

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION

THOMAS NEELY,)
) No. 3:05-CV-304
Plaintiff,)
) Knoxville, TN
vs.) June 21, 2006
) 9:30 a.m.
FOX OF OAK RIDGE,)
)
Defendant.)

TRANSCRIPT OF JURY TRIAL (CONTINUED)
BEFORE THE HONORABLE H. BRUCE GUYTON
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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1 This cause came on for hearing on the 21st day of
2 June 2006, in the United States District Court for the Eastern
3 District of Tennessee, Northern Division, the Honorable H.
4 Bruce Guyton presiding.

5 The Court having been duly opened, the following
6 proceedings were continued from the previous day:

7 DEPUTY CLERK: All rise.

8 DEPUTY COURT: Bring the jury in.

9 (Jury in at 9:25)

10 DEPUTY CLERK: The United States District
11 Court for the Eastern District of Tennessee is now
12 open with the Honorable Bruce Guyton, United States
13 Magistrate Judge presiding. Please come to order and
14 be seated. Docket No. 3:05-CV-304, Thomas Neely v Fox
15 of Oak Ridge.

16 THOMAS NEELY,

17 the plaintiff, having been previously sworn, returned
18 to the stand to continue testimony as follows:

19 DIRECT EXAMINATION (Continued)

20 BY MR. ENGLISH:

21 Q You are Thomas Neely that testified yesterday?

22 A Yes, I am.

23 Q Tom, when I asked you about a wreck, if you
24 had ever had any wrecks before the one we're here about today,
25 you told me you had not. Have you rethought that?

1 A Yes, sir. I forgot I was in an automobile
2 accident over 20 years ago. And I just forgot about it.

3 Q Okay. Was it much like the one we are here
4 today about?

5 A Yes. I clipped the rear end of another
6 vehicle.

7 Q Did you acknowledge responsibility for that?

8 A Yes, I did.

9 Q Okay. You also told me about a deer running
10 into you. But you didn't consider that a wreck?

11 A I didn't. A deer actually hit me on the way
12 to work one night. And I didn't --

13 Q Okay. When you went out to measure the curb
14 next to the entrance that the car in front of you was entering,
15 you testified yesterday that you measured it seven inches above
16 the lowest part next to the curb?

17 A Yes. As I pointed out in the photo.

18 Q Was the entrance to the car that was going
19 across, what was the height of that entrance?

20 A The lowest point was three inches.

21 Q Okay. And what was the highest point?

22 A Seven inches.

23 Q Okay. So there was a distinct bump there?

24 A Yes.

25 Q Okay. When you slowed down so that you

1 wouldn't hit that car that was turning, in the rear, how fast
2 do you think you were going when you were impacted?

3 A I was nearly at a stop.

4 Q Okay. And had you been following that car a
5 safe distance behind in your opinion?

6 A Yes. Three, four, five car lengths. I had
7 seen him turn on his turn signal.

8 Q Okay. And whenever he did that, what did you
9 do?

10 A I slowed down too, along with the other
11 vehicles.

12 Q Okay. Did you put your turn signal on?

13 A No.

14 Q Okay. You weren't planning on turning there?

15 A No. I had no intention.

16 Q Okay. And when I asked you yesterday about
17 the effects of the injuries from this wreck on your life, has
18 it had any effect on your ability to pay your bills?

19 A Yes. I'm currently behind in about everything
20 that we have. I'm delinquent on one month in our land payment.
21 I was almost two. But we did manage to make one payment. When
22 we get close to that second month, the people from the bank
23 threaten to foreclose.

24 MR. WOODFIN: Your Honor, I'm going object to
25 that. That's hearsay.

1 THE COURT: Sustained.

2 BY MR. ENGLISH:

3 Q Have you ever had any problems paying bills to
4 support you and your wife and your children before this car
5 accident?

6 A No, I haven't. I've always managed to make a
7 living in some capacity. I've never made a great deal of
8 money. I've always worked to support my family.

9 Q Okay.

10 A And now I'm unable to do that.

11 Q When did you first start working, Tom?

12 A I started mowing grass when I was probably 12
13 or 13 years of age. I mowed grass all summer long to make
14 enough money to buy a new push mower, because my dad didn't
15 want me using his to wear it out.

16 Q Okay. Did you -- did you work continuously at
17 one job or another up until the time of this wreck?

18 A Yes. I have worked all the way through trying
19 to support my family. I've even dug graves by hand with my
20 wife's in-laws in order to support our family.

21 Q Okay.

22 A It just really tears me up to a great deal --
23 point that I can't get out and work and support them. I'm
24 sorry.

25 Q That's okay. Thank you, Tom.

1 THE COURT: Are you ready, Mr. Neely?

2 MR. NEELY: Yes. I'm sorry.

3 THE COURT: That's okay.

4 Mr. Woodfin?

5 MR. WOODFIN: Thank you, Judge.

6 CROSS EXAMINATION

7 BY MR. WOODFIN:

8 Q Mr. Neely, when did you go out and take this
9 photograph?

10 A I took it yesterday.

11 Q This photograph here?

12 A It was taken Monday.

13 Q Monday of this week?

14 A Yes. I took the measurements on the curb
15 Monday. Let me clarify that, I'm sorry.

16 Q Well, when was it, sir? Monday of this week?

17 A I took the measurement of the curb, yes, on
18 Monday.

19 Q When did you take the photograph?

20 A I didn't take the photograph.

21 Q You didn't? I thought you told your lawyer
22 you did?

23 A No.

24 Q Okay. You went out there and took
25 measurements with what, a level and measuring tape?