

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  
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1 THE COURT: Do you have an objection,  
2 Mr. English?

3 MR. ENGLISH: No.

4 THE COURT: All right. Exhibits 13 and 14  
5 will be admitted.

6 (Exhibit 13 - was marked and admitted.)

7 (Exhibit 14 - was marked and admitted.)

8 MR. WOODFIN: That's all, Mr. Curd. Thank  
9 you. You just sit there for a minute. Mr. English is  
10 going to ask you some questions.

11 MR. CURD: Okay.

12 CROSS EXAMINATION

13 BY MR. ENGLISH:

14 Q Mr. Curd, you were driving a big full-sized  
15 van, weren't you?

16 A Yes. Big van.

17 Q Big van?

18 A Uh-huh (affirmative).

19 Q And the bumper is heavy gauge steel, isn't it?

20 A Yeah. They're heavy.

21 Q And when you gave your deposition, I asked  
22 your attorney to furnish me with a repair estimate, didn't I?

23 A Uh-huh (affirmative).

24 Q Do you know whether or not I've ever been  
25 given that?

1                   A           For the van?

2                   Q           Yeah. Do you know whether your attorney ever  
3 found that or not?

4                   MR. WOODFIN: Well, Your Honor, I'm not this  
5 man's attorney. I hate to clarify that in front of  
6 the jury like that. This man is not a party to this  
7 case.

8 BY MR. ENGLISH:

9                   Q           Mr. Curd, at the time of this wreck, of course  
10 it was raining, and it was raining pretty hard, and you knew  
11 that?

12                  A           Yeah.

13                  Q           And you've driven for many years?

14                  A           Uh-huh (affirmative).

15                  Q           And you knew that whenever it rained --

16                  THE COURT: Mr. Curd, you have to answer yes  
17 or no.

18                  A           Yes.

19                  Q           And you knew that when it rained the roads get  
20 slick, you being a professional driver?

21                  A           Yeah.

22                  Q           And you know that whenever the roads get slick  
23 you're supposed to slow down and be careful, didn't you?

24                  A           Yeah. I slowed down.

25                  Q           Okay. But you were following Mr. -- according

1 to your deposition, you were following Mr. Neely about 20 feet  
2 behind him at 35 miles an hour on a wet road, weren't you?  
3 Didn't you tell me that in your deposition under oath?

4 A Yeah.

5 Q Okay. And when he stopped, you say for no  
6 reason at all -- and that's what you told me in the  
7 deposition --

8 A Yeah. That's right.

9 Q He just bowed up and stopped for no reason?

10 A Yeah. He was on the phone.

11 Q Okay. And whenever you stopped, he was going  
12 about 35 miles an hour; is that right?

13 A I guess that's as fast as he was going.

14 Q Okay. And when he stopped -- you told me on  
15 the deposition that he stopped his car on a rain-slickened  
16 road --

17 A Yeah.

18 Q -- going 35 miles an hour, in about five feet?

19 A Yeah.

20 Q Okay. And then whenever he stopped, you were  
21 so close to him -- you were 20 feet behind him?

22 A Yeah.

23 Q And you were going about the same speed limit,  
24 about 35? The same speed, not the speed limit?

25 A Yeah.

1 Q Okay. And you couldn't get stopped because  
2 you were too close to him?

3 A I slid.

4 Q Okay. And if you had gone into the other  
5 lane, you wouldn't have hit him, would you?

6 A I couldn't go in the other lane.

7 Q Why couldn't you?

8 A I was over here.

9 Q Couldn't you go in the left-hand lane? The  
10 fast lane?

11 A No. I couldn't right then.

12 Q Why? Do you remember me asking you, or  
13 Mr. Inman asking you in your deposition -- page --

14 A You know, I tried to miss, to get over -- I  
15 hit him.

16 Q Page 18.

17 "Do you know whether or not the passing lane  
18 was clear?"

19 And you said, "I'd say it was."

20 A Uh-huh (affirmative).

21 Q Do you remember giving that statement?

22 A Yeah. But I tried to get -- but I hit him as  
23 I was trying to.

24 Q I understand that. But if you had been  
25 following a little further back, you would have probably not