

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 restrain patients who may become violent. So he may not be
2 able to return to that position." These are the words of a
3 doctor.

4 The defendant is going to get up here and he's
5 going tell you it hasn't been proven. He's going to tell you
6 that they're not responsible. Once again, they want to hide
7 what the facts -- what the truth is.

8 We've laid it out here for you. There's no doubt
9 that this man being the driver or a defendant is going too
10 fast, too close, on too slick a road. There's no doubt about
11 it.

12 He even testified there was a clear passing lane.
13 And that is the unfortunate result of this wreck which caused
14 Mr. Neely these injuries. Which are of a permanent nature.

15 Now, I would like... I apologize. As I stated,
16 I wasn't really planning on speaking with you today. I was
17 going to let Mr. English present this case. But I felt I owed
18 a duty to Mr. Neely to tell you why I'm sitting here, and why I
19 haven't said a word.

20 Now, Mr. Neely, as you heard read into the
21 record, is 48 years of age. The Tennessee Code Annotated table
22 stated that he has a life expectancy of 32.85 years. His
23 actual medical expenses to date, which have been filed as
24 exhibits, and which will be available to you, is sixteen
25 thousand, two hundred and eighty-five dollars (\$16,285). And

1 that's not current.

2 The actual medical expenses of Dr. Browder, which
3 has also been provided as an exhibit, too, which you'll have
4 access to, is five thousand, seven hundred and forty-three
5 dollars (\$5,743), plus office visits from 6/19/06 of eighty
6 dollars (\$80) for five visits for each one of them. That
7 equals four hundred, plus (\$400+).

8 The actual lost earnings... The date of this
9 wreck was July 12, '04. He hasn't worked a day since. And as
10 of 6/20/06, that's one hundred and one weeks, times three
11 hundred and seventy dollars (\$370), pursuant to his tax return
12 which has been provided as an exhibit. That equals
13 thirty-seven thousand, three hundred and seventy dollars, plus
14 (\$37,370+). We're not including interest on this. This is not
15 including inflation. This is just what he was making. And
16 this is the low figures.

17 Now to the actual losses. They total at 6/20/06,
18 three hundred thousand, seven hundred and ninety-eight dollars,
19 plus (\$300,798+). Once again, that's not with inflation.
20 That's not with interest. That's actual loss.

21 As for future medical expenses, as I alluded to.
22 At this time this monthly visit to Dr. Browder for pain
23 management is eighty dollars (\$80). And he stated in his
24 testimony that that's only going to go up. But at eighty
25 dollars (\$80) for life, with the life expectancy that we have

1 of 394 months are thirty-one thousand, five hundred and twenty
2 dollars (\$31,520). That's what he has to look forward to,
3 ladies and gentlemen. That's what he has.

4 And his future lost wages, from 6/20 to 2/23,
5 which is age 65, retirement age, that is at 867 weeks at a rate
6 of three hundred seventy dollars (\$370). Mind you, we took
7 into consideration and we left his pay rate the same. We
8 didn't give him a bonus. We didn't give him inflation. We
9 didn't put in any interest. But that amount is three hundred
10 twenty thousand, seven hundred and ninety dollars (\$320,790).
11 With the two combined, that's four hundred twelve thousand
12 dollars (\$412,000).

13 Now, as to the future, who knows? There's no
14 telling when this whole thing is going to end. But we do know
15 he's going to have pain. The doctor says more likely than not,
16 yes, he will have pain for life. If he's lucky to live to this
17 ripe old age.

18 His loss of enjoyment. Can you put a dollar
19 amount on that? Is it possible to put a dollar amount on this
20 man not being able to pick up his children? And the medicine,
21 once again, that's just going to go up.

22 We all know what medicine costs. We all know
23 what medical expenses are these days. Think about a loaf of
24 bread two years ago, or three years ago. Has it not gone up?

25 Think about the price of gasoline two or three