

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE, TENNESSEE**

Thomas Neely,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	Case No. 3:05-cv-304
	:	
Fox of Oak Ridge,	:	<b>Jury Trial-Day 1</b>
	:	
Defendant.	:	

Transcript of proceedings before the Honorable H. Bruce Guyton,  
U. S. Magistrate Judge, on June 20<sup>th</sup>, 2006.

Appearances:

On behalf of the Plaintiff:

Robert J. English, Esq.  
Michael C. Inman, Esq.  
Knoxville, Tennessee

On behalf of the Defendant:

Clint J. Woodfin, Esq.  
Jennifer M. Caywood, Esq.  
Knoxville, Tennessee

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## I N D E X

Jury Voir Dire Examination:

by the Court -	6, 35, 48, 57, 63
by the Plaintiff -	14, 47, 50, 60, 64
by the Defendant -	28, 52, 56, 61, 65

**(\*\*Note: Because transcripts are filed with the Clerk of Court and can be accessed by the public, juror names and personal identifiers of witnesses have been redacted from this transcript.)**

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1 (Whereupon, Tuesday, June 20<sup>th</sup>, 2006, Court convened  
2 without prospective jury panel at 8:55 a.m.)

3 COURTROOM DEPUTY: Docket Number 3:05-cv-  
4 304, Thomas Neely versus Fox of Oak Ridge, Incorporated.

5 THE COURT: Good morning, counsel.

6 MR. ENGLISH: Good morning, your Honor.

7 MR. WOODFIN: Good morning, your Honor.

8 THE COURT: All right. Any matters that the Plaintiff  
9 wants to take up before we make arrangements to bring the jury  
10 pool in?

11 MR. ENGLISH: Your Honor, you had mentioned that,  
12 at our option, we can argue after your charge. I prefer to do this. I  
13 think Mr. Woodfin prefers not to do this. Whatever the Court's  
14 decision on that would be. I think it might allow both of us to stay  
15 within the parameters of the charge and not argue something that  
16 we shouldn't be arguing. Don't want to do that, of course.

17 THE COURT: All right. Well, I think I may have  
18 mentioned at the pretrial conference, it's an option I like to give  
19 the attorneys, but only if they can agree. I don't want somebody to  
20 argue before the charge and then someone else argue afterwards, so  
21 we'll do it the traditional way then. Anything else?

22 MR. ENGLISH: Your Honor, one other thing. Mr.  
23 Neely, from time to time, he's got some serious back problems, and  
24 from time to time he needs to stand up and walk around, and I need  
25 to explain that to the jury. He's not on pain medication today

1 because it impairs his thought processes.

2 With the Court's indulgence, I'd like for you to explain to the  
3 jury that it's okay for him to do that, if it is okay for him to do that.

4 THE COURT: Well, of course, what I would prefer to  
5 do would be to take a recess when he needs to do that. If that's not  
6 possible, then I suppose he can stand up, as long as he stays behind  
7 counsel's table.

8 MR. ENGLISH: Sure. No problem.

9 THE COURT: I don't know what else to say about that.  
10 Have the attorneys agreed on a time limit on opening statement?

11 MR. WOODFIN: I wouldn't anticipate that I'd need  
12 more than 15 minutes.

13 MR. ENGLISH: The same, your Honor.

14 THE COURT: Fifteen minutes? Okay. Thank you. All  
15 right. Anything else the parties would like to take up at this time?

16 MR. ENGLISH: No, your Honor.

17 MR. WOODFIN: No.

18 THE COURT: Okay. All right. Let me tell you that the  
19 Court is battling something of a stomach bug today, so if we need  
20 to take a recess when you're in the middle of something, I  
21 apologize. But if it has to happen, it will have to happen. How are  
22 all of you all doing? Am I the only person in here woozy?  
23 Everybody else is okay?

24 MR. ENGLISH: I feel great.

25 THE COURT: All right.

1 MR. ENGLISH: I would like to know, if we can, which  
2 jurors would be coming in today so we can sort of eliminate some  
3 of them, if we know that.

4 THE COURT: I don't know. Madam Clerk, do you  
5 know?

6 COURTROOM DEPUTY: No, your Honor, I have not  
7 been advised. I was just given the entire list of those being brought  
8 in today for this trial.

9 THE COURT: Well, we're ready to bring them in now.

10 MR. ENGLISH: Okay. That'd be fine.

11 THE COURT: So I'm sorry, we can't tell you, Mr.  
12 English.

13 MR. ENGLISH: No problem.

14 THE COURT: All right. Let's take a recess while the  
15 clerk arranges to bring the jury pool in. As soon as they're here,  
16 we'll begin, okay, so don't anybody go anywhere. Thank you.

17 (Recess had at 8:58 a.m.; Court reconvened, prospective jury  
18 panel present, at 9:16 a.m.)

19 COURTROOM DEPUTY: Docket Number 3:05-cv-  
20 304, Thomas Neely versus Fox of Oak Ridge.

21 THE COURT: All right. Is the Plaintiff ready to  
22 proceed?

23 MR. ENGLISH: Plaintiff's ready, your Honor.

24 THE COURT: Is the Defendant ready to proceed?

25 MR. WOODFIN: We're ready, your Honor.

1 THE COURT: All right. Good morning to all the  
2 prospective jurors who are now in the courtroom. I need all of you  
3 to please stand and raise your right hand. The Court is going to  
4 swear you in right now.

5 Do each of you solemnly swear or affirm that you will  
6 truthfully answer all questions that shall be asked of you touching  
7 on your qualifications as a juror in this case now called for trial,  
8 under all penalties of perjury? Do you; please say, "I do."

9 (Prospective jury panel sworn.)

10 THE COURT: All right. Thank you. Please be seated.  
11 All right. The first thing that we're going to do today is select a  
12 juror to hear this case. The purpose of the jury selection is to  
13 enable the Court to determine whether or not any of you should be  
14 excused from hearing this case for cause.

15 That means you may know or be related to, for example, one  
16 of the parties, and there are a lot of other reasons. It's also to  
17 enable the lawyers for these parties to exercise their individual  
18 judgment with respect to what we call peremptory challenges, that  
19 is, challenges for which no reason need be given by the attorneys.

20 Now, if you are excused by either side, please do not feel  
21 offended or feel that your honesty or integrity is being questioned,  
22 because it certainly is not. Lawyers always have their own reasons  
23 for what jurors they want or don't want, but it does not have  
24 anything to do with your individual character, I can assure you.

25 At this time, I'm going to give you a brief description of the

1 case that is about to be tried so that you will know a little bit about  
2 the parties that are involved.

3 This case arises from a motor vehicle collision which  
4 occurred on July the 12<sup>th</sup>, 2004, in Anderson County, Tennessee.  
5 The Plaintiff, Thomas Neely, alleges that the Defendant, Fox of  
6 Oak Ridge, Incorporated's, employee and agent, Benjamin Curd,  
7 was traveling west on State Route 61, also known as Charles  
8 Seivers Boulevard, in a negligent and reckless manner and that he  
9 was following the Plaintiff, Thomas Neely's, vehicle too closely  
10 than was reasonable and prudent.

11 The Plaintiff further alleges that the Defendant, Fox of Oak  
12 Ridge's, employee collided into the rear of the Plaintiff's vehicle  
13 as the Plaintiff slowed for traffic in his lane of travel. The Plaintiff  
14 claims that he was seriously injured as a result of this collision,  
15 that he has not worked since the incident, and that he is totally and  
16 permanently disabled.

17 The Defendant, Fox of Oak Ridge, Incorporated, alleges that  
18 the collision occurred when the vehicle driven by the Plaintiff  
19 stopped suddenly and the vehicle driven by its employee, Mr. Curd,  
20 was unable to stop in time.

21 The Defendant further asserts that the Plaintiff's claimed  
22 extent of injury and damage is not supported by the evidence and  
23 that the medical proof does not prove by a preponderance of the  
24 evidence that the Plaintiff had sustained injury to the degree he  
25 claims.

1 All right. That's a brief outline of the case and the claims of  
2 these parties generally. Madam Clerk, if you would call eight  
3 jurors to the jury box, please, and then we will begin to question  
4 these prospective jurors.

5 (Whereupon, Juror Nos. 29, 5, 23, 137, 155, 160, 8, and 4  
6 were called to the jury box.)

7 THE COURT: All right. All prospective jurors in the  
8 jury box and also in the audience, please listen carefully to my  
9 questions. Some of you in the audience may end up in the jury box  
10 before we're finished.

11 So let's all listen to these questions so we do not have to  
12 repeat too many. Now, if you wish to give the answer to any  
13 question I'm about to ask you at the bench, in private to me, you  
14 may do so in the presence of the attorneys and the court reporter.

15 For example, if an answer involves a matter that you consider  
16 private or personal or involves an opinion that you feel is so strong  
17 that it might disqualify you as a juror or if you feel like it is an  
18 opinion so strong it might affect other jurors and you don't want to  
19 answer out loud, just let me know and you can answer at the bench  
20 privately. All right?

21 All right. Has any member of the jury panel in the jury box  
22 heard or read anything about this case prior to today, anyone?

23 (No response.)

24 THE COURT: All right. At this time, I'm going to  
25 have the attorneys introduce themselves and their client or their



1 client representative, and then I'm going to ask you if you know  
2 any of these folks or have had any dealings with any of these folks  
3 in the past. All right. Mr. English?

4 MR. ENGLISH: Ladies and gentlemen, my name's Bob  
5 English, and I represent Tom Neely. This is my partner, Michael  
6 Inman, and we both represent Tom Neely in this case. We're the  
7 Plaintiffs, we're the ones bringing the lawsuit.

8 THE COURT: And, of course, that's Mr. Neely seated  
9 at the table with them. All right. Mr. Woodfin?

10 MR. WOODFIN: Good morning, ladies and gentlemen.  
11 My name's Clint Woodfin. I represent Fox of Oak Ridge,  
12 Incorporated. With me here today is Lester Fox.

13 THE COURT: All right. Thank you, counsel. All  
14 right. Does any member of the prospective jury in the jury box  
15 know any of these parties personally or had any personal dealings  
16 with any of these persons or their clients? Yes, sir, Mr. (Juror 4)?

17 JUROR NO. 4: I just know Lester through purchasing a  
18 vehicle at his dealership ten years ago, I guess it's been.

19 THE COURT: All right, sir. Do you think the fact that  
20 you bought a vehicle from his dealership ten years ago would have  
21 any effect on your ability to hear this case and decide the case  
22 fairly and just based on the evidence you hear in court?

23 JUROR NO. 4: No, I don't.

24 THE COURT: All right. I suppose I should ask, do you  
25 have any particularly pleasant or particularly unpleasant memories

1 of your shopping experience with the Defendant?

2 JUROR NO. 4: Not really, no. You know, I bought a  
3 car and— neither way, really.

4 THE COURT: All right. Thank you, sir. Anyone else?  
5 All right. No one is personally acquainted with Mr. Neely,  
6 correct? All right. Or Mr. Fox or his company? Okay. No one is  
7 related to those parties, correct?

8 (No response.)

9 THE COURT: No one has ever been employed by the  
10 Defendant, have they, or have any relatives that have been  
11 employed by the Defendant?

12 (No response.)

13 THE COURT: Okay. Have any of you in the jury box  
14 ever served before as a juror in a criminal or a civil case; if so,  
15 raise your hands. All right. Ms. (Juror 29), was it a civil case or a  
16 criminal case?

17 JUROR NO. 29: Criminal and civil.

18 THE COURT: All right. Was that recently or some  
19 time ago?

20 JUROR NO. 29: The criminal was recently.

21 THE COURT: Okay. Was that here in federal court?

22 JUROR NO. 29: Yes.

23 THE COURT: It was? Okay. When was that?

24 JUROR NO. 29: I don't know. About three weeks, four  
25 weeks ago, the judge on the fourth floor. I can't think of his name

1 right offhand.

2 THE COURT: Judge Phillips?

3 JUROR NO. 29: Yes.

4 THE COURT: Okay. And the civil case was recently or  
5 some time ago?

6 JUROR NO. 29: I think it was some time ago.

7 THE COURT: Okay. You don't have a strong  
8 recollection of that matter?

9 JUROR NO. 29: No.

10 THE COURT: All right. Mr. (Juror 23) did you raise  
11 your hand?

12 JUROR NO. 23: I did.

13 THE COURT: All right, sir.

14 JUROR NO. 23: I served in Judge Jenkins' court about  
15 ten years ago in a criminal case.

16 THE COURT: All right, sir. Anyone else that has ever  
17 served? All right. Ms. (Juror 8)?

18 JUROR NO. 8: Both criminal and civil.

19 THE COURT: All right. And when was the last time  
20 you were on a civil jury?

21 JUROR NO. 8: Probably 15 years ago.

22 THE COURT: All right. And a criminal case?

23 JUROR NO. 8: Three weeks ago. We served on the  
24 same panel, Judge Phillips.

25 THE COURT: Okay. Thank you. Anyone else? All

1 right. Mr. (Juror 4)?

2 JUROR NO. 4: I served on two juries in criminal court  
3 recently; one three weeks ago in Judge Phillips' courtroom and one  
4 about six weeks ago in his courtroom also.

5 THE COURT: They were both criminal matters?

6 JUROR NO. 4: Yes.

7 THE COURT: All right, sir. Has anyone on this— yes,  
8 sir? I'm sorry. I didn't mean to skip you there.

9 JUROR NO. 137: I served on— I guess it was something  
10 similar to this here. One of them I got off on because I knew the  
11 guy; and the other, it's been, my guess, 16 years.

12 THE COURT: Sixteen years ago? All right. Have any  
13 of the prospective jurors in the jury box ever served on a grand jury  
14 in either state or federal court? No? All right.

15 Is anyone in the jury box now presently, yourself, a party in  
16 any type of a lawsuit? All right. Mr. (Juror 137).

17 JUROR NO. 137: I just went through a lawsuit with a—  
18 there was a officer involved in it, and I'm fixing to go into another  
19 one Monday. It will be a different kind of suit, I mean, not a  
20 lawsuit, but it involves my daughter.

21 THE COURT: Okay. A family member?

22 JUROR NO. 137: Yeah.

23 THE COURT: Is that a personal injury case?

24 JUROR NO. 137: Well, it wasn't no injuries to nobody.  
25 It was a misunderstood thing. But it's going to the grand jury, I

1 reckon.

2 THE COURT: Okay. Well, I may let the attorneys ask  
3 you more about that, depending on how much they want to get into  
4 it. All right. Anyone else? Anyone else currently a party to a  
5 lawsuit or anyone have a family member that's currently a party in  
6 a lawsuit?

7 (No response.)

8 THE COURT: Have any of you been a party in a  
9 lawsuit say in the last five years where someone sued you or you  
10 had to sue somebody for any reason, a traffic situation or anything?  
11 No? Okay.

12 All right. Let me ask all of you then, if you are selected to sit  
13 on this case, do you know of any reason why you would not be able  
14 to render a verdict solely on the evidence presented at the trial and  
15 in the context of the law, as you— as the Court will give it to you in  
16 the Court's instructions, disregarding any other ideas or notions or  
17 beliefs about the law that you may have in reaching your verdict?  
18 If each of you can do that, feel like you can do that, please raise  
19 your right hand. All right. All members of the jury have raised  
20 their right hand, so indicated.

21 This case is probably going to take more than today, may take  
22 a couple of days, to get this case completed. Does that cause a  
23 hardship for any of you?

24 (No response.)

25 THE COURT: Do any of you have any type of a

1 physical problem, which you are taking medication, or some other  
2 reason, that it would be very difficult for you to sit on this jury for  
3 a couple of days, anyone? No?

4 All right. Any members of the jury panel that's in the jury  
5 box, having heard the questions the Court has put to you, know of  
6 any reason whatsoever why you could not sit on this jury and  
7 render a fair verdict to these parties based solely on the evidence  
8 presented in court and in the context of the Court's instructions on  
9 the law? Any of you know any reason why you couldn't do that?

10 (No response.)

11 THE COURT: All right. Thank you. The Court finds  
12 the jury qualified. Counsel will now be allowed to ask you  
13 questions regarding matters of relevance that either I did not cover  
14 or to follow up on some answers you've given that they might want  
15 some more information.

16 Does counsel for the Plaintiff have any questions for this jury  
17 panel?

18 MR. ENGLISH: Yes, your Honor.

19 THE COURT: All right.

20 MR. ENGLISH: May it please the Court. Ladies and  
21 gentlemen, may I see a show of hands, does everybody on the jury  
22 panel drive? May I see a show of hands? Car, truck, whatever.  
23 Okay. Have any of you had any wrecks involving personal injuries  
24 in the last ten years or any close member of your family?

25 (No response.)

1 MR. ENGLISH: Have any of you ever been involved in  
2 a personal injury lawsuit arising out of any kind of personal injury,  
3 whether you sued someone or someone has sued you? Mr. (Juror  
4 137), you held your hand up?

5 JUROR NO. 137: Yeah, my boy was— he graduated, his  
6 graduation, him going to school. Well, I don't know if I can talk  
7 about it, but, anyway, got his nose the car just a little bit over the  
8 white line, they was a officer hit him, didn't even— and I got sued  
9 for \$300,000.

10 MR. ENGLISH: Do you think that would cause you  
11 any problems in sitting in this case and listening to the facts and  
12 applying the law the judge gives you at the end of the trial and  
13 doing what's right and what's just in this case?

14 JUROR NO. 137: I would think so.

15 MR. ENGLISH: We want you to sit on this case if you  
16 feel comfortable doing that, but, you know, we're entitled to a fair  
17 trial just like the corporation, the Fox Corporation's entitled to a  
18 fair trial. And if the fact that you had been— had a suit filed against  
19 you once before, would cause you any problems, you know, we  
20 need to know it now.

21 JUROR NO. 137: I'm still taking medication from it.  
22 It's not been over long.

23 MR. ENGLISH: Okay. When you say you're still  
24 taking medication, were you actually in the lawsuit yourself— were  
25 you in the car yourself?

1 JUROR NO. 137: No. I was at work.

2 MR. ENGLISH: Did it just tear up your nerves?

3 JUROR NO. 137: Yeah.

4 MR. ENGLISH: Okay. Would that cause you any  
5 problems?

6 JUROR NO. 137: That's one of the things I don't know  
7 if I could give a- I mean, I don't have a good education to start  
8 with.

9 MR. ENGLISH: You're doing fine, sir, you're doing  
10 fine, sir.

11 JUROR NO. 137: I can't spell. But the thing that  
12 bothers me is whether I, personally, myself, make the right  
13 decision. I would hate to- the Bible tells us, "Judge not lest thou be  
14 judged," and I try to live my life by the Bible. And I would hate to  
15 find him not guilty and him be guilty, me not knowing for sure.

16 MR. ENGLISH: Would you feel more comfortable not  
17 sitting on this particular jury, in light of the fact of what you just  
18 told us and the fact that you're still taking medication because of  
19 that? Would you feel more comfortable?

20 JUROR NO. 137: Probably would, because I've not  
21 took my medication this morning.

22 MR. ENGLISH: Okay, sir. Your Honor, I would like  
23 to have this man excused.

24 THE COURT: All right. The Court will grant your  
25 request. Mr. (Juror 137), the Court appreciates your honesty in



1 answering these questions.

2 MR. ENGLISH: That's right.

3 THE COURT: Sometimes it's hard to be frank with the  
4 Court and with attorneys. That's the best policy for everyone to  
5 follow. You'll be excused. Madam Clerk will call another  
6 potential juror to take your place. Thank you, sir.

7 JUROR NO. 137: You're welcome.

8 (Juror No. 137 excused; and Juror No. 9 called.)

9 THE COURT: All right. Good morning, Ms. (Juror 9).

10 JUROR NO. 9: Good morning.

11 THE COURT: All right. Do you know any of the  
12 attorneys in this case?

13 JUROR NO. 9: No, sir.

14 THE COURT: Ever had any dealings with them in the  
15 past? What about Mr. Neely; do you know him?

16 JUROR NO. 9: No, sir.

17 THE COURT: Do you know Mr. Fox?

18 JUROR NO. 9: No, sir.

19 THE COURT: Have you ever had any business dealings  
20 with Fox of Oak Ridge?

21 JUROR NO. 9: I have a Toyota Corolla, and I bought  
22 my car through the one in Anderson County.

23 THE COURT: Fox Toyota?

24 JUROR NO. 9: Yes.

25 THE COURT: Okay. When did you do that?

1 JUROR NO. 9: 2004. And I love my car.

2 THE COURT: And you love your car. Okay. Well,  
3 Toyota's not on trial here so that's okay. Does the fact that you  
4 purchased that vehicle a couple years ago— I assume you've had a  
5 pleasant experience with that. Would that affect in any way your  
6 ability to hear and try this case fairly? This is a collision between  
7 two vehicles. That's the essence of this case.

8 Do you think that you can still do that?

9 JUROR NO. 9: Yes.

10 THE COURT: Okay. Are you a party in any lawsuits  
11 now yourself?

12 JUROR NO. 9: No, sir.

13 THE COURT: Any family members in any lawsuits?

14 JUROR NO. 9: No, sir.

15 THE COURT: Have you ever been a party to a lawsuit?

16 JUROR NO. 9: No, sir.

17 THE COURT: Any family members ever been a party to  
18 a lawsuit?

19 JUROR NO. 9: No, sir.

20 THE COURT: That's un-American.

21 (Laughter.)

22 THE COURT: All right. Do you know of any reason  
23 why you could— where you would have any type of problem  
24 whatsoever— I assume you've listened to all the questions and  
25 answer that have been given so far, correct?

1 JUROR NO. 9: Correct.

2 THE COURT: Do you know of any reason whatsoever  
3 that you would not be able to sit on this jury and render a fair  
4 verdict based solely on the evidence presented in court and in the  
5 context of the Court's instructions and the law?

6 JUROR NO. 9: No, sir.

7 THE COURT: Okay. Have you ever served on a jury  
8 before?

9 JUROR NO. 9: No. I have been called many, many,  
10 many times, but I've never actually served.

11 THE COURT: Okay. All right. The Court is going to  
12 find that this juror is qualified. Mr. English, if you would like to  
13 continue your examination of the entire panel.

14 MR. ENGLISH: Ms. (Juror 9), I'll just ask you a  
15 couple of questions. Could you hear the questions I asked the other  
16 members of the jury?

17 JUROR NO. 9: Yes.

18 MR. ENGLISH: Would you have answered any  
19 differently than they did?

20 JUROR NO. 9: (Shook head.)

21 MR. ENGLISH: Okay. I'll direct this to the other  
22 members of the jury. Do any of you know of any reason why you  
23 can't sit on this jury, listen to the facts and do what's right in this  
24 case, do justice? Can you all do that?

25 Mr. Neely has some problems with his back, and from time to

1 time he will need to stand up during the course of this trial to  
2 alleviate his back pain. Will the fact that he does need to do this,  
3 will this not cause you to feel one way or the other? We're not  
4 trying to seek an advantage from this. It's just a fact of his life.  
5 Would the fact that he has to stand up periodically to relieve the  
6 pain in his back, can you just not— just completely ignore that?  
7 Can all of you do that?

8 Mr. Neely was rear-ended by the driver for Fox of Oak Ridge,  
9 and his car was totaled in the process and he went to the hospital.  
10 Mr. Neely went to his family doctor and wanted— needed to get in  
11 to see a specialist, which he later did.

12 And Mr. Inman, who represents him along with me, was hired,  
13 and Mr. Inman sent him to an orthopedic specialist because he  
14 couldn't get in, he hadn't been able to get in before that. Would  
15 that cause any of you any problems, the fact that Mr. Inman got him  
16 an appointment with a board-certified orthopedic surgeon, a very  
17 fine surgeon?

18 May I see a show of hands just— if that will cause you any  
19 problems, let me know, and if it will not cause you any problems. I  
20 assume it will not.

21 Okay. Those of you that have sat on juries before, I believe it  
22 was Mr. (Juror 23) and Ms. (Juror 29), Ms. (Juror 8) and Mr. (Juror  
23 4). May I see a show of hands— I know most of you have sat on  
24 civil and criminal. How many of you have sat on civil cases? This  
25 is a civil case.

1           Okay. Mr. (Juror 23), Ms. (Juror 8), and Ms. (Juror 29). Of  
2 course, this is not a Perry Mason type case. We don't have to prove  
3 our case beyond a reasonable doubt. We've got to prove it by a  
4 preponderance of the evidence, by 51 per cent of the evidence.

5           If we prove our case by 51 per cent of the evidence, will you  
6 fairly and adequately compensate Tom Neely for all of the  
7 elements of his damages, if we prove that we have, and the judge  
8 tells you that you may? Can all of you do that? May I see a show of  
9 hands if you can do that, if you can follow the law?

10           Now, in a case like this we're suing for a lot of money because  
11 this has had a drastic, damaging effect on Tom Neely for the last  
12 almost two years. He hasn't worked since this wreck. Had a good  
13 work record up until the wreck. He was working at one of the best  
14 jobs he ever had.

15           And if I prove what I just told you, that this has had a  
16 devastating effect on his life and his wife's life, can you  
17 adequately compensate him for this, even though it might be a large  
18 sum? Can you do that? May I see a show of hands if you can do  
19 that?

20           All we're entitled to is a fair trial and justice, and that's all  
21 we're asking. Fox of Oak Ridge is entitled to the same thing.  
22 Incidentally, Fox of Toyota is not the same as Fox. I think they're  
23 brothers or something, but they're not really— they're not involved  
24 in this case.

25           Do any of you know of any reason that you can't sit and listen

1 to the facts in this case and do what's right, for religious reasons or  
2 personal reasons, or you just feel like people shouldn't sue people  
3 for some reason? Do any of you feel like that?

4 I know no one likes to get sued. I turn a lot of lawsuits down  
5 for that reason. But do any of you have any preconceived notions  
6 about filing a lawsuit?

7 (No response.)

8 MR. ENGLISH: If we prove that, by medical proof  
9 from competent board-certified specialists, that Mr. Neely  
10 probably never will work again, will you take that into  
11 consideration in arriving at what you feel is a fair and just  
12 judgment in this case?

13 I'm going to ask you some individual questions, and please  
14 don't feel like I'm prying; I'm not. I'm just trying to figure out  
15 what's best for my client. I've got an obligation to represent Tom  
16 Neely to the best of my ability; that's what I want to do.

17 I certainly don't mean to offend anybody and I'm certainly  
18 not asking the questions for that reason. But I'll start with you,  
19 Ms. (Juror 9). You're an office manager; is that right?

20 JUROR NO. 9: Uh-huh.

21 MR. ENGLISH: Oak Ridge?

22 JUROR NO. 9: Uh-huh.

23 MR. ENGLISH: What part of Oak Ridge?

24 JUROR NO. 9: I work for Bechtel National in Oak  
25 Ridge.

1 MR. ENGLISH: Would the fact that Fox of Oak Ridge  
2 is in Oak Ridge where you work– I know you live in Roane County,  
3 I believe?

4 JUROR NO. 9: Correct.

5 MR. ENGLISH: Okay. Would that have any bearing  
6 one way or the other–

7 JUROR NO. 9: No, sir.

8 MR. ENGLISH: –you doing the right thing? Okay.  
9 Thank you. Mr. (Juror 23), I believe you're a manager for security?

10 JUROR NO. 23: Yes, sir.

11 MR. ENGLISH: And what's the name of your  
12 company, sir?

13 JUROR NO. 23: I work for Western Heights Dental  
14 Clinic on Oldham Avenue. I have been there 26 years.

15 MR. ENGLISH: Okay. And in your job as a security  
16 man, does that require you to be on your feet a lot?

17 JUROR NO. 23: Yes.

18 MR. ENGLISH: Making the rounds?

19 JUROR NO. 23: Yes.

20 MR. ENGLISH: Pretty physically demanding job?

21 JUROR NO. 23: Yes, it is.

22 MR. ENGLISH: Thank you very much, Mr. (Juror 23).  
23 Mr. (Juror 5), I believe you're retired and you worked at Oak Ridge  
24 as an electroplater; is that correct?

25 JUROR NO. 5: Yes.

1 MR. ENGLISH: How long did you work at Oak Ridge?

2 JUROR NO. 5: Thirty-eight years.

3 MR. ENGLISH: Okay. I know you didn't buy a car  
4 from Fox of Oak Ridge, but did you ever buy any Toyotas like Ms.  
5 (Juror 9)?

6 JUROR NO. 5: No, sir.

7 MR. ENGLISH: Okay. Do you know of any reason  
8 why you can't sit and do what's right in this case?

9 JUROR NO. 5: No.

10 MR. ENGLISH: Okay. Ms. (Juror 29), you're on the  
11 spot now.

12 JUROR NO. 29: Yeah.

13 MR. ENGLISH: You had sat on some civil and  
14 criminal cases?

15 JUROR NO. 29: Yes.

16 MR. ENGLISH: And I'm sure you've probably  
17 watched Perry Mason a time or two, as most of us have?

18 JUROR NO. 29: Yeah.

19 MR. ENGLISH: You know, in this case, we have just  
20 got to prove our case by a preponderance of the evidence. And do  
21 you have any problems with separating a preponderance of the  
22 evidence and beyond a reasonable doubt, you know, and like you  
23 have to in a criminal case? Do you have any problems?

24 JUROR NO. 29: No.

25 MR. ENGLISH: Okay. Would you pass that back to



1 Ms. (Juror 155)? Ms. (Juror 155), you're from Union County?

2 JUROR NO. 155: No. I'm from Campbell County.

3 MR. ENGLISH: Campbell County, I'm sorry. Is that

4 LaFollette or—

5 JUROR NO. 155: Jacksboro.

6 MR. ENGLISH: Jacksboro, okay. You're an R.N.?

7 JUROR NO. 155: Yes, sir.

8 MR. ENGLISH: Who are you employed by, ma'am?

9 JUROR NO. 155: Team Health.

10 MR. ENGLISH: Okay. You travel around quite a bit  
11 or do you?

12 JUROR NO. 155: No. I had just finished—I did work in  
13 the U.T. Medical Center emergency department and just transferred  
14 to Team Health. I do—I'm like a triage nurse, answer the phone.

15 MR. ENGLISH: Okay. You, with your specialized  
16 knowledge of medicine, would you feel like that would be a help to  
17 you in determining what injuries this man has, according to the  
18 doctor's testimony, or a hindrance to you in any way?

19 JUROR NO. 155: It would be a help.

20 MR. ENGLISH: Thank you very much. Ms. (Juror 160)?

21 JUROR NO. 160: (Juror pronounced her name.)

22 MR. ENGLISH: I'm sorry. You're an engineer?

23 JUROR NO. 160: Yes.

24 MR. ENGLISH: With who?

25 JUROR NO. 160: Denso Manufacturing.

1 MR. ENGLISH: That's down at Walland or—

2 JUROR NO. 160: In Maryville.

3 MR. ENGLISH: Maryville, okay. And in your job,  
4 what type of an engineer are you, ma'am?

5 JUROR NO. 160: A quality.

6 MR. ENGLISH: Quality? Would you have any  
7 problems in listening to the facts of this case and then applying the  
8 law to those facts?

9 JUROR NO. 160: No, sir.

10 MR. ENGLISH: Thank you. Ms. (Juror 8), I believe  
11 you're married to Joe (last name given)?

12 JUROR NO. 8: Yes.

13 MR. ENGLISH: Okay. He's an attorney, local  
14 attorney?

15 JUROR NO. 8: Yes.

16 MR. ENGLISH: Okay. Would the fact that your  
17 husband, being an attorney for many years here, a good firm, would  
18 that cause you to feel one way or the other in this case?

19 JUROR NO. 8: No.

20 MR. ENGLISH: Okay. You've sat on civil juries?

21 JUROR NO. 8: Yes, I have.

22 MR. ENGLISH: In federal court or state court?

23 JUROR NO. 8: Wheeler Rosenbalm.

24 MR. ENGLISH: That's state, okay. Was that recently?

25 JUROR NO. 8: No. That's been years ago.

1 MR. ENGLISH: Okay. And you know the difference  
2 between a preponderance of the evidence and beyond a reasonable  
3 doubt, I assume?

4 JUROR NO. 8: Yeah.

5 MR. ENGLISH: Okay. Thank you. Mr. (Juror 4), you  
6 have sat on criminal juries?

7 JUROR NO. 4: That's correct.

8 MR. ENGLISH: And you are formerly with the FDIC;  
9 you're retired now?

10 JUROR NO. 4: That's correct.

11 MR. ENGLISH: What did you do with them?

12 JUROR NO. 4: My job classification, I was a federal  
13 investigator and did white-collar crime and fraud, embezzlement.

14 MR. ENGLISH: Okay. Were you involved in the FDIC  
15 takeover of UAB?

16 JUROR NO. 4: No. I got here just after that.

17 MR. ENGLISH: And do you know of any reason why  
18 you couldn't sit, even though you bought a car from Fox, and listen  
19 to the facts and do what's right in this particular case?

20 JUROR NO. 4: No, I do not.

21 MR. ENGLISH: Okay. Mr. Woodfin works for the  
22 defense firm of Spicer, Flynn & Rudstrom, and this is a good  
23 defense firm. They've got offices in the major metropolitan areas,  
24 I think four or five in Tennessee, and then Mississippi. Would that  
25 cause you any problems one way or the other in listening to the

1 facts and applying the law to this case?

2 JUROR NO. 4: Me, personally? No.

3 MR. ENGLISH: I'm just talking generally. You're  
4 off the hot seat, Mr. (Juror 4).

5 JUROR NO. 4: Okay.

6 MR. ENGLISH: Do any of you know any reason why  
7 that would—

8 (No response.)

9 MR. ENGLISH: Thank you. Pass the jury, your Honor.

10 THE COURT: Thank you, counsel. Does counsel for  
11 the Defendant have any questions for this jury?

12 MR. WOODFIN: Yes, your Honor.

13 THE COURT: Thank you.

14 MR. WOODFIN: Good morning. My name's Clint  
15 Woodfin. I do represent Fox of Oak Ridge in this case. Just as the  
16 Plaintiff has done, we need to go ahead and just follow up on some  
17 of the questions that you've already responded to, to make sure that  
18 we do get a trial(sic) that will be fair to both sides. I'll try not to  
19 cover the same ground that was covered by Mr. English, because I  
20 tried to take good notes about what responses you gave, and I don't  
21 want to take up too much of your time about that.

22 You've heard a little bit about our case today and what's  
23 going to be involved, and you know there's going to be some  
24 testimony about an accident that occurred. Have any of you all  
25 been in a car accident before, no matter how minor, whether it was

1 a fender-bender or whether it was one that was very major? Yes,  
2 Ms. (Juror 9)?

3 JUROR NO. 9: Just a fender-bender.

4 MR. WOODFIN: And was anyone injured or claim  
5 injury in that type of accident?

6 JUROR NO. 9: No.

7 MR. WOODFIN: Were you hit or did you hit someone?

8 JUROR NO. 9: I hit someone.

9 MR. WOODFIN: Okay. Was there visible damage  
10 done to any of the vehicles?

11 JUROR NO. 9: There was \$1,700 worth of damage to  
12 my vehicle and a hole about that size in his taillight, because he  
13 was driving a '57 Chevy.

14 MR. WOODFIN: Wow, they're heavy cars. Do you  
15 think that's going to impact your ability to listen to the evidence in  
16 this case? We're going to see some photographs of the vehicles  
17 involved, and do you think that would have any impact on what  
18 you're going to be able to do for us in this case?

19 JUROR NO. 9: No.

20 MR. WOODFIN: Okay. Well, Thank you for letting  
21 me know. Short of being in an accident, has anyone ever had the, I  
22 guess, unfortunate circumstance of being on a road that's slick or  
23 wet, skidding, maybe not being able to stop in time? Has that ever  
24 happened to anyone before?

25 I know we drive throughout our lives; undoubtedly, we

1 encounter many conditions. Sometimes that's something that does  
2 occur. Has anyone had a one-car accident as opposed to being  
3 involved in an accident with someone else or maybe you've had  
4 some property damage to your vehicle or caused some damage to  
5 someone else's property?

6 Mr. (Juror 4), you kind of raised your finger a little bit. Was  
7 that something that you had happen to you?

8 JUROR NO. 4: Oh, I just— I slid off into the ditch in the  
9 snow once.

10 MR. WOODFIN: You are from Iowa— Pennsylvania?

11 JUROR NO. 4: Pennsylvania.

12 MR. WOODFIN: Pennsylvania. So I imagine you  
13 encountered some pretty slick conditions driving there?

14 JUROR NO. 4: Yes.

15 MR. WOODFIN: It gets pretty bad here in Knoxville  
16 when we have our one snowstorm of the year, but, undoubtedly,  
17 you have encountered some worse conditions than we see here. Do  
18 you think that's going to impact your ability when you hear the  
19 testimony about how this accident occurred?

20 JUROR NO. 4: No.

21 MR. WOODFIN: Okay. Mr. Neely is going to testify,  
22 as his doctors are, about the problems that he says he has in this  
23 case. He says he's got problems with his back, also problems with  
24 his neck. Have any of you all been treated by a doctor before for a  
25 problem with your back or a problem with your neck?

1 Yes, sir, Mr. (Juror 23)? He's got the microphone there  
2 behind you. Again, I don't want to get too personal, but what type  
3 of back or neck problem did you have?

4 JUROR NO. 23: I had two discs removed and three  
5 vertebrae fused in my back.

6 MR. WOODFIN: In your lower back?

7 JUROR NO. 23: Yes, sir.

8 MR. WOODFIN: Was that a result of some accident?

9 JUROR NO. 23: Yes, sir.

10 MR. WOODFIN: How long ago did that occur, sir?

11 JUROR NO. 23: Happened in 1969, in Vietnam, in a  
12 helicopter crash.

13 MR. WOODFIN: In looking at your information that  
14 you completed after that, you were able to go back and go to work  
15 and worked for some years; is that correct?

16 JUROR NO. 23: Yes. I still work now.

17 MR. WOODFIN: How are you doing as far as being  
18 able to sit today? Is that something you think may trouble you a  
19 little bit or is that something you think you'll be okay with?

20 JUROR NO. 23: It bothers me from time to time, but  
21 not, not to where I can't—I take medication for it, though. This is  
22 going to be a hard—this is going to be a hard case for me for two  
23 reasons. One, I was on a jury that was almost exactly this kind of  
24 case. It was a collision case and the person was killed in the car,  
25 and it was on a wet, slick, rainy road in Georgia.

1 For three years I drove an ambulance, and I have seen every  
2 kind of wreck there's been during that time. But right now I'm  
3 waiting on surgery with an orthopedic surgeon for a rotor cuff in  
4 my right shoulder that's pretty bad, and that's been going on for  
5 about two months.

6 So I spent, I spent 30 years in the Navy, and I spent that 30  
7 years in the medical and dental corps. And when it comes to the  
8 pain part of this case, not only have I been through a good bit of my  
9 own, but I have seen a lot.

10 I spent two tours in Vietnam, and I have seen a lot of pain,  
11 stuff. I don't know. I'd love to hear the case and I would like to  
12 make— I would like to be able to pass judgment on it, but I'm awful  
13 afraid that if you really prove that there's a lot of pain involved in  
14 this, then that's going to persuade me, I can tell you now. I'm just  
15 telling you, I guess; okay?

16 MR. WOODFIN: I appreciate your candidness about  
17 that. Do you think that this particular case and what you've heard  
18 about it so far may not be the best case for you to sit on,  
19 considering what testimony you're probably going to hear about  
20 what Mr. Neely claims, and also your own situation?

21 JUROR NO. 23: I think so. I don't want to be unfair to  
22 the folks in the case, and I'm not sure that I can't be if there's a lot  
23 of pain involved in this.

24 MR. WOODFIN: I appreciate your candidness, Mr.  
25 (Juror 23). Your Honor, I'd move that Mr. (Juror 23) be stricken



1 for cause at this point, given what he's told the Court and us about  
2 how he feels about this case.

3 THE COURT: Mr. (Juror 23), are you telling us that  
4 you're concerned about your ability to reach a fair verdict in this  
5 matter if there's a claimed element of pain as part of the Plaintiff's  
6 damages?

7 JUROR NO. 23: Yes, sir.

8 THE COURT: Any comment, Mr. English?

9 MR. ENGLISH: Your Honor, I can't object to this  
10 man's statements. I certainly don't object.

11 THE COURT: All right. The request will be granted.  
12 Mr. (Juror 23) will be excused for cause. Madam Clerk, if you'll  
13 call another juror, please. Mr. (Juror 23), I believe the Clerk's  
14 Office will call— or you need to call and check in with the Clerk's  
15 Office.

16 (Discussion between Court/courtroom deputy off the record.)

17 THE COURT: Okay. Well, you have to report back,  
18 yes, sir. Thank you, sir.

19 (Juror No. 23 excused; and Juror No. 154 called.)

20 (Juror 4 spoke off the record to court security officer; court  
21 security officer spoke off the record at the bench with the Court.)

22 THE COURT: Would this impact your ability to sit on  
23 the jury?

24 JUROR NO. 4: (Nodded.)

25 THE COURT: It would? All right. Why don't we have

1 a– before we start with Mr. (Juror 154), I’ll need to have the  
2 attorneys and the court reporter.

3 (Discussion at bench, out of prospective jury panel’s hearing,  
4 as follows:)

5 JUROR NO. 4: I’m sorry I didn’t bring this up sooner,  
6 but I didn’t really think about it until he talked bout his  
7 experiences and stuff. I’m, myself, permanently disabled because  
8 of a situation at Parkwest Hospital, and I do have a lot of pain, but  
9 it never crossed my mind to sue anybody over it. You know,  
10 Parkwest Hospital would be a big target to hit. I’m not sure that I  
11 could fairly find in favor of your client.

12 MR. ENGLISH: I appreciate your honesty.

13 JUROR NO. 4: Just because I’m not sure that I agree  
14 with everybody suing everybody. I mean, when it comes right  
15 down to it, that’s what it amounts to. I think there’s, you know,  
16 there’s certain times and places, and I don’t know his  
17 circumstances, and maybe this is the time and place. But I just feel  
18 that, you know, there’s too much, too many lawsuits, and I don’t  
19 know if I could render a fair and impartial, based on that.

20 THE COURT: All right, sir. I appreciate that. Counsel,  
21 any comments?

22 MR. ENGLISH: I have no objection to him being  
23 excused.

24 THE COURT: Counsel?

25 MR. WOODFIN: No objection.

1 THE COURT: All right, sir. You may be excused to  
2 report back in the morning, be excused for cause.

3 (Discussion at bench concluded.)

4 THE COURT: Madam Clerk, call another juror, please.  
5 (Juror No. 4 excused; and Juror No. 11 called.)

6 THE COURT: Good morning, Ms. (Juror 11).

7 JUROR NO. 11: Good morning.

8 THE COURT: Were you able to hear all the questions  
9 that have been asked so far and the answers given so far?

10 JUROR NO. 11: Yes, sir.

11 THE COURT: Do you know Mr. Neely?

12 JUROR NO. 11: No, sir.

13 THE COURT: Do you know Mr. Fox?

14 JUROR NO. 11: No, sir.

15 THE COURT: Do you know any of these attorneys?

16 JUROR NO. 11: No, sir.

17 THE COURT: Okay. Have you ever had any business  
18 dealings with Fox of Oak Ridge?

19 JUROR NO. 11: No, sir.

20 THE COURT: Are you currently a party in a lawsuit  
21 yourself?

22 JUROR NO. 11: No, sir.

23 THE COURT: Okay. Have you ever been a party in a  
24 civil case?

25 JUROR NO. 11: No, sir.

1 THE COURT: Have you ever served on a jury before in  
2 a civil case?

3 JUROR NO. 11: No, sir.

4 THE COURT: Have you ever served on a jury in a  
5 criminal case?

6 JUROR NO. 11: No, sir.

7 THE COURT: Having heard everything that's been  
8 said in court this morning so far, do you know of any reason why  
9 you could not sit on this jury and render a fair verdict based solely  
10 on the evidence presented in court, in the context of the Court's  
11 instructions of the law?

12 JUROR NO. 11: No, sir.

13 THE COURT: All right. The Court is going to find that  
14 this juror is qualified. I suppose we'll let Mr. Woodfin continue;  
15 and, of course, Mr. English can ask questions if he wants.

16 MR. WOODFIN: Your Honor, did you want to inquire  
17 of Mr. (Juror 154) the same general questions? I don't think we  
18 had an opportunity to ask him if he heard all those questions.

19 THE COURT: I do want to do that. I just lost my place  
20 for a minute. Good morning to you, Mr. (Juror 154).

21 JUROR NO. 154: Good morning.

22 THE COURT: Were you able to hear all of the  
23 questions that have been asked and the answers given so far, sir?

24 JUROR NO. 154: Yes, sir.

25 THE COURT: Do you know Mr. Neely?

1 JUROR NO. 154: I do not.

2 THE COURT: Do you know Mr. Fox?

3 JUROR NO. 154: I do not.

4 THE COURT: And have you had any business dealings  
5 with Fox of Oak Ridge?

6 JUROR NO. 154: I have not.

7 THE COURT: Do you know these attorneys that are  
8 here today?

9 JUROR NO. 154: I do not.

10 THE COURT: Ever had business dealings with any of  
11 them or any family members have any dealings with any of them?

12 JUROR NO. 154: No, your Honor.

13 THE COURT: Are you currently a party in any type of  
14 a lawsuit, sir?

15 JUROR NO. 154: In a way, yes. My daughter was in an  
16 accident two years ago, and the insurance companies are still  
17 wrestling with it.

18 THE COURT: Okay. Were you with her at the time of  
19 the accident?

20 JUROR NO. 154: No, sir.

21 THE COURT: Is there a lawsuit or are they just still  
22 talking about it?

23 JUROR NO. 154: They're still working it out.

24 THE COURT: They're working it out. Okay. Have you  
25 ever been on a criminal jury?

1 JUROR NO. 154: Yes, three weeks ago, Judge Phillips.

2 THE COURT: Okay. Do you have any type of  
3 problems that would affect your ability to hear this case for a  
4 couple days?

5 JUROR NO. 154: No, judge, I do not.

6 THE COURT: Ms. (Juror 11), I should have asked you  
7 the same question. I'm sorry I didn't. Any reason why you can't  
8 hear this case for a couple of days?

9 JUROR NO. 154: No, sir.

10 THE COURT: Okay. The Court is going to find Mr.  
11 (Juror 154) is also qualified to sit on this jury. Mr. (Juror 154), I  
12 assume you know of no reason why you couldn't sit on the jury and  
13 render a fair verdict based only on the evidence and the law as  
14 given to you, correct?

15 JUROR NO. 154: That's correct.

16 THE COURT: All right. Mr. Woodfin?

17 MR. WOODFIN: Thank you. Mr. (Juror 154) and Ms.  
18 (Juror 11), I'll just try to get caught back up with you all. Both of  
19 you all are licensed drivers; is that correct?

20 JUROR NO. 11: Yes.

21 JUROR NO. 154: Yes.

22 MR. WOODFIN: Have either of you been in an  
23 accident, whether it's a minor accident or a major accident? I know  
24 you mentioned your daughter. But have you all personally been  
25 involved in any automobile accidents?

1 JUROR NO. 11: Yes, years ago.

2 MR. WOODFIN: Years ago. Mr.(Juror 154), the same  
3 thing?

4 JUROR NO. 154: Yes.

5 MR. WOODFIN: Anyone claim any type of injury?

6 JUROR NO. 11: No.

7 JUROR NO. 154: No.

8 MR. WOODFIN: Mr. (Juror 154), is your daughter the  
9 one that is seeking damages for an injury or is she the one that  
10 damages are being sought against her?

11 JUROR NO. 154: Damages are being sought against her.

12 MR. WOODFIN: Okay. Thank you. We've alluded a  
13 little bit to how this proof will be presented in this case, and I think  
14 you all understand and will be told by the Court that the Plaintiff  
15 gets to go first, that they get to put their proof on and that they  
16 have certain burdens that they must meet before they can be  
17 awarded damages.

18 Can everyone agree with me that if the Plaintiff does not put  
19 on evidence which is of sufficient weight, you all will be able to  
20 turn him out of here without any damages for those things that he's  
21 not able to prove? Can everyone agree to do that?

22 He's going to go up there, he's going to tell you about his  
23 problems. But you may find, as the sole eight people who weigh the  
24 evidence, that the evidence doesn't necessarily carry that burden.  
25 And you all acknowledge that you will be able to return a verdict

1 which reflects that?

2 Good. Thank you. That's all we ask for, is for eight people  
3 who can sit there and listen to the evidence, listen to the  
4 instructions from the Court, and be fair to both sides, considering  
5 the claims that are made in this case.

6 Ms. (Juror 155), you said you work as a nurse. How long have  
7 you been a nurse?

8 JUROR NO. 155: Twenty-five years.

9 MR. WOODFIN: I know you will hear from doctors in  
10 this case; Dr. Thomas Koenig, who is an orthopedic doctor, and Dr.  
11 Joe Browder, who is a doctor here in Knoxville who does pain  
12 management.

13 JUROR NO. 155: The Browder name is just slightly  
14 familiar by hearing it, but I do not know either of them personally.

15 MR. WOODFIN: You said you worked in the hospital  
16 as a triage nurse, meaning the one who kind of encounters the  
17 patients when they first come in?

18 JUROR NO. 155: No. I worked at U.T. Medical Center  
19 just recently in the emergency department as just a nurse in the  
20 trauma unit. But now, currently, I am employed— I am a telephone  
21 consultant. I'm licensed in 15 states. I work for a company. When  
22 people call in with medical complaints, I give them the advice on  
23 what they should do.

24 MR. WOODFIN: Okay. Good. And I would suspect  
25 that your experience will not impact you one way or the other—



1 JUROR NO. 155: No.

2 MR. WOODFIN: – and you will be able to listen to the  
3 evidence in this case?

4 JUROR NO. 155: No.

5 MR. WOODFIN: Okay. Thank you. Ms. (Juror 160), is  
6 it? I keep saying that wrong. I'm sorry. You work in Maryville, I  
7 think you said. I live there. You don't look familiar to me. I hope I  
8 that I don't look familiar to you for whatever reason. Did you say  
9 you've not served on a jury before?

10 JUROR NO. 160: I have not.

11 MR. WOODFIN: And, again, you understand that the  
12 Court's going to tell you that in this case, a civil case, that there  
13 are burdens that must be met by the Plaintiff and tell you how the  
14 Plaintiff is going to try to meet those burdens and what the  
15 necessary elements are. And you will be able to distinguish that  
16 from what we see on television with these criminal cases?

17 JUROR NO. 160: Yes, sir.

18 MR. WOODFIN: Thank you. Ms. (Juror 8), your  
19 husband's an attorney?

20 JUROR NO. 8: Yes.

21 MR. WOODFIN: What type of practice does he have?

22 JUROR NO. 8: Well, business law. He does not  
23 litigate.

24 MR. WOODFIN: Okay. Is he with a firm here in town?

25 JUROR NO. 8: Hunton & Williams.

1 MR. WOODFIN: Oh, sure, I know that firm. I'm sorry,  
2 I don't know him. But he doesn't do the type of litigation that  
3 we're involved with here today—

4 JUROR NO. 8: No.

5 MR. WOODFIN: —with personal injury claims? Okay.  
6 Have you ever been a party to a lawsuit or been sued yourself?

7 JUROR NO. 8: No.

8 MR. WOODFIN: I noticed on your questionnaire you  
9 had checked off that maybe a family member or someone had been  
10 involved in a personal injury case or maybe I just read it wrong?

11 JUROR NO. 8: No.

12 MR. WOODFIN: Okay. Ms. (Juror 11), you had  
13 checked that you had had a close family member or someone  
14 involved in a personal injury case before; is that correct?

15 JUROR NO. 11: Ex-husband.

16 MR. WOODFIN: Who was that?

17 JUROR NO. 11: My ex-husband.

18 MR. WOODFIN: Oh, ex-husband?

19 JUROR NO. 11: Yes.

20 MR. WOODFIN: What kind of case was that?

21 JUROR NO. 11: He got hit in the rear end.

22 MR. WOODFIN: Was he sued?

23 JUROR NO. 11: No.

24 MR. WOODFIN: He did the suing?

25 JUROR NO. 11: Uh-huh.

1 MR. WOODFIN: What type of injuries did he have?

2 JUROR NO. 11: Just hurt his neck. It's still going on.

3 MR. WOODFIN: The case is still going on?

4 JUROR NO. 11: Yes.

5 MR. WOODFIN: Have you had to testify at all in that  
6 case or anything?

7 JUROR NO. 11: No, no.

8 MR. WOODFIN: You just kind of heard about it?

9 JUROR NO. 11: Uh-huh.

10 MR. WOODFIN: Do you know anything about the  
11 extent of his claimed injury?

12 JUROR NO. 11: No.

13 MR. WOODFIN: Not really? You don't think that's  
14 going to impact you one way or the other in this case?

15 JUROR NO. 11: No, sir.

16 MR. WOODFIN: Ms. (Juror 9), I tried to make a note  
17 here, and I didn't write it well enough to figure out what it said.  
18 Have you been on a jury before?

19 JUROR NO. 11: No. I have been called several times,  
20 but never served.

21 MR. WOODFIN: That's what I have written down, that  
22 you have been maybe through this. Have you ever sat in the box  
23 before and been questioned by the lawyers or has it gotten that far  
24 for you?

25 JUROR NO. 11: Yes.

1 MR. WOODFIN: What types of cases were those?

2 JUROR NO. 11: Well, it was in Judge Phillips'. There  
3 was the man that shot at a drug enforcement task officer. That's, I  
4 guess, that's considered criminal.

5 MR. WOODFIN: Probably, probably.

6 JUROR NO. 11: And one other one, and I don't really  
7 recall right now what it was, but I was dismissed off of that also.

8 MR. WOODFIN: And I hope that didn't leave too  
9 much of a bad taste in your mouth and that won't affect your ability  
10 to sit and listen to this case today if you are selected?

11 JUROR NO. 11: No, sir. I realize it's just part of the  
12 process.

13 MR. WOODFIN: Okay. Thanks. Mr. (Juror 154), we  
14 had talked a little bit earlier about your daughter's situation. And  
15 had you commented that you had been on a criminal jury before?

16 JUROR NO. 154: And a civil, that's correct.

17 MR. WOODFIN: And a civil. What type of civil case  
18 was it?

19 JUROR NO. 154: Civil was about 20 years ago, and it  
20 was a child that was injured in a school bus accident.

21 MR. WOODFIN: Do you remember how you ruled in  
22 that case as a jury?

23 JUROR NO. 154: Yes.

24 MR. WOODFIN: What did you all do?

25 JUROR NO. 154: We awarded in her favor.

1 MR. WOODFIN: How seriously injured was the child?

2 JUROR NO. 154: Very serious.

3 MR. WOODFIN: I'm sorry to hear that. And how  
4 about on your criminal case? Did you have a good experience with  
5 that as well, I hope?

6 JUROR NO. 154: I was the alternate juror. I got to sit  
7 through the entire process, but didn't get to go through  
8 deliberations. It was okay.

9 MR. WOODFIN: Mr. (Juror 5), I haven't meant to left  
10 you out today, but I haven't talked to you too much. In looking  
11 back at my notes, I had seen that you didn't respond, or maybe did  
12 and I just didn't notice, about whether you had been on a jury  
13 before?

14 JUROR NO. 5: A long time ago I was on a rape jury.

15 MR. WOODFIN: Criminal case?

16 JUROR NO. 5: Yeah. And it was over in the city-  
17 county building. It was a long time ago.

18 MR. WOODFIN: Probably can't remember too much  
19 about it?

20 JUROR NO. 5: I was kind of young then.

21 MR. WOODFIN: Had you been called back for jury  
22 service and then just not to be called on in the case?

23 JUROR NO. 5: I did that back years ago. This is only  
24 the second time I've been called back.

25 MR. WOODFIN: And we're glad to have you here.

1 And you have not been involved in any type of personal injury suits  
2 or anything like that?

3 JUROR NO. 5: No.

4 MR. WOODFIN: And you don't know of any reason  
5 why you can't be fair and reasonable in this case today?

6 JUROR NO. 5: No, sir.

7 MR. WOODFIN: All right. Ms. (Juror 29), I didn't  
8 mean to ignore you; you were just last as I was going down the list.  
9 Again, thank you for being here today. Do you know of any reason  
10 or have anything in your past with regard to previous exposure  
11 with the legal system which may affect your ability to listen to this  
12 case today?

13 JUROR NO. 29: (Shook head.)

14 MR. WOODFIN: You ever had any type of injury  
15 where you made a claim against someone?

16 JUROR NO. 29: Never.

17 MR. WOODFIN: Okay. Mr. English has said it, and  
18 I've said it, too, what we're really looking for are people that can  
19 listen to what the evidence is and be fair and reasonable in how  
20 they decide this case. Sometimes people think that the legal system  
21 itself is not fit for deciding this type of case, that there are too  
22 many lawsuits or that people shouldn't file suit; or if someone does  
23 file suit, they're automatically entitled to something.

24 Does anyone have any feelings about the legal system in  
25 general which may impact your ability to listen and decide this

1 case?

2 (No response.)

3 MR. WOODFIN: Well, I appreciate you all listening to  
4 me. Our legal system is the best one that I know of, and I don't  
5 imagine that there's any other way to decide issues like this that we  
6 can't decide amongst ourselves. So we appreciate you listening to  
7 us today and helping us decide these issues. Thank you.

8 THE COURT: Mr. English, any questions, please?

9 MR. ENGLISH: Yes, your Honor. I'll direct my  
10 questions to Mr. (Juror 154) and Ms. (Juror 11). Mr. (Juror 154),  
11 the jury that you sat on, the civil jury involving the child, how long  
12 ago was that, sir?

13 JUROR NO. 154: Twenty years.

14 MR. ENGLISH: Twenty years ago?

15 JUROR NO. 154: Yes, sir.

16 MR. ENGLISH: The child was hurt pretty badly?

17 JUROR NO. 154: Yes, sir.

18 MR. ENGLISH: A lot of money in the verdict—

19 JUROR NO. 154: Yes, sir.

20 MR. ENGLISH: —that was given? If we prove that Tom  
21 Neely is hurt badly as a result of this rear-end collision, would you  
22 have any problems in awarding him adequate damages even though  
23 it would be a large number?

24 JUROR NO. 154: No, sir.

25 MR. ENGLISH: Okay. Ms. (Juror 11), I'd ask you the

1 same question. Would you have any problems, if we prove our  
2 case, as we must, by a preponderance of the evidence, not beyond a  
3 reasonable doubt, in awarding an adequate award in this particular  
4 case, if we prove it?

5 JUROR NO. 154: I wouldn't have any problem with it.

6 MR. ENGLISH: Thank you very much.

7 THE COURT: All right. Thank you, counsel. there are  
8 peremptory challenge forms on your table. If you'd please execute  
9 those promptly, and, Madam Clerk, if you'll collect those.

10 COURTROOM DEPUTY: Yes, your Honor.

11 (Counsel filled out juror strike sheets; Court reviewed them.)

12 THE COURT: All right. Mr. (Juror 154), you are  
13 excused; and Ms. (Juror 8), you are excused; and Mr.— I'm sorry—  
14 Ms. (Juror 29), you are excused. If you'll just report back  
15 tomorrow morning, please. Thank you.

16 (Jurors 8, 29 and 154 excused and left the courtroom.)

17 THE COURT: Madam Clerk, if you could give us three  
18 jurors, please.

19 COURTROOM DEPUTY: Yes, your Honor.

20 (Whereupon, Jurors 27, 7 and 18 were called to the jury box.)

21 THE COURT: Good morning to you folks. Have all of  
22 you had a chance to hear the questions that have been asked and the  
23 answers given so far? If so, please raise your right hand, all three  
24 of you. Thank you.

25 Do any of you know Mr. Neely? Do any of you know Mr. Fox?



1 case, would that cause you any problems one way or the other?

2 JUROR NO. 18: No, sir.

3 MR. ENGLISH: Of the three of you that were just  
4 seated, Ms. (Juror 18), Ms. (Juror 27), Mr.(Juror 154)– I mean, Mr.  
5 (Juror 7), do any of you have any feelings one way or the other  
6 about lawsuits?

7 JUROR NO. 7: No.

8 JUROR NO. 18: (Shook head.)

9 JUROR NO. 27: (Shook head.)

10 MR. ENGLISH: We've had a very candid interchange  
11 among the jurors today, and I appreciate that. All we want is a fair  
12 shot; all we're entitled to is nothing less than that. Can you all do  
13 that?

14 JUROR NO. 7: Yes, sir.

15 JUROR NO. 18: (Nodded.)

16 JUROR NO. 27: (Nodded).

17 MR. ENGLISH: Thank you.

18 THE COURT: Thank you, counsel. Mr. Woodfin?

19 MR. WOODFIN: Thank you. Ms. (Juror 18), Mr. (Juror  
20 7), and Ms. (Juror 27), I had asked the earlier folks that were sitting  
21 in your seat if they had ever been involved in an automobile  
22 accident. Have any of you three ever been involved in an  
23 automobile accident?

24 JUROR NO. 7: Several.

25 MR. WOODFIN: All three of you are shaking your

1 heads, and it's part of driving in East Tennessee, I think,  
2 sometimes. Was anyone injured in that accident?

3 (All three jurors shook heads no.)

4 MR. WOODFIN: Was there any type of lawsuit filed  
5 over any of those issues that were involved in that accident?

6 JUROR NO. 7: No.

7 MR. WOODFIN: Was it such an accident that there  
8 was just minor damage done to the automobiles involved?

9 (All three jurors nodded yes.)

10 MR. WOODFIN: Do you think that will impact your  
11 ability to listen to the evidence in this case? We're going to see  
12 some pictures of the cars, hear testimony about how the accident  
13 happened. Do you think that will impact you any way, negatively  
14 or positively?

15 (All three jurors shook heads no.)

16 MR. WOODFIN: Okay. Thank you all.

17 THE COURT: All right. Counsel, the forms are on your  
18 table. Madam Clerk, if you would collect those, please.

19 All right. Mr. (Juror 7), you are excused, sir. You need to  
20 report back in the morning. Appreciate your patience this morning.

21 (Juror 7 excused and left the courtroom.)

22 THE COURT: Madam Clerk, if you would call another  
23 juror, please.

24 (Whereupon, Juror No. 19 was called to the jury box.)

25 THE COURT: All right. Mr. (Juror 19), is now going

1 problem that your daughter has at this present time, would that  
2 cause you any problems in sitting and doing what's right in this  
3 particular case?

4 JUROR NO. 11: The only problem is, I have been in  
5 and out of court for three years, you know, watching her go through  
6 things she's went through.

7 MR. ENGLISH: Okay. I'm sure you would rather be  
8 somewhere else, probably, that right here today?

9 JUROR NO. 11: Probably.

10 MR. ENGLISH: As the other ones. Would that cause  
11 you any problems in giving Tom Neely a fair trial and giving Fox  
12 Corporation a fair trial?

13 JUROR NO. 11: No.

14 MR. ENGLISH: Thank you.

15 THE COURT: Thank you, counsel. Mr. Woodfin?

16 MR. WOODFIN: Mr. (Juror 6), have you been  
17 involved in any automobile accidents?

18 JUROR NO. 6: No.

19 MR. WOODFIN: Do you have any type of physical  
20 condition which might affect your ability to sit for a long period of  
21 time today and listen to this case?

22 JUROR NO. 6: I've had two back surgeries in the past  
23 five years.

24 MR. WOODFIN: Did you have accidents that caused  
25 you to have to have back surgeries?

1 JUROR NO. 6: No.

2 MR. WOODFIN: Were they related to anything at work?

3 JUROR NO. 6: No, not really.

4 MR. WOODFIN: And I guess I should disclose, I think  
5 you work at OMI; is that correct?

6 JUROR NO. 6: Yes.

7 MR. WOODFIN: My law firm does some work for that  
8 company, Spicer, Flynn & Rudstrom. I don't know if you've ever  
9 come across us—

10 JUROR NO. 6: No.

11 MR. WOODFIN: —in your dealings with your  
12 particular company. Okay, sir. Thank you. And, Ms. (Juror 11), I  
13 don't mean to ignore you, but I understand your daughter has a  
14 criminal case that's still going on?

15 JUROR NO. 11: (Nodded.)

16 MR. WOODFIN: But you don't think that's going to  
17 affect your ability in this matter?

18 JUROR NO. 11: (Shook head no.)

19 MR. WOODFIN: Thank you.

20 THE COURT: Thank you, counsel. Your forms are on  
21 the table in front of you. Madam Clerk, if you'll collect those  
22 forms, please. All right. Mr. (Juror 6), you will be excused.  
23 Appreciate you being here today and being patient with us. Report  
24 back in the morning, please.

25 (Juror No. 6 excused and left the courtroom.)