

**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 MR. ENGLISH: Yes, your Honor.

2 THE COURT: All right. Madam Clerk, bring the jury
3 in, please.

4 (Jury reconvened in courtroom at 1:03 p.m.)

5 THE COURT: Plaintiff call his first witness, please.

6 MR. ENGLISH: Plaintiff calls Thomas Neely.

7 THE COURT: Mr. Neely, if you could make your way
8 up to the witness stand, please, and the courtroom deputy will
9 swear you in.

10 COURTROOM DEPUTY: Would you please raise
11 your right hand? Do you solemnly swear that the testimony you're
12 about to give in this matter now before this court will be the truth,
13 the whole truth, and nothing but the truth, so help you God?

14 MR. NEELY: I do.

15 THE COURT: All right. Mr. English?

16 **DIRECT EXAMINATION**

17 Q. Would you state your name for the record, please?

18 A. Thomas E. Neely.

19 Q. Where do you live, Tom?

20 A. (Address redacted), Strunk, Kentucky.

21 Q. How old are you?

22 A. I'm 48 years of age.

23 Q. And your date of birth?

24 A. (Date of birth redacted).

25 Q. Who do you live with at that address?

1 A. I live with my wife and two children.

2 Q. Okay. Is this your wife seated back there?

3 A. Yes, Sandra.

4 Q. How long have you and Sandy been married?

5 A. Almost 23 years.

6 Q. What are the ages of your children?

7 A. One and a half– pardon me– two and a half. He'll be three in
8 September.

9 Q. Okay. And Danielle, how old is she?

10 A. She's seven months.

11 Q. Okay. Does your wife work outside the home?

12 A. We sell a few things at the local flea market is all.

13 Q. Okay. Tom, what kind of educational background do you
14 have?

15 A. I graduated high school and I also graduated from Somerset
16 Vocational Technical School.

17 Q. Okay. What was your area of interest there?

18 A. Graphic arts.

19 Q. Okay. Did you work in that field for a period of time?

20 A. One job is all, for a short period of time.

21 Q. Okay. Tell the jury about when you went to work at Scott
22 County Hospital. What was your job, what was your title, and what
23 did you do there?

24 A. I worked at Scott County Hospital for almost 12 years. I was
25 an orderly and security officer. My jobs included patrolling the

1 hospital. I also brought in patients, when the need arise, from the
2 emergency room and other areas of the hospital. When a patient
3 was admitted, we also took them to bed and got them settled. If a
4 patient needed any assistance, we were there to help out with that.
5 We helped out the nurses in all kinds of other functions.

6 Q. Did that job have any lifting requirements, Tom?

7 A. Yeah. We had to be able to lift the patients and perform CPR
8 and everything.

9 Q. Did you have to stand up much or little on that job?

10 A. Over 90 per cent of the time.

11 Q. Okay. When you left that job, where did you go to work?

12 A. I went to Ridgeview Psychiatric Hospital.

13 Q. Okay. And approximately when did you go to Ridgeview?

14 A. In April.

15 Q. Okay. And in April of what year?

16 A. 2003, I believe is when.

17 Q. Okay. When you went to Ridgeview, describe to the jury what
18 your job was there.

19 A. I was a psychiatric tech. We were involved in different
20 functions with the patients. We admitted them, went and dealt with
21 the patients on a one-to-one basis, basically anything that the
22 patient had needed. Sometimes the patients had to— needed help
23 getting dressed, bathed.

24 Q. Did you have to do any lifting on that job?

25 A. Yeah. Sometimes we had to help the patients up. Some of

1 them were— needed assistance. Sometimes they got out of control.
2 It was a psychiatric hospital.

3 Q. What were your lifting requirements on that job?

4 A. Seventy-five pounds.

5 Q. Okay. Could you go back to that job now in the condition
6 your back's in?

7 A. No, sir. They won't let you do it because of the drug problem.

8 MR. WOODFIN: Object to the response, your Honor.
9 It calls for hearsay as to what someone else said about that job.

10 THE COURT: Overruled.

11 Q. Tom, if you would, did you like the last job you were in at
12 Ridgeview?

13 A. Yes. It was one of the best jobs I've ever had in my life.

14 Q. Did you intend to keep that job for a while?

15 A. Until I retired, hopefully.

16 Q. Okay. Have you worked at that job since this accident?

17 A. No. I was not permitted.

18 Q. Okay. Well, could you, if you had been permitted, could you
19 do that job?

20 A. No, I couldn't. I couldn't perform the job.

21 Q. Okay. Did you ever miss much time from work at Ridgeview
22 after you went to work there in April, I believe, of '03?

23 A. No.

24 Q. What about your job at Scott County Hospital? Did you miss
25 any extensive period of time after you went to work there for 12