

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:

For the Plaintiff: Robert J. English, Esq.  
Michael C. Inman, Esq.  
Robert J. English & Associates  
706 S. Gay Street  
Knoxville, TN 37902

For the Defendant: Clint J. Woodfin, Esq.  
Spicer, Flynn & Rudstrom, PLLC  
800 S. Gay Street, Suite 1400  
Knoxville, TN 37929

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DANA HOLLOWAY, LCR #11, CCR #455  
MILLER & MILLER COURT REPORTERS  
Knoxville, Tennessee 37943  
Phone (865) 675-1471 / Fax (865) 675-6398  
E-mail: jmcon3590@aol.com

1 13,000 days. And the plaintiff rests, Your Honor.

2 THE COURT: All right. Thank you.

3 Mr. Woodfin?

4 MR. WOODFIN: Your Honor, with the plaintiff  
5 having rested, there are some matters that I do need  
6 to take up with the Court outside the presence of the  
7 jury. I apologize. I did not know that they were  
8 going to rest after that witness. I'm sorry.

9 THE COURT: That's okay. We've heard some  
10 evidence and they rested. We'll have the jury step  
11 out to take up that matter.

12 (Jury out at 1:47)

13 THE COURT: All right, Mr. Woodfin.

14 MR. WOODFIN: Thank you. Your Honor, at this  
15 point in the case, on behalf of Fox of Oak Ridge,  
16 Inc., we respectfully move this Court for an order  
17 directing the verdict in favor of Fox of Oak Ridge, as  
18 there has been no proof put on by the plaintiff in  
19 this record to show that Mr. Curd, the agent or  
20 employee of Fox Oak Ridge was negligent in any manner.  
21 Which would, of course, eliminate the plaintiff's  
22 ability to collect damages from Fox of Oak Ridge.

23 The only testimony that we have heard with  
24 regards to the accident was that Mr. Neely was struck  
25 in the rear, but he was unable to say how far behind

1           him the vehicle was, the speed of the vehicle, whether  
2           the vehicle engaged in some type of action which was  
3           negligent in allowing this vehicle to collide with his  
4           rear.

5                         Since there's simply no proof before the Court  
6           that Mr. Curd, the agent of Fox of Oak Ridge, Inc.,  
7           was negligent at this time, the verdict should be  
8           directed in favor of the defendant.

9                         The plaintiff may try to imply that somehow  
10          skidding into the rear of a vehicle is negligent. The  
11          Supreme Court, or the Court of Appeals in Tennessee  
12          has addressed that. And it said that skidding did not  
13          infer negligence. People skid for a lot of reasons.

14                        As a matter of fact, we have proof in this  
15          record which shows that the road was wet at the time  
16          that this accident occurred.

17                        So all the jury has heard, and all the proof  
18          that there will be from the plaintiff about this  
19          incident was that one car struck the rear of the  
20          other.

21                        With no further proof of negligence, the case  
22          simply cannot go forward.

23                        MR. ENGLISH: Your Honor, in response to that,  
24          I would just say that obviously it's a question for  
25          the jury to determine who the cause of this accident