

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.  
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Knoxville, TN 37902

For the Defendant: Clint J. Woodfin, Esq.  
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1 But I want to talk to you just a few minutes about some  
2 elements of the damages.

3 For instance, Tom Neely will never, ever, ever  
4 work again. A board-certified orthopedic surgeon said that on  
5 cross examination. And a board-certified pain specialist said  
6 that. That's the head, the president, of all the pain  
7 specialists that's in the State of Tennessee. These are two of  
8 the best people that I know. And I'm not apologizing for  
9 sending Tom.

10 Actually, I thought I sent him to Dr. Browder,  
11 but I didn't, apparently. Dr. Koenig sent him to him. I am  
12 not apologizing for that if I had.

13 I would have, because I know Dr. Browder is a  
14 good doctor. I know Dr. Koenig is an excellent doctor. If I  
15 had to go to him, or if I had a family member, I would  
16 certainly want one of those people to see him.

17 And both of those doctors said that this man  
18 can't work. Mr. Woodfin is talking about, well, he's applying  
19 for jobs. Yes, he's applied for jobs. He's starving to death.  
20 He's going to the flea markets and watching the kids while his  
21 wife can eke out a meager existence, when this man took care of  
22 them all of his life. All of his life. He took care of  
23 himself from age 13. He took care of his wife for the  
24 twenty-two years they've been married.

25 And he had a job he dearly loved that he drove

1 200 miles a day to, roughly, back and forth. And he wanted to  
2 work there until they ran him off at age 65.

3 You can say what you want to about the damage  
4 that was done to this van, or the damage that wasn't done to  
5 the van. That was a big huge van. It was a tank. A tank hits  
6 a little car, there's not going to be any damage done to it.  
7 You know that.

8 You know when a big tractor-trailer, or a big van  
9 hits a little car, you know who's going to come out second best  
10 in that collision. And that's exactly what happened to Tom.  
11 That's why his seat broke. That's why he hasn't worked a day  
12 since this.

13 He did go back to Dr. Koenig. Dr. Koenig...  
14 Shortly before he gave the deposition -- two weeks before the  
15 deposition. Dr. Koenig wanted him to go back to work.

16 It's my obligation as a lawyer to get people back  
17 to work. To get them back as good as I can. You know, whether  
18 you make money on them, or whether I don't make money on them,  
19 it's my job as a human being to try to get them to do the best  
20 they can. And the same way with Dr. Koenig.

21 He sent him back to try to go to work. He went  
22 back and tried to go to work at the job he loved. At the job  
23 he would go 200 miles a day to, five days a week for a year and  
24 a half.

25 And they wouldn't take him back because he was on

1 drugs, he was on methadone, and he had a lifting restriction.  
2 And that lifting restriction has been taken off to a "no duty"  
3 restriction. He can't work any. So this man...

4 And the law requires that we prove our case by  
5 competent medical proof. Mr. Woodfin has the right. And as  
6 Mr. Inman said, he has the obligation if he doesn't believe our  
7 doctors, to send him to a doctor of his own. And he didn't  
8 choose to do that. He could have sent him to any doctor in  
9 this town to have him evaluated, and to give an opinion in this  
10 case. He didn't do that for one reason.

11 After I filed the complaint, and after he filed  
12 the answer, he filed the interrogatories. And when we answer  
13 them under oath, we tell him who the doctors are that we've  
14 been going to. We're not trying to hide anything from anybody.

15 And he sends me a medical authorization for him  
16 to get the records himself, because I guess he doesn't trust  
17 me. And I signed this. And he gets it. And he knows exactly  
18 what was wrong with this man. From day one, once he got those  
19 medical records pursuant to the authorization that I signed.

20 And if he didn't believe those, he could have  
21 certainly gotten months ago... He could have gotten a doctor  
22 to look at him and give an opinion.

23 He chose not to do this. This is a big  
24 corporation. Fox Motors of Oak Ridge is a big corporation  
25 that's been sold and it's no longer in existence.