

**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 Q. Okay. And did you take one?

2 A. Yes, I did.

3 Q. Where did the ambulance take you?

4 A. I was transported by EMS to Oak Ridge Methodist Medical
5 E.R.

6 Q. And what did they do for you down there?

7 A. They did x-rays and C.T.'s of my back and my neck.

8 Q. Did they hospitalize you overnight?

9 A. No. They told me they would release me if I followed up with
10 my family doctor the next day.

11 Q. Did you do so?

12 A. Yes, I did.

13 Q. Did you go to your family doctor the next day?

14 A. Yes, I did.

15 Q. Who was your family doctor?

16 A. Dr. John Martin.

17 Q. And when you went to Dr. Martin the next day, what did he do
18 about your neck and your back problems from this wreck?

19 MR. WOODFIN: Your Honor, I want to object. Dr.
20 Martin is not here to testify about what he did or did not do for Mr.
21 Neely, and the actions or inactions can be determined to be hearsay
22 just as well as any words can in that situation.

23 MR. ENGLISH: I'm just asking what the doctor did for
24 him, your Honor, not what the doctor said. That would, obviously,
25 be hearsay.

1 THE COURT: He's entitled to describe the treatment he
2 received. Overruled.

3 Q. That's what I want you to do. What treatment did you—

4 A. Dr. Martin recommended that I have some physical therapy
5 done and that he was going to try to find me an orthopedic surgeon.

6 Q. Was he able to send you to an orthopedic doctor?

7 A. No, because I did not have insurance.

8 Q. Okay. Did you—

9 MR. WOODFIN: Your Honor, I'll object to the
10 mention of whether or not the Plaintiff is insured or not insured.
11 We had a motion in limine on that issue in which the Court made
12 certain rulings about the mention of that. If we could have a
13 curative instruction to the jury at this point, I think that would be
14 helpful.

15 THE COURT: Well, it will be sustained. This case is
16 not a case about insurance; it's a case about liabilities and injuries.

17 MR. ENGLISH: Yes, sir.

18 THE COURT: And so the jury will disregard that—

19 Q. Don't mention insurance.

20 A. All right.

21 THE COURT: —comment. It's not relevant to this case.

22 Q. Right. When you went to take therapy at the instance of Dr.
23 Martin, your family doctor, what kind of therapy did they give you
24 and where was this?

25 A. Physical therapy was done in Oneida, at a local physical

1 therapy area right there. They performed heat therapy on my back
2 and my neck and stimulation therapy.

3 Q. Was it about that time, Tom, that you hired Mr. Inman to
4 represent you in this case?

5 A. Yes, it was. My wife—

6 Q. Did he get you in to see an orthopedic doctor?

7 A. Yes, he did.

8 Q. Who initially did he send you to?

9 A. He give me the choice of some doctors, and I chose one.

10 Q. Okay. Was that Dr. Degnan?

11 A. Yes, it was.

12 Q. What did Dr. Degnan do for you; not what he told you, but
13 what did he do?

14 A. He looked at my neck and everything and prescribed some
15 medications.

16 Q. Did he keep you on physical therapy in Oneida?

17 A. Yes, he did.

18 Q. And how long did you end up going to Dr. Degnan?

19 A. Just a short period of time.

20 Q. Okay. And then did you— well, were you satisfied with the
21 treatment you were getting from him?

22 A. No, I wasn't. He did not do much for me.

23 Q. Were you still in pain when you were seeing him?

24 A. Yes, I was. I wasn't satisfied with the care.

25 Q. Okay. Did you go see a doctor by the name of Dr. Koenig?

1 A. Yes. Yes, I did.

2 Q. Okay. Did Mr. Inman set you up with that one also?

3 A. Yes. I asked him to recommend another group of physicians,
4 and I chose Dr. Koenig.

5 Q. Did he recommend people other than Dr. Koenig?

6 A. Yes. He give me a choice to choose from.

7 Q. Okay. And when you started going to see Dr. Koenig,
8 approximately how long did you go see him for?

9 A. Over a year, I think it was.

10 Q. Okay. And what did he do for you over the period of time that
11 you saw him?

12 A. He performed C.T., examined me for my back, to start with,
13 and then the neck, too.

14 Q. Okay. Did he order two MRIs of your neck and your back?

15 A. Yes.

16 Q. And did he order— you had a TENS unit at one time; is that
17 right?

18 A. Yes, I did.

19 Q. Who ordered that, if you recall?

20 A. I don't recall at this time.

21 Q. Okay. And did he refer you, he being Dr. Koenig, did he refer
22 you to a neurologist by the name of Jack Scariano?

23 A. Yes, he did.

24 Q. And did you go see him for a time or two?

25 A. Yes, I did.

1 Q. Okay. And did he later refer you, when he quit seeing you, for
2 the last time, did he refer you to anyone else?

3 A. I don't recall.

4 Q. What about Dr. Browder? Who referred you to Dr. Browder?

5 A. I think he did.

6 Q. Okay. Did he suggest a pain clinic at one time?

7 A. Yes. He thought I needed something extra.

8 MR. ENGLISH: Okay. Your Honor, I'd like to show a
9 list of specialists, damages that we've just talked about.

10 Q. And do you recognize these bills, Tom, as being bills that you
11 incurred from the date of the accident up until the time you left Dr.
12 Koenig's treatment?

13 A. Yes, I do.

14 THE COURT: What exhibit number is that, counsel?

15 MR. ENGLISH: This is Exhibit No. 9, your Honor.

16 Putting them on a little bit out of order because I was a little— I
17 don't think the jury needs to see all of that. Okay. Can we, like,
18 turn it around the other way? All of it, your Honor, I'd like for
19 them to see all of them.

20 Q. The bills that are listed, the 12 bills that are listed on Exhibit
21 No. 9, those are bills that you incurred as a result of the injuries
22 that you treated from this wreck; is that correct?

23 A. Yes, it was.

24 Q. Had you ever been to a pain doctor before this wreck?

25 A. No. I never knew.

1 Q. Had you ever been to a neurologist before this wreck?

2 A. No.

3 Q. Had you ever taken physical therapy of any sort before this
4 wreck?

5 A. No.

6 Q. Once Dr. Koenig finished treating you, you were seen by Dr.
7 Joe Browder; were you not?

8 A. Yes, I was.

9 Q. And according to documents that we've furnished counsel for
10 Fox Corporation, Exhibit No. 10, did you first go and see Dr.
11 Browder on or about the 14th of—

12 A. Yes, I did.

13 Q. Let me finish my question.

14 A. Sorry.

15 Q. —of July of '05; is that correct?

16 A. Yes, it is.

17 Q. And were you seeing him as late as the 6th of January of this
18 year, right before we took his deposition?

19 A. Yes.

20 Q. Okay. Now, did Dr. Browder do a caudal block on you in
21 August and September of '05?

22 A. Yes.

23 Q. What part of your body; do you know?

24 A. On my neck.

25 Q. Did it help you any?

1 A. No. I had no relief.

2 Q. Okay. And after January of '05, have you seen any doctors for
3 injuries from this wreck?

4 A. Just Dr. Browder.

5 Q. How often do you see him?

6 A. On a monthly basis.

7 Q. When is the last time you saw him?

8 A. Yesterday.

9 Q. And when you go see Dr. Browder, what does he do for you?

10 A. They do an assessment and then give me refills on my
11 methadone.

12 Q. Okay. Is methadone addictive; do you know?

13 A. Yes, it is.

14 Q. Okay. Dr. Browder's bill totals \$5,743.20. Is that what your
15 bill with him was as of January of '06, to the best of your
16 knowledge?

17 A. Yes, it is.

18 MR. ENGLISH: That's Exhibit 10, your Honor.

19 Q. What did Dr. Browder start you out on, what amount of
20 methadone?

21 A. Two pills a day, ten milligrams.

22 Q. Ten milligrams?

23 A. Twice a day.

24 Q. Okay. Twenty milligrams a day?

25 A. Yes.

1 Q. What are you taking now?

2 A. Forty milligrams a day.

3 Q. Do you take those everyday?

4 A. Yes.

5 Q. Are you taking those today?

6 A. No, I haven't.

7 Q. Are you in pain?

8 A. Quite a bit.

9 Q. When you take your methadone, what does that do to your
10 memory and your ability to think clearly?

11 A. It makes things not— makes me not think clearly, impairs my
12 judgment.

13 Q. Are you thinking clear now?

14 A. Pretty much, yes.

15 Q. Okay. And you furnished us and we furnished, of course, Mr.
16 Woodfin, copies of your tax records. In 2002, Exhibit No. 6, looks
17 like you earned \$14,012 in that year?

18 A. Yes, sir.

19 Q. Your wife wasn't working at that time?

20 A. No.

21 Q. You were working at Scott County Hospital?

22 A. Yes, I was.

23 MR. ENGLISH: That's Exhibit No. 6, your Honor.

24 Q. And then in 2003, that's the year you went to work at
25 Ridgeview?