

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
800 S. Gay Street, Suite 1400
Knoxville, TN 37929

DANA HOLLOWAY, LCR #11, CCR #455
MILLER & MILLER COURT REPORTERS
Knoxville, Tennessee 37943
Phone (865) 675-1471 / Fax (865) 675-6398
E-mail: jmcon3590@aol.com

1 And you have gone on and answered No. 3.

2 I will read the answer (sic) of the verdict: What is the total
3 amount of compensatory damages that the plaintiff Thomas Neely
4 is entitled to recover?

5 And your answer is: Thirty thousand dollars
6 (\$30,000).

7 It is signed by Ms. Hensley. Is this verdict the
8 unanimous verdict of all members of the jury? If so, please
9 raise your right hand.

10 All right. The record will reflect that all the
11 jurors have raised their right hand signifying a unanimous
12 verdict.

13 At this time, I'm going to excuse the jury and
14 take up a matter with the attorneys. It will just take a
15 moment.

16 Mr. Marcus, if you will just have them wait for
17 me in the conference room.

18 (Jury out at 5:12.)

19 DEPUTY CLERK: Please be seated.

20 THE COURT: Would the attorneys like to see
21 the verdict form, because the Court has got a problem.

22 MR. ENGLISH: I'm sure that you read it
23 correctly.

24 THE COURT: No, I read it correctly. I just
25 think that maybe the verdict form should have been

1 more detailed.

2 Perhaps the verdict form should have said: If
3 your answer to No. 2 is yes, proceed to No. 3.

4 MR. WOODFIN: I don't know how to respond,
5 Your Honor, other than the fact that it appears that
6 they did not believe that all of the damages and
7 injuries were somehow related to the negligence of Fox
8 of Oak Ridge, and that's why they came up with the
9 number that they did.

10 The question may have said, Do you feel like
11 you are responsible for injuries? They may have felt,
12 no, but been able to award him damages for expenses
13 that he had as well as the injuries that he received.

14 MR. ENGLISH: It's just inconsistent, Judge.
15 If they answered no, then we should get no damages,
16 which they did. And the damages is an inconsistent
17 verdict. I don't see how it can stand.

18 THE COURT: The jury clearly has indicated the
19 intent to award monetary damages.

20 MR. ENGLISH: Sure.

21 THE COURT: And yet they did answer "No" to
22 Question No. 2. It indicates to the Court that either
23 the Court's jury verdict form could have been better,
24 which maybe it should have, and I'll look at it again;
25 or they didn't understand the jury instruction.