

**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 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

1 that he should have done. He didn't do it.

2 He was following Tom Neely about 20 feet behind him, 35
3 miles an hour, on a rain-slick road. When the car in front of Tom
4 gave a signal, slowed down and stopped, Tom did the same thing.
5 When he did the same thing, he was hit in the rear by the Fox car,
6 the van that was being brought in for service.

7 And it hit him so hard, it totaled his car. He was driving a
8 small Kia, an economy car, gets good mileage. It hit him so hard it
9 not only totaled the car he was in, but it broke his seat. And when it
10 broke his seat, he was laying in the back seat after the impact, when
11 this occurred, laying there, looking up at the ceiling. He doesn't
12 know how fast Mr. Curd was going, but we know he was going too
13 fast, we know he was going too close, and we know he was going
14 much too fast on a rain-slickened road.

15 Fox of Oak Ridge has denied that they are responsible for this,
16 even in light of those three facts. Tom was hurt; he was taken by
17 ambulance. He immediately complained of his neck and his back.
18 And this is not a whiplash case, ladies and gentlemen. This man's
19 got three disc problems in his neck and three or four more in his
20 low back, according to MRIs that can verify this, according to Dr.
21 Tom Koenig, who is a board-certified orthopedic surgeon and a fine
22 doctor, and Dr. Joe Browder, who is a pain specialist, is going to be
23 treating this man for the rest of his life.

24 He's got a bulging disc in the middle of his neck, and on either
25 side of the bulging disc he's got two protruding discs. That means