

**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.
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Knoxville, Tennessee

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1 years?

2 A. No, I did not.

3 Q. Okay. You ever sued anybody, Tom, other than this one time?

4 A. No.

5 Q. Ever had any car wrecks other than this one time?

6 A. No.

7 Q. Okay. On the day of the accident, just tell the jury how this
8 wreck happened.

9 A. I was on my way to work.

10 Q. I'm going to stop you from time to time, Tom, if you don't
11 mind. How far did you have to drive to work each day?

12 A. It was roughly 90 to 100 miles from my home to Ridgeview,
13 which is located next to Methodist Medical Center.

14 Q. Okay. Go ahead.

15 A. On my way to work, I was traveling down the road, and I
16 traveled the same way every day. I was— it had just started raining,
17 the road was just a little wet. I was following a vehicle that turned
18 on its turn signal to make a right-hand turn into a group of
19 businesses. I knew by prior drives down through this area that the
20 vehicle would have to come to almost a complete stop in order to
21 make the right-hand turn into the group of businesses.

22 Q. Why is that?

23 A. There's a large hump going into the group of businesses that
24 you have to go over, and you really have to come almost to a dead
25 stop in order to make the right hand turn into the businesses.

1 Q. Have you gone out, at my request, and measured how high that
2 hump is that they have to turn over?

3 A. Yes, I did.

4 Q. How high is that?

5 A. It's seven inches.

6 Q. Okay. I'm going to show you a picture which has been marked
7 Exhibit 5. I'm going to put it up on the screen, hopefully, and I
8 need some help in adjusting this, I believe. Right side up. Does
9 Exhibit No. 5 show the hump you're talking about?

10 A. Yes, it does.

11 Q. Can you see that, Tom?

12 A. Yes, I do.

13 Q. Can the members of the jury see that? Is this the hump you're
14 talking about right—right here?

15 A. Yes, it is. There is a large hump there. The road is real
16 straight, and you can see a good distance.

17 Q. When the car, the vehicle in front of you, slowed down, what
18 did you do? How fast were you going when it started to turn?

19 A. The road was wet and everything, so I was going maybe 35
20 miles an hour. It's a 45 zone through there.

21 Q. Okay. Four lanes?

22 A. Yes.

23 Q. And whenever the car stopped in front of you or slowed down
24 to turn, what did you do?

25 A. I also slowed and come almost to a dead stop.

1 Q. Okay. And when you came almost to a dead stop, what
2 happened to you?

3 A. I looked into my rearview mirror and seen a van was coming,
4 and I knew he wasn't going to be able to stop.

5 Q. Is that the van that hit you, the big van that hit you?

6 A. Yes, I presume. It was a white van coming at me.

7 Q. Okay. Show you another photograph which has previously
8 been marked as Exhibit 4, and does that show the direction that you
9 were coming from?

10 A. Yes. It shows the road where we were approaching, where he
11 was approaching, the area right there.

12 Q. There is a car in the background here that I'm pointing to?

13 A. Yes.

14 Q. Is that the direction you were going?

15 A. Yes. I was coming.

16 Q. Or coming towards you? Okay.

17 A. Yes.

18 Q. And this is a four-lane road running generally east and west in
19 Clinton; is it not?

20 A. Yes, it is.

21 Q. Okay. And where did you measure the curb to see that it was
22 seven inches, the bump?

23 A. Right there is— does it show up?

24 Q. Is this where you measured?

25 A. Yes, sir, just a little bit this way of that, uh-huh.

1 Q. Right in there?

2 A. Yes, uh-huh.

3 Q. Okay. And how fast were you going, approximately, Tom,
4 when you got impacted by the van?

5 A. I was almost to a stop.

6 Q. Okay. Did you have any trouble stopping and avoiding the car
7 that you were following?

8 A. Oh, yeah, I wasn't— it made the turn successfully.

9 Q. Okay. You didn't hit it?

10 A. No.

11 Q. You weren't knocked into it?

12 A. No, sir.

13 Q. Okay. When you were hit, what happened to the car that you
14 were in and what happened to you?

15 A. I presume I rolled forward. I was looking up at the ceiling of
16 the vehicle after the impact.

17 Q. Why were you doing that?

18 A. After the impact I was slung forward, and then my seatbelt
19 caught me, and I was ejected backwards, and I ended up in the back
20 seat after the seat broke, and I was laying in a flat position, looking
21 up at the top of the car.

22 Q. I'll show you Exhibit No. 1. Does that show the seat of your
23 car that you were in when this wreck happened, in its broke
24 position?

25 A. Yes. That appears to be it, yes.