

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 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.

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 If they say that they were, let the verdict
2 stand, and let us file motions to clear it up if it
3 needs to be cleared up.

4 THE COURT: Well, of course, either party can
5 file a motion in the nature of a mistrial even after
6 the verdict has been returned if the verdict is a
7 flawed one.

8 Is there anything else you want to add,
9 Mr. English?

10 MR. ENGLISH: Yes, Your Honor. It's obviously
11 an inconsistent verdict for them to find Fox negligent
12 and say that Fox did not cause the injuries, and then
13 to award damages, you just can't do that.

14 If they had said "Yes" to Question No. 2 and
15 given us thirty thousand dollars (\$30,000), we would
16 be stuck with it.

17 But to say "No," they're not liable for any
18 damages and to give thirty thousand dollars (\$30,000),
19 that's a very inconsistent verdict. And it just can't
20 stand, Your Honor.

21 I think I agree with Clint on that. I think
22 it would be very prejudicial to my client to bring the
23 same jury in here that has just held up their hand and
24 sworn that this was their verdict unanimously and ask
25 them again about it and try to break it down. I think