

**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
800 Market Street, Suite 132
Knoxville, Tennessee 37902
(865) 524-4590

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.

1 Q. Okay. And I hand you also what's previously been marked as
2 Exhibit No. 2. Does this show some of the damage to the rear of
3 your car in this impact?

4 A. Yes, it does.

5 Q. Okay. What kind of a car was this, Tom?

6 A. It was a Kia Sephia.

7 Q. And does this show the same car that was in the impact?

8 A. Yes, it does.

9 Q. What happened to that car? Do you still have it?

10 A. No, I do not.

11 Q. Was it damaged in the wreck?

12 A. It was totaled.

13 MR. WOODFIN: Your Honor, I'll object to that
14 response. That requires the Plaintiff to give information from
15 another source, which would be hearsay. There's no proof in the
16 record that Mr. Neely owned the car, and he's not competent to give
17 testimony about the value of it.

18 MR. ENGLISH: Let me clarify it a bit, your Honor.

19 THE COURT: Are you withdrawing your last question?

20 MR. ENGLISH: No, your Honor. I'm going to clarify
21 it, if I may.

22 THE COURT: All right.

23 Q. Who was the titled owner of this car?

24 (Plaintiff's Exhibit No. 3, a photograph, on viewing screen.)

25 A. My wife.

1 Q. Okay. Is this a car that you drove yourself on many occasions?

2 A. Yes, it is.

3 Q. Okay. Was it titled exclusively her name or your name and
4 her name?

5 A. Her name.

6 Q. Okay. And were you driving it, when this happened, with her
7 permission?

8 A. Yes.

9 Q. And were you driving it or had you driven it before with her
10 permission ?

11 A. Yes.

12 Q. Were you responsible for the maintenance of this car?

13 A. Yes.

14 Q. Were you responsible for putting gas in the car and keeping
15 the oil filled up and everything in this car?

16 A. Yes, I was.

17 Q. Okay. Did you work on this car yourself?

18 A. No. I'm not a mechanic.

19 Q. Okay. Did you ever drive this car of any significance— well,
20 did you ever drive this car after the wreck?

21 A. Yes, I did.

22 Q. Tell the jury about when you drove it after the wreck.

23 A. I picked it up from the impound— it was impounded at a local
24 service station there in Clinton— and drove it back home.

25 Q. How long did it take you to drive it back home that time?

1 A. Two and a half hours, approximately.

2 Q. Okay. Did you ever drive it after that?

3 A. I drove it a half a mile to my mother's, where it remained until
4 it was picked up after it was settled.

5 Q. Okay. Was it salvaged?

6 A. Yes, it was.

7 Q. Okay. Have you ever driven this car or your wife ever driven
8 this car since this wreck?

9 A. No.

10 Q. What injuries did you sustain in this wreck, Tom?

11 A. My back is messed up, along with my neck.

12 Q. And you're a big man. How much do you weigh?

13 A. Around 300. It varies between three to three-ten, somewhere
14 around there.

15 Q. Did you weigh that before this wreck?

16 A. Yes. I've always been big.

17 Q. Had you had any problems working for 12 years at Scott
18 County Hospital, weighing 300 pounds?

19 A. No, I had not.

20 Q. Had you ever had any trouble working at Ridgeview
21 Psychiatric Hospital weighing 300 pounds?

22 A. No, I have not, did not.

23 Q. Okay. Had you ever been to a doctor for any neck problems of
24 any significance or any back problems of any significance before
25 this wreck?