

**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

Court Reporter:

Donnetta Kocuba, RMR  
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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.