof.

5. The allegations of Paragraph Five (5) are denied and strict proof is demanded thereof.

6. The allegations of Paragraph Six (6) are denied and strict proof is demanded thereof.

7. It is denied that defendant Benjamin Curd was negligent. It is acknowledged that defendant Benjamin Curd was an agent/employee of defendant Fox of Oak Ridge, Inc. The remaining allegations of Paragraph Seven (7) are denied and strict proof is demanded thereof.

8. These defendants are without information sufficient to admit or deny the allegations of damage and loss made by the plaintiff and would demand strict proof thereof.

9. Any and all further allegations not heretofore admitted, explained or denied are expressly denied.

10. It is affirmatively averred that the plaintiff Thomas Neely was negligent, and his negligence was the proximate cause of any injuries he claims. His negligence will bar or proportionally reduce his claim in accordance with the principals of comparative fault announced by the Tennessee Supreme Court. Specifically, plaintiff caused his vehicle to come to a sudden and unexpected stop due to his inattention.

WHEREFORE, the defendants pray that this Honorable Court dismiss this Complaint with costs taxed to the plaintiff.

Respectfully Submitted:

SPICER, FLYNN & RUDSTROM PLLC

S\ Clint J. Woodfin

Clint J. Woodfin - 016346

Attorney for Defendants

First Tennessee Tower, Suite 1400

800 South Gay Street

Knoxville, TN 37929

865-673-8516

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing pleading has been mailed, U.S. Mail, postage pre-paid, to the Plaintiff's attorneys at the following address:

Michael C. Inman - 022858
Robert J. English - 001038
Attorneys for Plaintiff
706 S. Gay Street
Knoxville, TN 37902
865-546-6500

This 7th day of July, 2005.

S\ Clint J. Woodfin
Clint J. Woodfin