

**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,	:	Jury Trial-Day 1
	:	
Defendant.	:	

Transcript of proceedings before the Honorable H. Bruce Guyton,
U. S. Magistrate Judge, on June 20th, 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

Court Reporter:

Donnetta Kocuba, RMR
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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.)