

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 MR. WOODFIN: Your Honor, we would just like
2 to include portions of Mr. Neely's deposition into the
3 record regarding his testimony that he gave on direct
4 examination regarding these matters.

5 THE COURT: Be sure and give us the page and
6 line.

7 MR. WOODFIN: I shall.

8 THE COURT: All right.

9 MR. WOODFIN: If the Court wouldn't mind, I
10 have the condensed transcript for the Court to follow
11 as well, if the Court needs to.

12 THE COURT: That would be fine. Give it to
13 the Clerk.

14 MR. WOODFIN: Thank you.

15 (Mr. Woodfin reading from the deposition testimony of
16 Mr. Thomas Neely taken on May 24, 2006.)

17 BY MR. WOODFIN:

18 This was from the deposition of the plaintiff,
19 Thomas Neely, taken May 24, 2006, in this lawsuit. Beginning
20 on Page 4, Line 14. Question to Mr. Neely from me:

21 "Question: You understand after speaking
22 with your lawyers what this is about today,
23 and this is my opportunity to ask you
24 questions about the allegations you make in
25 this case, and also about your condition

1 since the accident?

2 "I know you were taking some medication
3 today. Do you think that is going to have an
4 impact on your ability to answer my
5 questions?

6 "Answer: No, I don't."

7 Jumping over to Page 5, beginning on Line 21.

8 "Question: How long has she done that?

9 "Answer: Since the accident.

10 "Question: Did she work before the
11 accident?

12 "Answer: No.

13 "Question: Do you help her at the
14 flea market?"

15 Answer on Page 6.

16 "Answer: I try to be a little
17 assistance."

18 Jumping over to Page 14, Line 20 -- we'll
19 start with Line 16.

20 "Question: We have talked to Dr. Koenig,
21 who is the orthopedic doctor that treated
22 you. That's who the doctor is; correct?

23 "Answer: That's one of the doctors.

24 "Question: He had mentioned at one point
25 that there was a bruise on your back. Do you

1 remember anything about that?

2 "Answer: Yes.

3 "Question: Tell me about that.

4 "Answer: It was early on in the
5 condition.

6 "Question: Do you think it was caused by
7 the accident with Mr. Curd?

8 "Answer: That's the only thing I can
9 figure out that it would come from.

10 "Question: Did it happen right away?

11 "Answer: Yes. To the best of my
12 knowledge, it was due to the accident."

13 Page 20, beginning at Line 17.

14 "Question: Were your knees hurting before
15 this accident?

16 "Answer: No.

17 "Question: Were they hurting afterwards?

18 "Answer: Yes.

19 "Question: How are they now?

20 "Answer: One knee is hurting.

21 "Question: Which one?

22 "Answer: My left knee."

23 Beginning on Line 19.

24 "Question: What's the next doctor that
25 you went to?

1 "Answer: I followed up with my family
2 doctor the next day.

3 "Question: Then after that, what doctor
4 did you go to?

5 "Answer: I don't remember.

6 "Question: Would it have been Dr. Degnan,
7 the orthopedic doctor?

8 "Answer: I don't remember.

9 "Question: At some point you did see him;
10 correct?

11 "Answer: Yes.

12 "Question: How was it that you came to
13 know about Dr. Degnan?

14 "Answer: I don't remember.

15 "Question: Did someone refer you there?

16 "Answer: Yes.

17 "Question: Who?

18 "Answer: I don't remember.

19 "Question: What about Dr. Koenig? How
20 did you wind up there with him?

21 "Answer: Dr. Koenig. I don't remember
22 the series of events that lead us -- me, to
23 Dr. Koenig.

24 "Question: When you say, "led us," who
25 are you talking about?

1 "Answer: That led me to Dr. Koenig.

2 "Question: In his notes, it said your
3 lawyers had referred you over there. Does
4 that sound right?

5 "Answer: That could be. Yes."

6 Jumping down to Line 24.

7 "Question: Was every doctor you had seen
8 a referral from your lawyers?

9 "Answer: Or doctors, yes.

10 "Question: What doctor referred you to
11 what doctor?

12 "Answer: I don't remember that series of
13 events.

14 "Question: Can you name one doctor that
15 you saw at the request of another doctor?

16 "Answer: Dr. Koenig referred me on to a
17 different one.

18 "Question: Who?

19 "Answer: They each referred me on to a
20 different one.

21 "Question: Who?

22 "Answer: I don't remember. You're
23 getting me confused."

24 On Page 39, beginning at Line 18.

25 "Question: Tell me what problems you

1 think you have with your memory.

2 "Answer: I can't remember a lot due to
3 this accident.

4 "Question: Have you been treated by a
5 doctor for that?

6 "Answer: No, I haven't.

7 "Question: Have you told any doctor that?

8 "Answer: Yes, I have.

9 "Question: What doctor?

10 "Answer: All of the doctors above.

11 "Question: So every doctor you have seen,
12 you've told them you have memory problems as
13 a result of this accident?

14 "Answer: Yes."

15 Page 49, beginning at Line 3.

16 "Question: Do you drive?

17 "Answer: When I have to. Yes.

18 "Question: What do you mean, "when you
19 have to"?

20 "Answer: I don't like to.

21 "Question: What do you have to drive for?

22 "Answer: I don't want to not be able to
23 drive."

24 On Line 22, same page.

25 "Question: Where do you drive when you

1 drive?

2 "Answer: Sometimes I drive down here to
3 the doctor."

4 Page 52, beginning at Line 1.

5 "Question: What did you do as a security
6 officer?

7 "Answer: I patrolled the grounds at the
8 hospital.

9 "Question: Before that, where did work?

10 "Answer: I was self-employed.

11 "Question: Doing what?

12 "Answer: We set up flea markets and
13 festivals.

14 "Question: When you say "set up," what do
15 you mean? Sell things?

16 "Answer: Yes."

17 Page 56, Line 23.

18 "Question: Have you purchased any
19 automobiles since this accident happened?

20 "Answer: The van. I mean, I misspoke --
21 the van -- the vehicle -- the van we
22 purchased after the accident."

23 Then on Page 62, Line 21.

24 "Question: You said you go to the flea
25 market sometimes to help; correct?

1 "Answer: Uh-huh (affirmative).

2 "Question: How often does that happen?

3 "Answer: Once a week.

4 "Question: How much time are you spending
5 there?

6 "Answer: We usually get in between 8:00
7 and usually leave by 5:00.

8 "Question: Who was watching your children
9 when you were there?

10 "Answer: I try to most of the time."

11 THE COURT: All right. Thank you,
12 Mr. Woodfin. Anything else from the defendant?

13 MR. WOODFIN: No. Thank you. The defense
14 rests at this point, Your Honor.

15 THE COURT: All right. Thank you. Any
16 rebuttal testimony or evidence from the plaintiff?

17 MR. ENGLISH: No, Your Honor.

18 THE COURT: All right then. Are you ready to
19 move on to our closing arguments, gentleman?

20 MR. ENGLISH: Yes, Your Honor.

21 THE COURT: All right. We agreed to our time
22 limit, a maximum of 30 minutes each. It doesn't mean
23 they have to use it. I saw some people in the jury
24 looking at me. But you have up to 30 minutes, and you
25 can divide your time.