

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 here. I don't think damages should be an issue here. But I
2 want you to do what you think is right, and what you think is
3 fair, and what you think is just.

4 You go back and you decide he's entitled to
5 whatever the football coach at the university makes in a year
6 after losing five games -- two million dollars. And if you
7 give him half that amount, you give him half justice, but you
8 give him injustice. Just do what you think is right. Treat
9 him the way he should be treated. He didn't do anything to
10 cause this. And these people have been horrible to him.

11 THE COURT: All right. Thank you,
12 Mr. English.

13 All right. At this time, ladies and gentlemen
14 of the jury, the Court is going to give you your final
15 instructions and your jury charge. You will get a
16 copy of this to take back to the jury room with you,
17 but I always read it anyway before you go back.

18 JURY CHARGE

19 Now that you have heard and seen all the evidence
20 in this case, and have heard the final argument of the
21 attorneys, it is my duty to instruct you on the law which
22 governs this case.

23 It is your duty as jurors to follow the law as
24 stated in these instructions, and to apply the rules of law to
25 the facts as you find them from the evidence in this case. You

1 are not to single out any one instruction as stating the law by
2 itself. You should consider all these instructions as a whole.

3 You were selected and sworn as jurors in this
4 lawsuit to decide the issues of facts and to apply the law to
5 those facts as the Court gives the law to you.

6 You are to perform this duty without any bias or
7 prejudice to any party. Our system of law does not permit
8 jurors to be governed by sympathy, prejudice, or public
9 opinion.

10 The Court, the parties, and the public expect
11 that you will carefully and impartially consider all the
12 evidence in the case, follow the law as stated by the Court,
13 and arrive at a verdict that you think is just, fair, and
14 right, under all of the proof.

15 The issues for you to decide are as follows:

16 Number one, was the defendant, Fox of Oak Ridge,
17 negligent?

18 Number two, was the defendant, Fox of Oak
19 Ridge's, negligence a legal cause of injuries to the plaintiff
20 Thomas Neely?

21 Number three, if so, what is the total amount of
22 compensatory damages that the plaintiff Thomas Neely is
23 entitled to recover?

24 Let me talk to you about burden of proof again.

25 This, of course, is a civil case. The plaintiff has a burden

1 words, your verdict must be unanimous. And the Court is going
2 to confirm that your verdict is unanimous when you return your
3 verdict.

4 It is your duty as jurors to consult with one
5 another and to deliberate with a view to reaching an agreement,
6 if you can do so without violence to individual judgment. Each
7 of you must decide the case for yourself, but only after an
8 impartial consideration of all of the evidence with your fellow
9 jurors.

10 In the course of your deliberations, do not
11 hesitate to re-examine your own views and change your opinion
12 if you are convinced that it is erroneous. But do not
13 surrender your honest conviction as to the weight or effect of
14 evidence solely because of the opinion of your fellow jurors,
15 or for the mere purpose of returning a verdict.

16 Remember at all times you are not partisan, you
17 are the judges. You are the judges of the facts in this case.
18 Your sole interest is to seek the truth from the evidence.

19 Upon retiring to the jury room, you will first
20 select one of your members to be the foreperson of the jury.
21 The foreperson will preside over your deliberations and be your
22 spokesperson in court.

23 When you have reached a verdict, let the court
24 security officer know, and you will return here to deliver your
25 verdict.