

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.
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For the Defendant: Clint J. Woodfin, Esq.
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1 whole 30. But 30 minutes, that's what it will be. Of
2 course, you can divide it up if you want to.

3 All right. Madam Clerk, if you will bring the
4 jury in.

5 (Court in recess.)

6 (Jury in at 1:57)

7 DEPUTY CLERK: Please be seated. The Court is
8 again in session.

9 THE COURT: It is now the defendant's
10 opportunity to call any witnesses the defendant might
11 like to call.

12 Mr. Woodfin?

13 MR. WOODFIN: I call Benjamin Curd, Your
14 Honor.

15 THE COURT: All right. Madam Clerk, if you'll
16 bring in Mr. Curd.

17 BENJAMIN CURD,
18 the first witness called on behalf of the
19 Defendant, having been first duly sworn,
20 was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. WOODFIN:

23 Q Mr. Curd, can you hear me okay?

24 A Yeah, I hear you.

25 Q Go ahead and tell the jury your name, please.

1 A Okay. I was driving --

2 Q Just go ahead and tell them your name first,
3 please.

4 A Oh, Ben Curd.

5 Q Okay. Where do you live, sir?

6 A I live in Morristown now.

7 Q How old are you?

8 A I'm 73.

9 Q Do you work?

10 A Yeah.

11 Q What do you do?

12 A I'm a porter.

13 Q Try to get right up to that microphone so they
14 can hear you.

15 A Porter.

16 Q What do you do as a porter?

17 A Well, I pick people up and take them home.

18 Q Who do you work for?

19 A Paul Benton.

20 Q Is that a car dealership?

21 A Yeah.

22 Q Back in 2004 when you were involved in an
23 accident with the plaintiff in this case, who were you working
24 for?

25 A Mr. Fox.

1 Q And why didn't you work for Lester Fox
2 anymore?

3 A He's got a used car lot in Clinton.

4 Q Are you still working --

5 A I -- Paul Benton.

6 Q All right. Is that the same location when you
7 worked with Fox?

8 A Yeah. Uh-huh (affirmative).

9 Q Okay. Mr. Fox sold the business?

10 A Yeah.

11 Q And you just stayed with the business?

12 A Yeah.

13 Q All right. How many hours a day do you work,
14 sir?

15 A Sometimes over ten.

16 Q And how many days a week?

17 A Five.

18 Q All right. On the day that this accident
19 happened, July 12, 2004, you were driving the van, were you
20 not?

21 A That's right.

22 Q Tell these ladies and gentleman how you came
23 to drive that van?

24 A I went to pick the van up to have some work
25 done on it. And when I was coming back, it was raining.

1 Q And where were you going to take the van?

2 A Back to Fox in Oak Ridge.

3 Q All right. And had it been raining the whole
4 time you were driving?

5 A Yeah.

6 Q Okay. Were you driving on Charles Sievers
7 Boulevard on that day?

8 A Yeah.

9 Q As you were driving, were you driving faster
10 or slower than the speed limit?

11 A I was driving slower than the speed limit.

12 Q Why?

13 A I just don't like to be driving fast.

14 Q What were the weather conditions like?

15 A It rained pretty good.

16 Q And at some point, this vehicle that was
17 driven by Mr. Neely was in front of you; right?

18 A Yeah. That is right.

19 Q Okay. And tell us what happened then, when
20 that vehicle was in front of you?

21 A He stopped and was on the phone. And before I
22 could stop, I slid into him.

23 Q When you hit the brakes, did your vehicle
24 slide?

25 A It slid.

1 Q And did you expect that to happen on that wet
2 road?

3 A I didn't expect it to, but it did.

4 Q So you tried to stop?

5 A I tried to stop.

6 Q Tell me about the impact between the two
7 vehicles.

8 A It wasn't hit that hard.

9 Q Did anything happen to you inside of the van?

10 A No. It sure didn't.

11 Q Can you see those pictures up there on that
12 screen in front of you?

13 A Yeah.

14 Q Okay. Tell us what those pictures show. Is
15 that the van you were driving?

16 A Yeah.

17 Q The one with the ladders on top of it there?

18 A Yeah. Uh-huh (affirmative).

19 Q Okay. And that's two pictures of the same
20 vehicle?

21 A Yeah.

22 Q And that's the vehicle you were driving?

23 A Yeah.

24 Q Can you see those two pictures that are up
25 there now?