

**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 evidence that are brought before you in court. Your decision is to
2 be based strictly and solely on the evidence that is given to you
3 through the witnesses and the exhibits in this courtroom.

4 Mr. English, I think there's one witness in the courtroom. I
5 don't know if more have arrived, but is the rule requested at this
6 time?

7 MR. ENGLISH: Yes, your Honor, we request the rule.

8 THE COURT: All right. Anyone who is other than Mr.
9 Neely and Mr. Fox needs to step outside the courtroom at this time,
10 anyone who thinks you may be a witness in this case. Mr. Woodfin,
11 if you have any witnesses, ask them to step outside, please. Don't
12 go far, though, sir. We'll come get you when we need you.

13 All right. It is now the time for the opening statements by the
14 attorneys. Generally, we've agreed upon a 15-minute time limit for
15 opening statements, and I thank you for that.

16 Mr. English, or Mr. Inman, you may begin.

17 MR. ENGLISH: Ladies and gentlemen, two years ago,
18 on a warm, hot July day, Tom Neely's life was changed forever. He
19 was going to work, going to work to a job that he loved at the
20 Ridgeview Psychiatric Facility. Been working there for a year and
21 a half.

22 He lived in Kentucky, drove near 100 miles to work one way,
23 because he loved the job and it was the best job he had ever had. He
24 had worked at Scott County Hospital for about 12 years, security
25 and orderly, doing hard work.

1 Security work requires you to stand up and to walk nine to
2 five. Being an orderly, most of you have had healthcare experience
3 knows what that entails. It entails lifting. It's a hard job. His job as
4 a psychiatric technician who was working and where he was going
5 the day of this accident required him to be able to stand on his feet,
6 lift 75 pounds, to subdue unruly clients or patients that really might
7 have hurt themselves.

8 This was his job and this was his chosen profession. This is
9 what he had done for a year and a half. This is a job that he drove
10 100 miles one way each day to do because he loved it.

11 On the day of the accident, Tom was on Highway 61, which is
12 in Clinton or bypasses Clinton. He was going the same way he had
13 always gone. And he was driving and it started raining, and you
14 know what happens when it starts raining; the roads get wet. When
15 those roads get wet, they get slick.

16 And he was following another vehicle a safe distance behind,
17 in the slow lane, in Clinton. This vehicle slows down to turn into a
18 strip shopping mall there, and there's a big bump across the
19 sidewalk, and it had to slow down quite a bit. Tom was right
20 behind it, and he had to slow down quite a bit.

21 Mr. Curd, who is not a party to the lawsuit, the gentleman that
22 just stepped outside, he didn't slow down. He was picking up a big
23 van that was going into Fox of Oak Ridge to be serviced, some sort
24 of service. And he was going too fast, he was going too close, and
25 he was just not being aware of what the weather conditions dictated