

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 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

1 was. It's unquestioned that the rear-end collision
2 happened as alleged in the answer of the defendant.
3 And that Mr. Curd was driving a car as the agent of
4 Fox of Oak Ridge. And that he struck this man on a
5 rain-slickened road. There's an abundance of proof in
6 there. It's just a question for the jury to
7 determine, Your Honor.

8 THE COURT: Any further, Mr. Woodfin?

9 MR. WOODFIN: Your Honor, at this point, I
10 would have to think that the jury to be able to
11 determine this question, there must be some proof set
12 forth by the plaintiff that the defendant's agent
13 breached some type of duty. There is very simply no
14 proof in the record that the defendant breached any
15 duty whatsoever to this plaintiff.

16 Accidents happen. You can't infer negligence
17 from the fact that an accident happened. There must
18 be some proof set forth by the plaintiff that the
19 agent of the defendant engaged in some level of
20 conduct which merits a breach of duty that he owed to
21 the plaintiff.

22 There's no proof in the record. It's not our
23 burden to prove that. It's the plaintiff's burden to
24 allow that to be carried forth to the jury. And there
25 is no evidence in this record that anything Mr. Curd