

**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:

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1 witnesses to believe, which witnesses not to believe, and how much
2 of any witness' testimony you want to accept or reject. I will give
3 you some guidelines for determining credibility of witnesses at the
4 end of the case.

5 I want to talk to you briefly about the burden of proof. In a
6 civil action such as this one, in order to recover money damages,
7 the Plaintiff must prove his claims by a preponderance of the
8 evidence. That means the Plaintiff has to produce evidence which,
9 considered in the light of all the facts, leads you to believe that
10 what the Plaintiff claims is more likely true than not.

11 To put it differently, if you were to put the Plaintiff's and the
12 Defendant's evidence on opposite sides of the scales, the
13 Plaintiff's evidence would have to make the scales tip somewhat on
14 the Plaintiff's side. If the Plaintiff fails to meet this burden, the
15 verdict must be for the Defendant.

16 Those of you who have sat on criminal cases will have heard
17 the term "proof beyond a reasonable doubt." That requirement
18 does not apply to a civil case such as this one, and you should
19 therefore please put that concept out of your mind.

20 Let me talk to you about the credibility of witnesses. The jury
21 is the exclusive judge of the weight to be given to a witness'
22 testimony and the credibility of a witness. You are the ones who
23 have to decide how important each piece of evidence is and whether
24 or not the witnesses are entitled to be believed.

25 In deciding how much importance to attach to what a witness