

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 Now, we can bring the jury back in and
2 instruct them again on that and try to clarify this.
3 I'm open to any other suggestions.

4 MR. ENGLISH: Your Honor, in light of this
5 verdict, it's inconsistent. I think I would just move
6 for a judgment notwithstanding the verdict and a new
7 trial.

8 I don't think it can be cured by this jury
9 since they've said they didn't think Oak Ridge is --
10 Fox of Oak Ridge was the legal cause of plaintiff's
11 injuries even though they thought they were negligent,
12 and then they awarded damages.

13 MR. WOODFIN: And again, I think in reading
14 that verdict form, it may not be as inconsistent as we
15 think when the question is: Did the negligence cause
16 injury?

17 They answered that "No," but felt compelled to
18 award damages.

19 There was proof before this Court that
20 damages, medically, were approximately \$30,000. So I
21 don't see too much inconsistency in the verdict at
22 all.

23 The question was very specific. We all
24 approved the verdict form. And I think we are forced
25 to live with the decision of this jury.

1 MR. ENGLISH: But it's an inconsistent
2 judgment, Your Honor.

3 THE COURT: Well, let's take a minute. Let me
4 think about it. Let me think about what we're going
5 to do with this.

6 MR. WOODFIN: And that could be taken up,
7 perhaps on a motion for a new trial later. But I
8 think that's the verdict we have today.

9 THE COURT: Well, let me think about if
10 there's a way that this jury can fix this situation
11 before I let them go. Just give me a couple of
12 minutes.

13 (Court in recess.)

14 DEPUTY CLERK: This Court is again in session.

15 THE COURT: Okay. We've got several options
16 that we can pursue. And I've been going over those
17 options, weighing the pros and cons of them.

18 Obviously, there's an ambiguity in the wording
19 and/or inconsistency.

20 One option would be to revise the verdict form
21 and give it to the jury and tell them to start over.
22 I don't know that I can do that.

23 The other option is to bring the jury in and
24 make sure they are unanimous as to Question No. 2.
25 And if they are, then my intention would be to ask the

1 foreperson if they answered "No" to No. 2, then why
2 did they go on and answer No. 3?

3 And based on that information, if that clears
4 up the ambiguity -- perhaps it will. And if it
5 doesn't, then the Court is going to let the jury go
6 and proceed on.

7 MR. WOODFIN: Your Honor, obviously, you can
8 do whatever you see fit in this situation, but I don't
9 necessarily view the ambiguity, I guess, the way the
10 Court does.

11 THE COURT: I understand.

12 MR. WOODFIN: If they had been asked injuries
13 and damages and came up with that figure, I don't
14 think we have a question. But I'm thinking it's very
15 consistent for them to rule that the injuries were not
16 caused based on the proof that was presented, yet
17 awarded amounts for medical expenses that were proven
18 in this case, which is very close to the figure that
19 they arrived at.

20 If the Court sees a problem with the verdict,
21 I'm a little bit concerned about questioning the jury
22 further about why they came up with that number.

23 I guess we have to look it from the
24 perspective of the answer to the second question
25 should just prevent my client from being awarded