

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

THOMAS NEELY,

Plaintiff,

v.

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

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

Defendants.

PLAINTIFF'S SECOND MOTION IN LIMINE

Comes now the Plaintiff, Thomas Neely, by and through counsel, and respectfully moves this Honorable Court for an Order precluding the arguments of counsel, testimony by the parties or witnesses, and any references at all to any allegation that the Plaintiff was not wearing his safety belt at the time of the wreck. In support of said motion, Plaintiff would state as follows:

Any allegation that the Plaintiff was not wearing his safety belt at the time of the accident should be excluded under Tennessee Code Annotated §55-9-604, which specifically states:

(a) The failure to wear a safety belt or receipt of a citation or warrant for arrest for failure to wear a safety belt shall not be admissible into evidence in a civil action ...

Furthermore, the Court in MacDonald v. GMC, 784 F. Supp. 486, 500 (M.D. Tenn. 1992), which followed Tennessee's exclusionary rule, states that, "...the Court rules that § 604 governs the admissibility of evidence about seat belt use."

WHEREFORE, Plaintiff request an Order precluding the arguments by counsel, testimony by the parties or witnesses, and any references at all to any allegation that the Plaintiff was not wearing his safety belt at the time of the wreck.

Respectfully submitted this 6th day of June, 2006.

s\Michael C. Inman
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CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2006 a copy of the foregoing Plaintiff's Second Motion in Limine was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

s\Michael C. Inman
Michael C. Inman, Attorney for Plaintiff