

IN THE
United States Court of Appeals
FOR THE FOURTH CIRCUIT

FILED
MAR 29 2016
U.S. Court of Appeals
Fourth Circuit

THEODORE G. HARTSOCK, JR.
as Personal Representative of the Estate of Sarah Mills Hartsock
(Estate of Sarah Mills Hartsock),

Plaintiff-Appellee,

v.

GOODYEAR DUNLOP TIRES NORTH AMERICA LTD.,
a foreign corporation;
THE GOODYEAR TIRE & RUBBER COMPANY,
a foreign corporation,

Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA AT CHARLESTON

JOINT APPENDIX - VOLUME I OF IV - PUBLIC
(Pages 1 - 354)

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**U.S. District Court
District of South Carolina (Charleston)
CIVIL DOCKET FOR CASE #: 2:13-cv-00419-PMD**

Hartsock v. Goodyear Dunlop Tires North America LTD et al
Assigned to: Honorable Patrick Michael Duffy
Case in other court: USCA, 16-01172
Cause: 28:1332 Diversity-Personal Injury

Date Filed: 02/15/2013
Jury Demand: Both
Nature of Suit: 365 Personal Inj. Prod.
Liability
Jurisdiction: Diversity

Plaintiff

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*as Personal Representative of the Estate
of Sarah Mills Hartsock
Estate of
Sarah Mills Hartsock*

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V.

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Defendant

Goodyear Tire & Rubber Company
a foreign corporation
TERMINATED: 04/11/2013

represented by **Curtis L Ott**
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Defendant

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The
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Date Filed	#	Docket Text
02/15/2013	<u>1</u>	COMPLAINT against Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company (Filing fee \$ 350 receipt number 0420-4564171.), filed by Theodore G Hartsock, Jr.(ahat,) (Entered: 02/19/2013)
02/15/2013	<u>2</u>	Summons Issued as to Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company. (ahat,) (Entered: 02/19/2013)
02/15/2013	<u>3</u>	Local Rule 26.01 Answers to Interrogatories by Theodore G Hartsock, Jr.(ahat,) (Entered: 02/19/2013)
02/19/2013	5	Case Reassigned to Judge Honorable J Michelle Childs. Judge Honorable Patrick Michael Duffy no longer assigned to the case. (glev,) (Entered: 02/19/2013)
02/25/2013	<u>6</u>	MOTION to Change Venue by Theodore G Hartsock, Jr, Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company. Response to Motion due by 3/14/2013. Proposed order is being emailed to chambers with copy to opposing counsel.(Maness, Mia) (Entered: 02/25/2013)
02/25/2013	<u>7</u>	ORDER granting <u>6</u> Motion to Change Venue Signed by Honorable J Michelle Childs on 2/25/2013.(asni,) (Entered: 02/25/2013)
02/27/2013	8	Case Reassigned to Judge Honorable Patrick Michael Duffy. Judge Honorable J Michelle Childs no longer assigned to the case. (glev,) (Entered: 02/27/2013)

02/27/2013	<u>9</u>	MOTION for Protective Order <i>to Preserve Certain Physical Evidence</i> by Theodore G Hartsock, Jr. Response to Motion due by 3/18/2013. (Attachments: # <u>1</u> Exhibit 2-8-13 Preservation Letter) Proposed order is being emailed to chambers with copy to opposing counsel. (Tanenbaum, Mark) (Entered: 02/27/2013)
02/27/2013	<u>10</u>	PROTECTIVE ORDER TO PRESERVE CERTAIN PHYSICAL EVIDENCE granting <u>9</u> Motion for Protective Order. This Order shall continue in effect for a period of ninety (90) days. Details set forth in Order. Signed by Honorable Patrick Michael Duffy on 02/27/2013.(ahat,) (Entered: 02/27/2013)
02/28/2013	<u>11</u>	MOTION to Appear Pro Hac Vice by Donald R. Fountain, Jr. (Filing fee \$ 250 receipt number 0420-4586911) by Theodore G Hartsock, Jr. Response to Motion due by 3/18/2013. (Attachments: # <u>1</u> Affidavit Application/Affidavit for Pro Hac Vice Admission) Proposed order is being emailed to chambers with copy to opposing counsel. (Tanenbaum, Mark) (Entered: 02/28/2013)
02/28/2013	<u>12</u>	ORDER granting <u>11</u> Motion to Appear Pro Hac Vice by Donald R. Fountain, Jr., Esquire. Signed by Honorable Patrick Michael Duffy on 2/28/13.(chub,) (Entered: 02/28/2013)
03/06/2013	<u>14</u>	MOTION to Appear Pro Hac Vice by M. Gary Toole (Filing fee \$ 250 receipt number 0420-4598152) by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company. Response to Motion due by 3/25/2013. (Attachments: # <u>1</u> Application for Admission Pro Hac Vice, # <u>2</u> Proposed Order) Proposed order is being emailed to chambers with copy to opposing counsel. (Ott, Curtis) (Entered: 03/06/2013)
03/06/2013	<u>15</u>	ORDER granting <u>14</u> Motion to Appear Pro Hac Vice by M. Gary Toole, Esquire. Signed by Honorable Patrick Michael Duffy on 3/6/13.(chub,) (Entered: 03/06/2013)
03/13/2013	<u>17</u>	CERTIFICATE OF SERVICE by Theodore G Hartsock, Jr <i>re Defendant Goodyear Tire and Rubber Company</i> (Attachments: # <u>1</u> Exhibit USPS Certified Receipt) (Tanenbaum, Mark) (Entered: 03/13/2013)
04/08/2013	<u>18</u>	Joint MOTION for Extension of Time to File Response/Reply as to <u>1</u> Complaint by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, Theodore G Hartsock, Jr. Response to Motion due by 4/25/2013. (Attachments: # <u>1</u> Exhibit Statement of Counsel, # <u>2</u> Proposed Order) Proposed order is being emailed to chambers with copy to opposing counsel. (Ott, Curtis) (Entered: 04/08/2013)
04/08/2013	<u>19</u>	Order granting <u>18</u> Joint MOTION for Extension of Time to File Response/Reply as to <u>1</u> Complaint. Responsive Pleading due 4/18/2013. Signed by Honorable Patrick Michael Duffy on 04/08/2013. (egra,) . Modified on 4/8/2013 to attach main document (egra,). (Entered: 04/08/2013)
04/09/2013	<u>20</u>	AFFIDAVIT of Service for Protective Order to Preserve Certain Physical Evidence <i>filed on February 27, 2013</i> , served on Charles Fagan, as owner of Fagan's Auto Parts, Inc. on February 28, 2013, filed by Theodore G Hartsock, Jr. (Tanenbaum, Mark) (Main Document 20 replaced on 4/10/2013) (egra,). (Additional attachment(s) added on 4/10/2013: # <u>2</u> Affidavit of Service) (egra,).

		(Main Document 20 replaced on 4/11/2013) (egra,). Modified on 4/11/2013 to replace incorrect document with corrected document as provided by filing user (egra,). (Entered: 04/09/2013)
04/10/2013	<u>21</u>	SUMMONS Returned Executed by Theodore G Hartsock, Jr. <i>Certificate of Service</i> for Goodyear Dunlop Tires North America LTD served on 3/8/2013, answer due 4/18/2013. (Attachments: # <u>1</u> Exhibit A-USPS Certified Receipt) (Tanenbaum, Mark) (Main Document 21 replaced on 4/10/2013) (egra,). Modified on 4/10/2013 to correct case division on document as verified by filing user (egra,). (Entered: 04/10/2013)
04/11/2013	<u>22</u>	AMENDED COMPLAINT <i>FIRST AMENDED COMPLAINT</i> against All Defendants, filed by Theodore G Hartsock, Jr. (Tanenbaum, Mark) (Entered: 04/11/2013)
04/25/2013	<u>24</u>	ANSWER to <u>22</u> Amended Complaint by Goodyear Dunlop Tires North America LTD.(Ott, Curtis) (Entered: 04/25/2013)
04/25/2013	<u>25</u>	ANSWER to <u>22</u> Amended Complaint by Goodyear Tire & Rubber Company, The.(Ott, Curtis) (Entered: 04/25/2013)
04/25/2013	<u>26</u>	Local Rule 26.01 Answers to Interrogatories by Goodyear Tire & Rubber Company, The.(Ott, Curtis) (Entered: 04/25/2013)
04/25/2013	<u>27</u>	Local Rule 26.01 Answers to Interrogatories by Goodyear Dunlop Tires North America LTD.(Ott, Curtis) (Entered: 04/25/2013)
04/25/2013	<u>28</u>	Joint MOTION to Amend/Correct <u>10</u> Order on Motion for Protective Order, <i>to Preserve Certain Physical Evidence</i> by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The, Theodore G Hartsock, Jr. Response to Motion due by 5/13/2013. (Attachments: # <u>1</u> Proposed Order) Proposed order is being emailed to chambers with copy to opposing counsel.(Ott, Curtis) Modified on 4/26/2013 To correct filers (egra,). (Entered: 04/25/2013)
04/26/2013	<u>29</u>	ORDER modifying the Court's February 27, 2013 Order to preserve certain physical evidence. Details set forth in Order. Signed by Honorable Patrick Michael Duffy on 04/26/2013. (egra,) (Entered: 04/26/2013)
04/30/2013	<u>31</u>	SCHEDULING ORDER: Rule 26(f) Conference Deadline 5/20/2013, 26(a) Initial Disclosures due by 6/3/2013, Rule 26 Report due by 6/3/2013, Motions to Amend Pleadings due by 6/24/2013, Plaintiffs ID of Expert Witness due by 7/24/2013, Defendants ID of Expert Witnesses Due by 8/23/2013, Records Custodian Affidavit due by 8/23/2013, Discovery due by 10/22/2013, Motion in Limine due by 1/13/2014, Motions due by 11/6/2013, Rule 26(a)(3) Disclosures due by 1/21/2014, Pretrial Briefs due by 1/29/2014, Jury Selection Deadline 2/3/2014, Mediation Due by 1/6/2014. Signed by Honorable Patrick Michael Duffy on 4/30/13. (chub,) (Entered: 04/30/2013)
05/29/2013	<u>32</u>	Joint Rule 26(f) Report by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The, Theodore G Hartsock, Jr. (Attachments: # <u>1</u> Proposed Order)(Maness, Mia) (Entered: 05/29/2013)
05/29/2013	<u>33</u>	CONSENT AMENDED SCHEDULING ORDER: Motions to Amend Pleadings due by 9/24/2013, Plaintiffs ID of Expert Witness due by

		10/24/2013, Defendants ID of Expert Witnesses Due by 11/25/2013, Records Custodian Affidavit due by 11/25/2013, Discovery due by 1/22/2014, Motion in Limine due by 4/14/2014, Motions due by 2/6/2014, Rule 26(a)(3) Disclosures due by 4/21/2014, Pretrial Briefs due by 4/29/2014, Jury Selection Deadline 5/5/2014, Mediation Due by 4/7/2014. Signed by Honorable Patrick Michael Duffy on 5/29/13. (chub,) (Entered: 05/29/2013)
05/31/2013	<u>34</u>	MOTION to Appear Pro Hac Vice by Bianca G. Liston (Filing fee \$ 250 receipt number 0420-4750282) by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 6/17/2013. (Attachments: # <u>1</u> Pro Hac Application, # <u>2</u> Proposed Order)Proposed order is being emailed to chambers with copy to opposing counsel.(Ott, Curtis) Modified on 6/3/2013 to remove filers that are no longer active in the case (egra,). (Entered: 05/31/2013)
06/03/2013	<u>35</u>	ORDER granting <u>34</u> Motion to Appear Pro Hac Vice by Bianca G. Liston, Esquire. Signed by Honorable Patrick Michael Duffy on 6/3/13.(chub,) (Entered: 06/03/2013)
07/24/2013	<u>37</u>	MOTION to Compel by Theodore G Hartsock, Jr. Response to Motion due by 8/12/2013. (Attachments: # <u>1</u> Exhibit A-Goodyear Response, # <u>2</u> Exhibit B-Dunlop Response, # <u>3</u> Exhibit C-Goodyear Verification, # <u>4</u> Exhibit D-dunlop Verification, # <u>5</u> Exhibit E-Privilege Log, # <u>6</u> Exhibit F-Parsons Affidavit)No proposed order.(Maness, Mia) (Attachment 6 replaced on 7/25/2013) (cper,). Modified on 7/25/2013 to replace Exhibit F as requested and provided by filing user (cper,). Modified on 11/4/2013 Please see additional attachments filed docket entry <u>52</u> (egra,). (egra,). (Entered: 07/24/2013)
08/12/2013	<u>38</u>	RESPONSE in Opposition re <u>37</u> MOTION to Compel Response filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Reply to Response to Motion due by 8/22/2013 (Attachments: # <u>1</u> Exhibit Green v. Goodyear, # <u>2</u> Exhibit Protective Order, # <u>3</u> Exhibit First Discovery Requests, # <u>4</u> Exhibit Affidavit of Parsons, # <u>5</u> Exhibit Designations of Depo Transcripts, # <u>6</u> Exhibit Murphy Case, # <u>7</u> Exhibit Henderson Order, # <u>8</u> Exhibit Harry v. Ingram, # <u>9</u> Exhibit Donovan v. Walmart, # <u>10</u> Exhibit Mitchell v. Conesco Life) (Ott, Curtis) Modified on 8/13/2013 to remove filers listed on document (egra,). (Entered: 08/12/2013)
08/19/2013	<u>39</u>	ORDER REFERRING MOTION: <u>37</u> MOTION to Compel filed by Theodore G Hartsock, Jr Signed by Honorable Patrick Michael Duffy on 08/19/2013. Motions referred to Bruce Howe Hendricks. (egra,) (Entered: 08/19/2013)
08/22/2013	<u>40</u>	Joint MOTION for Confidentiality Order by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The, Theodore G. Hartsock, Jr. Response to Motion due by 9/9/2013. (Attachments: # <u>1</u> Exhibit Haeger v. Goodyear)Proposed order is being emailed to chambers with copy to opposing counsel.(Ott, Curtis) Modified on 8/23/2013 to add filers listed on document (egra,). (Entered: 08/22/2013)
08/22/2013	<u>41</u>	REPLY to Response to Motion re <u>37</u> MOTION to Compel Response filed by Theodore G Hartsock, Jr. (Attachments: # <u>1</u> Exhibit A-Green Confidentiality Order)(Maness, Mia) (Entered: 08/22/2013)

08/23/2013	<u>42</u>	MOTION to Compel by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 9/9/2013. (Attachments: # <u>1</u> Exhibit Answer to First Set of Interrogatories, # <u>2</u> Exhibit Responses to First RFP, # <u>3</u> Exhibit 8-21-13 Email) Proposed order is being emailed to chambers with copy to opposing counsel.(Ott, Curtis) (Entered: 08/23/2013)
08/26/2013	<u>43</u>	TEXT ORDER denying <u>40</u> Motion for Confidentiality Order as presented to the court. Parties may agree on a modified Confidentiality Order or use the court's standard Confidentiality Order. Signed by Honorable Patrick Michael Duffy on 8/26/13.(chub,) (Entered: 08/26/2013)
08/27/2013	<u>44</u>	ORDER REFERRING MOTION: <u>42</u> MOTION to Compel filed by Goodyear Dunlop Tires North America LTD. Signed by Honorable Patrick Michael Duffy on 8/27/13. Motions referred to Bruce Howe Hendricks.(chub,) (Entered: 08/27/2013)
09/09/2013	<u>45</u>	Joint MOTION for Confidentiality Order by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The, Theodore G. Hartsock, Jr. Response to Motion due by 9/26/2013. (Attachments: # <u>1</u> Proposed Order) Proposed order is being emailed to chambers with copy to opposing counsel.(Ott, Curtis) Modified on 9/10/2013 to add filers listed on document (egra,). (Entered: 09/09/2013)
09/09/2013	<u>46</u>	ORDER granting <u>45</u> Motion for Confidentiality Order. Parties have stipulated that certain discovery material is and should be treated as confidential, and have agreed to the terms of this Order. Signed by Honorable Patrick Michael Duffy on 09/09/2013. (egra,) (Entered: 09/09/2013)
09/09/2013	<u>47</u>	RESPONSE in Opposition re <u>42</u> MOTION to Compel Response filed by Theodore G Hartsock, Jr.Reply to Response to Motion due by 9/19/2013 (Maness, Mia) (Entered: 09/09/2013)
09/18/2013	<u>48</u>	REPLY to Response to Motion re <u>42</u> MOTION to Compel Response filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. (Ott, Curtis) Modified on 9/19/2013 to add filers listed on document (egra,). (Entered: 09/18/2013)
10/17/2013	<u>49</u>	Joint MOTION to Amend/Correct <u>33</u> Scheduling Order,, by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The, Theodore G Hartsock, Jr . Response to Motion due by 11/4/2013. (Attachments: # <u>1</u> Exhibit A Proposed Second Amended Scheduling Order, # <u>2</u> Exhibit B Current Consent Amended Scheduling Order) Proposed order is being emailed to chambers with copy to opposing counsel.(Ott, Curtis) Modified on 10/18/2013 to add filers as listed on document (egra,). Modified on 10/21/2013 to add descriptions to attachments (egra,). (Entered: 10/17/2013)
10/18/2013	<u>50</u>	CONSENT SECOND AMENDED SCHEDULING ORDER: Plaintiffs ID of Expert Witness due by 12/6/2013, Defendants ID of Expert Witnesses Due by 1/10/2014, Records Custodian Affidavit due by 1/10/2014, Discovery due by 2/28/2014, Motion in Limine due by 5/16/2014, Motions due by 3/9/2014, Rule 26(a)(3) Disclosures due by 5/23/2014, Pretrial Briefs due by 5/30/2014, Jury

		Selection Deadline 6/9/2014, Mediation Due by 5/9/2014. Signed by Honorable Patrick Michael Duffy on 10/18/13. (chub,) (Entered: 10/18/2013)
11/01/2013	<u>52</u>	Additional Attachments to Main Document <u>37</u> MOTION to Compel . First attachment description: Plaintiff's Supplement To His Motion To Compel . (Attachments: # <u>1</u> Exhibit A-GY discovery response, # <u>2</u> Exhibit B-GY discovery response supplemental, # <u>3</u> Exhibit C-GDTNA discovery response, # <u>4</u> Exhibit D-GDTNA discovery response supplemental)(Maness, Mia) (Entered: 11/01/2013)
11/07/2013	53	NOTICE of Hearing on <u>42</u> MOTION to Compel, <u>37</u> MOTION to Compel: Motion Hearing set for 11/19/2013 at 02:00 PM in Charleston Courtroom #6, U.S. Court House, 85 Broad St, Charleston before Magistrate Judge Bruce Howe Hendricks. (arog,) (Entered: 11/07/2013)
11/19/2013	55	Minute Entry. Proceedings held before Magistrate Judge Bruce Howe Hendricks: Motion Hearing held on 11/19/2013 re <u>37</u> MOTION to Compel filed by Theodore G Hartsock, Jr, <u>42</u> MOTION to Compel filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The.Mark Tanenbaum and Mia Maness appear for the Plaintiffm, with Don Fountain joining hearing via phone. Curtis Ott and Gary Toole appear for Defendants.The court takes under advisement <u>42</u> Motion to Compel ; <u>37</u> Motion to Compel and will issue a written order. Court Reporter Chondra White CourtSmart. (hhil,) (Entered: 11/19/2013)
11/22/2013	<u>56</u>	ORDER granting <u>42</u> Motion to Compel; granting <u>37</u> Motion to Compel. Details set forth in Order. Signed by Magistrate Judge Bruce Howe Hendricks on 11/22/2013.(arog,) (Entered: 11/22/2013)
12/06/2013	<u>57</u>	OBJECTIONS by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The to <u>56</u> Order on Motion to Compel,. (Attachments: # <u>1</u> Exhibit A - Terry Parsons Affidavit, # <u>2</u> Exhibit B - Williams v. Ozmint, # <u>3</u> Exhibit C - Johnson v. Hankook, # <u>4</u> Exhibit D - Bradley v. Cooper Tire, # <u>5</u> Exhibit E - Hajek v. Kumho Tire, # <u>6</u> Exhibit F - Murphy v. Cooper Tire, # <u>7</u> Exhibit G - Keene McPeters v. Cooper Tire, # <u>8</u> Exhibit H - Jones Order, # <u>9</u> Exhibit I - Gonzales Order, # <u>10</u> Exhibit J - Thomas Order, # <u>11</u> Exhibit K - Barcenas v. Ford, # <u>12</u> Exhibit L - Shaat v. St. Jude, # <u>13</u> Exhibit M - Motion Control v. Waypoint, # <u>14</u> Exhibit N - Caritas Tech v. Comcast)(Ott, Curtis) (Entered: 12/06/2013)
12/10/2013	<u>58</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of motion hearing held on 11-19-13, before Judge Bruce Howe Hendricks. Court Reporter/Transcriber White/Potocki, Telephone number/E-mail 843-723-2208/potockidebra@bellsouth.net. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Parties have 7 calendar days from the filing of the transcript to file with the court a Notice of Intent to Request Redaction.. Redaction Request due 12/31/2013. Redacted Transcript Deadline set for 1/10/2014. Release of Transcript Restriction set for 3/10/2014. (dpotocki,) (Entered: 12/10/2013)
12/18/2013	<u>59</u>	Joint MOTION to Amend/Correct <u>50</u> Scheduling Order,, by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The, Theodore G.

		Hartsock. Response to Motion due by 1/6/2014. (Attachments: # <u>1</u> Exhibit A - Third Amended Scheduling Order, # <u>2</u> Exhibit B - Second Amended Scheduling Order) Proposed order is being emailed to chambers with copy to opposing counsel.(Ott, Curtis) Modified on 12/19/2013 to add filers listed on document (egra,). (Entered: 12/18/2013)
12/19/2013	<u>60</u>	CONSENT THIRD AMENDED SCHEDULING ORDER. Details set forth in Order. Signed by Honorable Patrick Michael Duffy on 12/19/2013. (egra,) (Entered: 12/19/2013)
12/30/2013	<u>63</u>	<i>First Supplemental</i> Local Rule 26.01 Answers to Interrogatories by Goodyear Dunlop Tires North America LTD.(Ott, Curtis) (Entered: 12/30/2013)
12/30/2013	<u>64</u>	<i>First Supplemental</i> Local Rule 26.01 Answers to Interrogatories by Goodyear Tire & Rubber Company, The.(Ott, Curtis) (Entered: 12/30/2013)
01/07/2014	<u>65</u>	ORDER re <u>57</u> Objections, filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The Signed by Honorable Patrick Michael Duffy on January 7, 2014. (kspa,) (Entered: 01/07/2014)
02/05/2014	<u>67</u>	MOTION for Protective Order by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 2/24/2014. (Attachments: # <u>1</u> Exhibit Deposition Notices, # <u>2</u> Exhibit Plaintiff's 4th Discovery Requests, # <u>3</u> Exhibit Supp Affidavit of Terry Parsons, # <u>4</u> Exhibit Affidavit of Terry Parsons, # <u>5</u> Exhibit Rodrigues Complaint, # <u>6</u> Exhibit RV Comparison Chart, # <u>7</u> Exhibit Correspondence, # <u>8</u> Exhibit Affidavit of Valerie Wellen)No proposed order.(Ott, Curtis) (Entered: 02/05/2014)
02/21/2014	<u>68</u>	Joint MOTION to Amend/Correct <u>60</u> Scheduling Order by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The, Theodore G. Hartsock, Jr. Response to Motion due by 3/10/2014. (Attachments: # <u>1</u> Exhibit Proposed 4th Amended Scheduling Order, # <u>2</u> Exhibit Third Amended Scheduling Order) Proposed order is being emailed to chambers with copy to opposing counsel.(Ott, Curtis) Modified on 2/24/2014 to add filers listed on document (egra,). (Entered: 02/21/2014)
02/24/2014	<u>69</u>	CONSENT FOURTH AMENDED SCHEDULING ORDER. Details set forth in Order. Signed by Honorable Patrick Michael Duffy on 02/24/2014. (egra,) (Entered: 02/24/2014)
02/24/2014	<u>70</u>	RESPONSE in Opposition re <u>67</u> MOTION for Protective Order Response filed by Theodore G Hartsock, Jr.Reply to Response to Motion due by 3/6/2014 (Attachments: # <u>1</u> Exhibit Depos noticed by defs, # <u>2</u> Exhibit Fountain 13-10-18 letter, # <u>3</u> Exhibit Toole 13-10-30 letter, # <u>4</u> Exhibit Fountain 13-10-30 email, # <u>5</u> Exhibit Toole 13-11-08 letter, # <u>6</u> Exhibit Fountain 13-11-26 letter, # <u>7</u> Exhibit Fountain 13-12-03 letter, # <u>8</u> Exhibit Fountain 13-12-13 letter, # <u>9</u> Exhibit Not of Depo GY EE, # <u>10</u> Exhibit Toole 13-12-20 letter, # <u>11</u> Exhibit Fountain emails, # <u>12</u> Exhibit Maness 14-01-08 email, # <u>13</u> Exhibit Employee notice, # <u>14</u> Exhibit Dunlop 30b6 notice, # <u>15</u> Exhibit Goodyear 30b6 notice, # <u>16</u> Exhibit Toole 14-01-17 letter, # <u>17</u> Exhibit Maness 14-01-31 letter, # <u>18</u> Exhibit Toole 14-01-31 letter, # <u>19</u> Exhibit Fountain 12-05-07 letter)(Maness, Mia) (Entered: 02/24/2014)
03/06/2014	<u>71</u>	REPLY to Response to Motion re <u>67</u> MOTION for Protective Order Response filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber

		Company, The. (Attachments: # <u>1</u> Exhibit A - Order on Plf's MTC, # <u>2</u> Exhibit B - Severino Order, # <u>3</u> Exhibit C - MIL, # <u>4</u> Exhibit D - Manual Excerpts, # <u>5</u> Exhibit E - Plf's 26a1, # <u>6</u> Exhibit F - Plf's Answers to 1st Rogs, # <u>7</u> Exhibit G - Hartsock email, # <u>8</u> Exhibit H - Jan 31st email, # <u>9</u> Exhibit I - Food Lion case) (Ott, Curtis) (Entered: 03/06/2014)
03/18/2014	<u>72</u>	MOTION to Amend/Correct <u>46</u> Order on Motion for Confidentiality Order, by Theodore G Hartsock, Jr. Response to Motion due by 4/4/2014. (Attachments: # <u>1</u> Memo in Support, # <u>2</u> Exhibit Comparison Chart, # <u>3</u> Exhibit Lowry Complaint-Part 1, # <u>4</u> Exhibit Lowry Complaint-Part 2, # <u>5</u> Exhibit Lowry Complaint-Part 3, # <u>6</u> Exhibit Lowry Complaint-Part 4, # <u>7</u> Exhibit Lowry Complaint-Part 5, # <u>8</u> Exhibit Holt Complaint, # <u>9</u> Exhibit Olson Complaint, # <u>10</u> Exhibit Severino Complaint, # <u>11</u> Exhibit GY Ans to Interrog-Green, # <u>12</u> Exhibit Confidentiality Order-Green, # <u>13</u> Exhibit Letter, # <u>14</u> Exhibit Emails, # <u>15</u> Exhibit Haeger Order)No proposed order.(Tanenbaum, Mark) (Entered: 03/18/2014)
03/19/2014	<u>73</u>	MOTION to Compel by Theodore G Hartsock, Jr. Response to Motion due by 4/7/2014. (Attachments: # <u>1</u> Exhibit Goodyear Resp to 1st Discovery Requests, # <u>2</u> Exhibit Goodyear Supp Resp to 1st Discovery Requests, # <u>3</u> Exhibit Privilege Log 11-11-13, # <u>4</u> Exhibit Privilege Log 01-27-14, # <u>5</u> Exhibit Letter from Liston 02-14-14, # <u>6</u> Exhibit Letter from Liston 02-26-14, # <u>7</u> Exhibit Letter from Liston 03-14-14)No proposed order.(Maness, Mia) (Entered: 03/19/2014)
03/20/2014	74	NOTICE of Hearing on <u>67</u> MOTION for Protective Order, <u>72</u> MOTION to Amend Confidentiality Order, and <u>73</u> MOTION to Compel: Motions Hearing set for 4/15/2014 at 02:00 PM in Charleston Courtroom #1, U.S. Court House, 81 Meeting St, Charleston before Honorable Patrick Michael Duffy. (chub,) (Entered: 03/20/2014)
04/04/2014	<u>75</u>	RESPONSE in Opposition re <u>72</u> MOTION to Amend/Correct <u>46</u> Order on Motion for Confidentiality Order, Response filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The.Reply to Response to Motion due by 4/14/2014 (Attachments: # <u>1</u> Exhibit A - Transcript of Marsden, # <u>2</u> Exhibit B - Complaints, # <u>3</u> Exhibit C - emails, # <u>4</u> Exhibit D - Fifth Discovery Requests, # <u>5</u> Exhibit E - ESVC, # <u>6</u> Exhibit F - DE 38-4, # <u>7</u> Exhibit G - Plaintiffs Discovery Requests, # <u>8</u> Exhibit H - invoices, # <u>9</u> Affidavit I - Affidavit of Horelic)(Ott, Curtis) (Entered: 04/04/2014)
04/07/2014	<u>76</u>	RESPONSE in Opposition re <u>73</u> MOTION to Compel Response filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The.Reply to Response to Motion due by 4/17/2014 (Attachments: # <u>1</u> Exhibit A - Complaints, # <u>2</u> Exhibit B- providing unredacted documents, # <u>3</u> Exhibit C - ltr re production CD, # <u>4</u> Exhibit D - As served letter, # <u>5</u> Exhibit E - Memo, # <u>6</u> Exhibit F - Green, # <u>7</u> Exhibit G - Edouard, # <u>8</u> Exhibit H - Plf's 1st RFP to Goodyear, # <u>9</u> Exhibit I - Dornevil, # <u>10</u> Exhibit J - ESVC Plf's 4th Discovery Requests, # <u>11</u> Exhibit K - ESVC Plf's 5th Discovery Requests, # <u>12</u> Exhibit L - Parsons Affidavit)(Ott, Curtis) (Entered: 04/07/2014)
04/09/2014	<u>77</u>	REPLY to Response to Motion re <u>72</u> MOTION to Amend/Correct <u>46</u> Order on Motion for Confidentiality Order, Response filed by Theodore G Hartsock, Jr. (Tanenbaum, Mark) (Entered: 04/09/2014)
04/15/2014	78	Minute Entry. Proceedings held before Honorable Patrick Michael Duffy:

		Motion Hearing held on 4/15/2014: Court denies <u>72</u> MOTION to Amend/Correct <u>46</u> Order on Motion for Confidentiality Order. Court to enter a written order re: <u>67</u> MOTION for Protective Order and <u>73</u> MOTION to Compel and for Sanction. Court Reporter Debbie Potocki. (erav,) (Entered: 04/16/2014)
04/21/2014	<u>79</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of motions hearing held on 4-15-14, before Judge P. Michael Duffy. Court Reporter/Transcriber Debra Potocki, Telephone number/E-mail 843-723-2208/potockidebra@bellsouth.net. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Parties have 7 calendar days from the filing of the transcript to file with the court a Notice of Intent to Request Redaction.. Redaction Request due 5/12/2014. Redacted Transcript Deadline set for 5/22/2014. Release of Transcript Restriction set for 7/21/2014. (dpotocki,) (Entered: 04/21/2014)
04/21/2014	<u>80</u>	RESPONSE in Support re <u>67</u> MOTION for Protective Order <i>Supplemental Brief</i> Response filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. (Attachments: # <u>1</u> Exhibit A - Expert Disclosure, # <u>2</u> Exhibit B - Hearing Transcript, # <u>3</u> Exhibit C - Hartsock Affidavit, # <u>4</u> Exhibit D - Tire Inspection)(Ott, Curtis) (Entered: 04/21/2014)
04/21/2014	<u>81</u>	RESPONSE in Opposition re <u>67</u> MOTION for Protective Order <i>Plaintiff's Supplemental Memorandum in Opposition to Defendants' Motion for Protective Order - Jim Stroble</i> Response filed by Theodore G Hartsock, Jr.Reply to Response to Motion due by 5/1/2014 (Maness, Mia) (Entered: 04/21/2014)
04/30/2014	<u>82</u>	AFFIDAVIT of Records Custodians by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. (Attachments: # <u>1</u> Affidavit Dan Foster, MD, # <u>2</u> Affidavit Fireman's Fund, # <u>3</u> Affidavit Fraser Dermatology, # <u>4</u> Affidavit Michael Friedland, MD, # <u>5</u> Affidavit Giant Recreation, # <u>6</u> Affidavit Edward Gilbreth, MD, # <u>7</u> Affidavit Boyd Gillespie, MD, # <u>8</u> Affidavit Glenn's Tire, # <u>9</u> Affidavit Harry & Bryant, # <u>10</u> Affidavit Hay Tire, # <u>11</u> Affidavit Charles Irwin, MD, # <u>12</u> Affidavit Lazydays, # <u>13</u> Affidavit Massachusetts Mutual, # <u>14</u> Affidavit MUSC ER, # <u>15</u> Affidavit Neustar-Verizon, # <u>16</u> Affidavit OB-GYN Associates, # <u>17</u> Affidavit Protective Life, # <u>18</u> Affidavit SE Oral, # <u>19</u> Affidavit State Farm (0760), # <u>20</u> Affidavit State Farm (9967), # <u>21</u> Affidavit TN Women's Care, # <u>22</u> Affidavit Unitrin Auto, # <u>23</u> Affidavit Vanderbilt University) (Ott, Curtis) (Entered: 04/30/2014)
05/05/2014	<u>83</u>	ORDER granting in part and denying in part <u>67</u> Motion for Protective Order; granting in part and denying in part <u>73</u> Motion to Compel Signed by Honorable Patrick Michael Duffy on May 5, 2014.(kspa,) (Entered: 05/05/2014)
05/16/2014	<u>84</u>	MOTION for Reconsideration re <u>83</u> Order on Motion for Protective Order, Order on Motion to Compel by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 6/2/2014. (Attachments: # <u>1</u> Affidavit Affidavit of Stroble)No proposed order.(Ott, Curtis) (Entered: 05/16/2014)
05/28/2014	<u>85</u>	MOTION to Appear Pro Hac Vice by Cyrus S. Niakan <i>with Application for Pro</i>

		<i>Hac Vice</i> (Filing fee \$ 250 receipt number 0420-5356542) by Theodore G Hartsock, Jr. Response to Motion due by 6/16/2014. (Attachments: # <u>1</u> Application/Affidavit for Pro Hac Vice, # <u>2</u> Proposed Order)Proposed order is being emailed to chambers with copy to opposing counsel.(Tanenbaum, Mark) (Main Document 85 replaced on 5/28/2014) (egra,). (Attachment 1 replaced on 5/28/2014) (egra,). Modified on 5/28/2014 to correct attachment description, case division, and number on documents as verified by filing user (egra,). (Entered: 05/28/2014)
05/28/2014	<u>86</u>	MOTION to Appear Pro Hac Vice by W. Hampton Keen (Filing fee \$ 250 receipt number 0420-5356636) by Theodore G Hartsock, Jr. Response to Motion due by 6/16/2014. (Attachments: # <u>1</u> Supporting Documents Application/Affidavit Pro Hac Vice, # <u>2</u> Proposed Order)Proposed order is being emailed to chambers with copy to opposing counsel.(Tanenbaum, Mark) (Attachment 1 replaced on 5/28/2014) (egra,). (Attachment 1 replaced on 5/28/2014) (egra,). Modified on 5/28/2014 to correct case number and division on documents as verified by filing user (egra,). (Entered: 05/28/2014)
05/28/2014	<u>87</u>	ORDER granting <u>85</u> Motion to Appear Pro Hac Vice by Cyrus S. Niakan, Esquire. Signed by Honorable Patrick Michael Duffy on 5/28/14.(chub,) (Entered: 05/28/2014)
05/28/2014	<u>88</u>	ORDER granting <u>86</u> Motion to Appear Pro Hac Vice by W. Hampton Keen, Esquire. Signed by Honorable Patrick Michael Duffy on 5/28/14.(chub,) (Entered: 05/28/2014)
06/03/2014	<u>90</u>	RESPONSE in Opposition re <u>84</u> MOTION for Reconsideration re <u>83</u> Order on Motion for Protective Order, Order on Motion to Compel Response filed by Theodore G Hartsock, Jr.Reply to Response to Motion due by 6/13/2014 (Attachments: # <u>1</u> Exhibit A-Email, # <u>2</u> Exhibit B-Letter)(Maness, Mia) Modified on 6/3/2014 to correct attachment descriptions as verified by filing user (egra,). (Entered: 06/03/2014)
06/12/2014	<u>91</u>	REPLY to Response to Motion re <u>84</u> MOTION for Reconsideration re <u>83</u> Order on Motion for Protective Order, Order on Motion to Compel (<i>Reply Memo in Support</i>) Response filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. (Ott, Curtis) (Entered: 06/12/2014)
06/16/2014	<u>92</u>	ORDER denying <u>84</u> Motion for Reconsideration Signed by Honorable Patrick Michael Duffy on June 16, 2014.(kspa,) (Entered: 06/16/2014)
08/07/2014	<u>93</u>	NOTICE of Hearing: Telephone Conference set for 8/12/2014 at 11:00 AM in Charleston Courtroom #1, U.S. Court House, 81 Meeting St, Charleston before Honorable Patrick Michael Duffy. (chub,) (Entered: 08/07/2014)
08/12/2014	<u>94</u>	Minute Entry. Proceedings held before Honorable Patrick Michael Duffy: Telephone Conference held on 8/12/2014. After 1st deposition, Plaintiff will be limited to 1 hour. Defendant to take no more than 2 hours. Court Reporter Crystal Perry, CourtSmart. (cper,) (Entered: 08/12/2014)
09/03/2014	<u>95</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of telephone conference held on 8-12-14, before Judge P. Michael Duffy. Court Reporter/Transcriber Debra Potocki, Telephone number/E-mail 843-723-2208/potockidebra@bellsouth.net. Transcript may be viewed at the court public

		terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Parties have 7 calendar days from the filing of the transcript to file with the court a Notice of Intent to Request Redaction.. Redaction Request due 9/24/2014. Redacted Transcript Deadline set for 10/6/2014. Release of Transcript Restriction set for 12/2/2014. (dpotocki,) (Entered: 09/03/2014)
01/23/2015	<u>96</u>	NOTICE of Hearing: Bar Meeting set for 3/10/2015 11:00 AM in Charleston Courtroom #1, U.S. Court House, 81 Meeting St, Charleston before Honorable Patrick Michael Duffy. Jury Selection set for 4/1/2015 10:00 AM in Charleston Courtroom #1, U.S. Court House, 81 Meeting St, Charleston before Honorable Patrick Michael Duffy (egra,) (Entered: 01/23/2015)
03/09/2015	<u>97</u>	Joint MOTION to Amend/Correct <u>69</u> Order on Motion to Amend/Correct by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 3/26/2015. (Attachments: # <u>1</u> Exhibit A - 5th ASO, # <u>2</u> Exhibit B - 4th ASO)Proposed order is being emailed to chambers with copy to opposing counsel.(Ott, Curtis) (Entered: 03/09/2015)
03/09/2015	<u>98</u>	FIFTH CONSENT AMENDED SCHEDULING ORDER: Plaintiffs ID of Expert Witness due by 7/6/2015, Defendants ID of Expert Witnesses Due by 8/5/2015, Records Custodian Affidavit due by 8/5/2015, Discovery due by 10/2/2015, Motion in Limine due by 11/20/2015, Motions due by 10/23/2015, Rule 26(a)(3) Disclosures due by 12/4/2015, Pretrial Briefs due by 12/18/2015, Mediation Due by 11/13/2015 and Jury Selection Deadline 1/4/2016. ***There will be no further continuances in this case. Bar Meeting set for March 10, 2015 is cancelled. Signed by Honorable Patrick Michael Duffy on 3/9/15. (cper,) (Entered: 03/09/2015)
04/09/2015	<u>100</u>	MOTION to Compel by Theodore G Hartsock, Jr. Response to Motion due by 4/27/2015. (Attachments: # <u>1</u> Exhibit Exhibit A GY Res to Pl's 5th DR Part 1, # <u>2</u> Exhibit Exhibit A GY Res to Pl's 5th DR Part 2, # <u>3</u> Exhibit Exhibit A GY Res to Pl's 5th DR Part 3, # <u>4</u> Exhibit Exhibit A GY Res to Pl's 5th DR Part 4, # <u>5</u> Exhibit Exhibit B GY Supp Resp to Pl's 5th DR, # <u>6</u> Exhibit Exhibit C GY 1st Supp Resp to Pl's 5th DR, # <u>7</u> Exhibit Exhibit D Koerner, # <u>8</u> Exhibit Exhibit E 14-08-11 Fountain letter to Toole, # <u>9</u> Exhibit Exhibit F 14-10-07 Toole letter to Fountain, # <u>10</u> Exhibit Exhibit G 14-12-22 Liston letter to Fountain, # <u>11</u> Exhibit Exhibit H 15-01-27 Email, # <u>12</u> Exhibit Exhibit I 15-01-30 Toole letter to Fountain, # <u>13</u> Exhibit Exhibit J 15-02-24 Email, # <u>14</u> Exhibit Exhibit K Tire chart)No proposed order.(Maness, Mia) (Main Document 100 replaced on 4/9/2015) (egra,). (Attachment 7 replaced on 4/9/2015) (egra,). Modified on 4/9/2015 to replace exhibit D and main document as requested by filing user (egra,). Modified on 5/20/2015 to reference Order <u>112</u> ; motion referred to Magistrate Judge Mary Gordon Baker (egra,). (Entered: 04/09/2015)
04/23/2015	<u>101</u>	MOTION to Seal by Theodore G Hartsock, Jr. Response to Motion due by 5/12/2015. (Attachments: # <u>1</u> Exhibit Ex A Confidential Document Index, # <u>2</u> Exhibit Ex B Cert of Confidentiality, # <u>3</u> Exhibit Ex C Cert of Confidential Docs, # <u>4</u> Exhibit Ex D Cert of Confidential Docs)No proposed order.(Maness, Mia) (Entered: 04/23/2015)
04/23/2015	<u>102</u>	MOTION for Summary Judgment by Theodore G Hartsock, Jr. Response to

		Motion due by 5/12/2015. (Attachments: # <u>1</u> Memo in Support, # <u>2</u> Exhibit A Tire photo, # <u>3</u> Exhibit B Rodrigues depo excerpt, # <u>4</u> Exhibit C Death certificate, # <u>5</u> Exhibit D Scene photo, # <u>6</u> Exhibit E Scene photo, # <u>7</u> Exhibit F McGaha depo excerpt, # <u>8</u> Exhibit G Manley depo excerpt, # <u>9</u> Exhibit H Tire photo, # <u>10</u> Exhibit I DDEC document, # <u>11</u> Exhibit J Koerner depo excerpt, # <u>12</u> Exhibit K Parsons depo excerpt, # <u>13</u> Exhibit L Parsons depo excerpt, # <u>14</u> Exhibit O Parsons depo excerpt, # <u>15</u> Exhibit P McSwain Aff Part 1, # <u>16</u> Exhibit P McSwain Aff Part 2, # <u>17</u> Exhibit P McSwain Aff Part 3, # <u>18</u> Exhibit P McSwain Aff Part 4, # <u>19</u> Exhibit P McSwain Aff Part 5, # <u>20</u> Exhibit P McSwain Aff Part 6, # <u>21</u> Exhibit P McSwain Aff Part 7, # <u>22</u> Exhibit P McSwain Aff Part 8)No proposed order.(Maness, Mia) (Attachment 7 replaced on 4/24/2015) (egra,). Attachment replaced per filing user's request (Attachment 15 replaced on 4/24/2015) (egra,). Modified on 4/24/2015 to replace per filing user's request (egra,). (Entered: 04/23/2015)
04/24/2015	<u>103</u>	MOTION for Protective Order by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 5/12/2015. (Attachments: # <u>1</u> Exhibit A - Stroble email, # <u>2</u> Exhibit B - NOD, # <u>3</u> Exhibit C1 - Parsons Aff, # <u>4</u> Exhibit C2 - Parsons Aff, # <u>5</u> Exhibit C3 - Parsons Aff, # <u>6</u> Exhibit C4 - Stroble Aff, # <u>7</u> Exhibit D - Inspeciton Agreement)No proposed order.(Ott, Curtis) Modified on 5/20/2015 to reference Order <u>112</u> ; motion referred to Magistrate Judge Mary Gordon Baker (egra,). Modified on 9/16/2015 to link to Supplemental Briefs <u>129</u> , <u>128</u> filed (egra,). (Entered: 04/24/2015)
04/24/2015	<u>104</u>	RESPONSE in Opposition re <u>100</u> MOTION to Compel Response filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The.Reply to Response to Motion due by 5/4/2015 (Attachments: # <u>1</u> Exhibit A - Meet & Confer, # <u>2</u> Exhibit B - Email, # <u>3</u> Exhibit D - Parsons Aff, # <u>4</u> Exhibit E - Objection to Order, # <u>5</u> Exhibit F - Letter, # <u>6</u> Exhibit G - Meet & Confer, # <u>7</u> Exhibit H - EWR, # <u>8</u> Exhibit I - Parsons Aff)(Ott, Curtis) (Entered: 04/24/2015)
04/30/2015	<u>105</u>	MOTION for Protective Order by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 5/18/2015. (Attachments: # <u>1</u> Exhibit A - Email, # <u>2</u> Exhibit B - NOD, # <u>3</u> Exhibit C1 - Parsons Affidavit, # <u>4</u> Exhibit C2 - Parsons Affidavit)No proposed order.(Ott, Curtis) Modified on 5/20/2015 to reference Order <u>112</u> ; motion referred to Magistrate Judge Mary Gordon Baker (egra,). (Entered: 04/30/2015)
05/01/2015	<u>106</u>	REPLY to Response to Motion re <u>100</u> MOTION to Compel Response filed by Theodore G Hartsock, Jr. (Attachments: # <u>1</u> Exhibit L Plf's 1st Discovery Requests)(Maness, Mia) (Attachment 1 replaced on 5/1/2015) (egra,). Modified on 5/1/2015 Attachment replaced per filing user's request (egra,). (Entered: 05/01/2015)
05/01/2015	<u>107</u>	MOTION for Protective Order (<i>Seiler</i>) by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 5/18/2015. (Attachments: # <u>1</u> Exhibit A - Email, # <u>2</u> Exhibit B - NOD, # <u>3</u> Exhibit C1 - Parsons Affidavit, # <u>4</u> Exhibit C2 - Parsons Affidavit)No proposed order. (Ott, Curtis) Modified on 5/20/2015 to reference Order <u>112</u> ; motion referred to Magistrate Judge Mary Gordon Baker (egra,). Modified on 9/16/2015 to create linkage to Supplement Brief <u>130</u> , <u>128</u> filed (egra,). (Entered: 05/01/2015)
05/12/2015	<u>108</u>	RESPONSE in Support re <u>101</u> MOTION to Seal Response filed by Goodyear

		Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. (Attachments: # <u>1</u> Exhibit 1 - Parsons 8-12-13, # <u>2</u> Exhibit 2 - Parsons 4-24-15) (Ott, Curtis) (Entered: 05/12/2015)
05/12/2015	<u>109</u>	RESPONSE in Opposition re <u>103</u> MOTION for Protective Order <i>Pursuant to Rule 30.04(C) and Rule 26(C)(1) Concerning the Deposition of Terry Parsons</i> Response filed by Theodore G Hartsock, Jr.Reply to Response to Motion due by 5/22/2015 (Attachments: # <u>1</u> Exhibit A Hearing transcript excerpt 4-15-14) (Maness, Mia) (Entered: 05/12/2015)
05/12/2015	<u>110</u>	RESPONSE in Opposition re <u>102</u> MOTION for Summary Judgment Response filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The.Reply to Response to Motion due by 5/22/2015 (Attachments: # <u>1</u> Exhibit 1 - Collision report, # <u>2</u> Exhibit 2 - Rodrigues excerpts, # <u>3</u> Exhibit 3 - Marsden excerpts, # <u>4</u> Exhibit 4 - ATR invoice, # <u>5</u> Exhibit 5 - Rodrigues & Poteat excerpts, # <u>6</u> Exhibit 6 - Rodrigues excerpts, # <u>7</u> Exhibit 7 - Monaco placard, # <u>8</u> Exhibit 8 - Parsons Affidavit, # <u>9</u> Exhibit 9 - Complaints, # <u>10</u> Exhibit 10 - Defs' 1st Rogs to Plf, # <u>11</u> Exhibit 11 - Plf's Answers to Defs' 1st Rogs, # <u>12</u> Exhibit 12 - Email 8-21-13, # <u>13</u> Exhibit 13 - Ott Affidavit)(Ott, Curtis) (Entered: 05/12/2015)
05/14/2015	<u>111</u>	TEXT ORDER granting unopposed <u>101</u> Motion to Seal. Signed by Honorable Patrick Michael Duffy on 5/14/15.(chub,) (Entered: 05/14/2015)
05/14/2015	<u>112</u>	ORDER REFERRING MOTIONS: <u>105</u> MOTION for Protective Order filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The, <u>100</u> MOTION to Compel filed by Theodore G Hartsock, Jr, <u>107</u> MOTION for Protective Order (Seiler) filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The, <u>103</u> MOTION for Protective Order filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Signed by Honorable Patrick Michael Duffy on 05/14/2015. Motions referred to Mary Gordon Baker.(egra,) (Entered: 05/14/2015)
05/18/2015	<u>113</u>	RESPONSE to Motion re <u>105</u> MOTION for Protective Order <i>Pursuant to Local Rule 30.04(c) and Rule 26(c)(1) Concerning the Deposition of Daniel Badzinski</i> Response filed by Theodore G Hartsock, Jr.Reply to Response to Motion due by 5/29/2015 (Maness, Mia) (Entered: 05/18/2015)
05/18/2015	<u>114</u>	RESPONSE in Opposition re <u>107</u> MOTION for Protective Order (Seiler) <i>Pursuant to Local Rule 30.04(c) and Rule 26(c)(1) Concerning the Deposition of Denise Seiler</i> Response filed by Theodore G Hartsock, Jr.Reply to Response to Motion due by 5/29/2015 (Maness, Mia) Modified on 5/19/2015 Additional Attachment filed as <u>115</u> (egra,). (Entered: 05/18/2015)
05/18/2015	<u>115</u>	Additional Attachments to Main Document <u>114</u> Response in Opposition to Motion,. First attachment description: Exhibit A Letter from Toole . (Maness, Mia) (Entered: 05/18/2015)
05/22/2015	<u>116</u>	REPLY to Response to Motion re <u>103</u> MOTION for Protective Order (Parsons) Response filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. (Attachments: # <u>1</u> Exhibit A - Parsons Depo Excerpts, # <u>2</u> Exhibit B - Fagan Pmts, # <u>3</u> Exhibit C - tags, # <u>4</u> Exhibit D - Evidnece

		Transmittal, # <u>5</u> Exhibit E - Interrogatories)(Ott, Curtis) (Entered: 05/22/2015)
05/29/2015	<u>117</u>	REPLY to Response to Motion re <u>107</u> MOTION for Protective Order (<i>Seiler</i>) Response filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. (Ott, Curtis) (Entered: 05/29/2015)
07/06/2015	<u>118</u>	PLAINTIFF'S ID OF EXPERT WITNESSES by Theodore G Hartsock, Jr. (Maness, Mia) (Entered: 07/06/2015)
07/29/2015	<u>119</u>	NOTICE of Hearing on Motions <u>105</u> MOTION for Protective Order, <u>100</u> MOTION to Compel, <u>107</u> MOTION for Protective Order(<i>Seiler</i>), <u>103</u> MOTION for Protective Order: Motions Hearing set for 8/31/2015 at 10:00 AM in Charleston Courtroom #6, U.S. Court House, 85 Broad St, Charleston before Magistrate Judge Mary Gordon Baker. (arog,) (Entered: 07/29/2015)
07/30/2015	<u>120</u>	ORDER denying <u>102</u> Motion for Summary Judgment Signed by Honorable Patrick Michael Duffy on July 30, 2015. (lgra,) (Entered: 07/30/2015)
08/05/2015	<u>121</u>	AFFIDAVIT of Records Custodians re <u>82</u> Affidavit,,, <i>AMENDED</i> by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. (Attachments: # <u>1</u> X - BCBS of NC, # <u>2</u> Y - Calhoun County Coroner, # <u>3</u> Z - CMC-Main, # <u>4</u> AA - Duke, # <u>5</u> BB - Henrico, # <u>6</u> CC - OrthoCarolina, # <u>7</u> DD - Virginia Cardiovascular)(Ott, Curtis) (Entered: 08/05/2015)
08/05/2015	<u>122</u>	DEFENDANT'S ID OF EXPERT WITNESSES by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The.(Ott, Curtis) (Entered: 08/05/2015)
08/31/2015	<u>123</u>	Minute Entry. Proceedings held before Magistrate Judge Mary Gordon Baker: Motion Hearing held on 8/31/2015 re <u>105</u> MOTION for Protective Order ; <u>100</u> MOTION to Compel ; <u>107</u> MOTION for Protective Order (<i>Seiler</i>) ; <u>103</u> MOTION for Protective Order . Counsel Mark Tanebaum and Mia Maness present for Plaintiff. Counsel Curtis Ott, Gary Toole, and Bianca Liston present for Defendant. The Court hears oral argument and makes the following findings: Motion for Protective Order (Dkt. No. <u>105</u>) is granted as unopposed. Motion to Compel (Dkt. No. <u>100</u>) is granted in part and denied in part. Motion (Dkt. No. <u>100</u>) is granted as to the at-issue discovery requests pertaining to the "Subject Tire" (G670RV 295/80R22.5 tire)AND Exhibit K to the Motion to Compel (Dkt. No. 100-14); motion denied in all other respects. Remaining motions (Dkt. No. <u>103</u> ; Dkt. No. <u>107</u>) taken under advisement; parties to file supplemental materials within fifteen days. Written order to follow review of supplemental materials. Court Reporter Amy Diaz. (hhil,) Modified to add docket text on 9/1/2015 (hhil,). (Entered: 08/31/2015)
09/01/2015	<u>125</u>	Sealed Exhibits re 123 Minute Entry on Motions Hearing - Plaintiff Court Exhibit 1. (Attachments: # <u>1</u> Plaintiff Court Exhibit 2, # <u>2</u> Defendant Court Exhibit 3, # <u>3</u> Plaintiff Court Exhibit 4)(hhil,) (Entered: 09/01/2015)
09/03/2015	<u>126</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings. Motions Hearing held on August 31, 2015, before Judge Mary Gordon Baker. Court Reporter/Transcriber Amy Diaz, Telephone number/E-mail jmarkdiaz@att.net. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript

		Restriction. After that date it may be obtained through PACER. Parties have 7 calendar days from the filing of the transcript to file with the court a Notice of Intent to Request Redaction.. Redaction Request due 9/24/2015. Redacted Transcript Deadline set for 10/5/2015. Release of Transcript Restriction set for 12/2/2015. (adia,) (Entered: 09/03/2015)
09/14/2015	<u>127</u>	NOTICE of Intent to Request Redaction by Curtis L Ott re <u>126</u> Transcript,, (Ott, Curtis) (Entered: 09/14/2015)
09/15/2015	<u>129</u>	SUPPLEMENTAL BRIEF by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The to <u>103</u> MOTION for Protective Order . (Attachments: # <u>1</u> A - Parson's Affidavit, # <u>2</u> B - Parsons Testimony, # <u>3</u> D-Stroble Testimony, # <u>4</u> E - STroble Affidavit) (Ott, Curtis) (egra,) Refiled to correct event (Entered: 09/16/2015)
09/15/2015	<u>130</u>	SUPPLEMENTAL BRIEF by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The to <u>107</u> MOTION for Protective Order (<i>Seiler</i>). (Attachments: # <u>1</u> A - Nevil v. Ford, # <u>2</u> B - Parsons Testimony, # <u>3</u> C - Hobbs v. GY, # <u>4</u> D - MARC v. Carlson, # <u>5</u> E - STroble Affidavit, # <u>6</u> F - Crowther testimony, # <u>7</u> H - Legge Affidavit, # <u>8</u> I - Article, # <u>9</u> J - re China) (Ott, Curtis) (egra,) Refiled to correct event type (Attachment 2 replaced on 9/18/2015) (egra,). (Attachment 5 replaced on 9/18/2015) (egra,). Modified on 9/18/2015 to correct attachments as provided by filing user (egra,). (Entered: 09/16/2015)
09/15/2015	<u>128</u>	SUPPLEMENTAL BRIEF by Theodore G Hartsock, Jr to <u>103</u> MOTION for Protective Order , <u>107</u> MOTION for Protective Order (<i>Seiler</i>). (Attachments: # <u>1</u> Exhibit Ex A Parson excerpts from Green, # <u>2</u> Exhibit B - Galle v. Goodyear, # <u>3</u> Exhibit Ex C Parson depo, # <u>4</u> Exhibit Ex D Stroble depo, # <u>5</u> Exhibit E - 9/25/2008 letter to Dennis Carlson, # <u>6</u> Exhibit Ex F Carlson depo) (Maness, Mia) (egra,) Refiled to correct event type (Attachment 2 replaced on 9/16/2015) (egra,). Modified on 9/16/2015 to replace attachment B as provided by filing user (egra,). Modified on 9/18/2015 to correct attachment descriptions (egra,). (Entered: 09/16/2015)
09/18/2015	131	NOTICE of Hearing: Telephone Conference set for 9/21/2015 12:30 PM before Magistrate Judge Mary Gordon Baker. (hhil,) (Entered: 09/18/2015)
09/21/2015	132	Minute Entry. Proceedings held before Magistrate Judge Mary Gordon Baker: Telephone Conference; Supplemental hearing re Motions for Protective Order (Dkt. No. <u>103</u> ; Dkt. no. <u>107</u>) held on 9/21/2015. Attorneys Maness and Tanenbaum appear for Plaintiff; Attorneys Ott, Liston, and Toole appear for Defendants. Parties may suggest alterations to confidentiality order within ten days. Court Reporter Debbie Potocki. (hhil,) (Entered: 09/21/2015)
09/22/2015	<u>134</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of telephone conference held on 9-21-15, before Judge Mary Gordon Baker. Court Reporter/Transcriber Debra Potocki, Telephone number/E-mail 843-723-2208/potockidebra@bellsouth.net. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Parties have 7 calendar days from the filing of the transcript to file with the court a Notice of Intent to Request Redaction.. Redaction Request due

		10/13/2015. Redacted Transcript Deadline set for 10/23/2015. Release of Transcript Restriction set for 12/21/2015. (dpotocki,) (Entered: 09/22/2015)
09/24/2015	<u>135</u>	NOTICE of Intent to Request Redaction by Curtis L Ott re <u>126</u> Transcript,, (Ott, Curtis) (Entered: 09/24/2015)
10/01/2015	<u>136</u>	Letter from Curtis L. Ott. (Ott, Curtis) (Entered: 10/01/2015)
10/22/2015	<u>137</u>	ORDER granting in part and denying in part <u>100</u> Motion to Compel; granting in part and denying in part <u>103</u> Motion for Protective Order; granting <u>105</u> Motion for Protective Order; granting in part and denying in part <u>107</u> Motion for Protective Order. The parties shall comply with the rulings in this Order within ten (10) days of the date of this Order. Details set forth in Order. Signed by Magistrate Judge Mary Gordon Baker on 10/22/2015.(egra,) (Entered: 10/22/2015)
10/23/2015	<u>138</u>	NOTICE of Hearing: Jury Selection set for 1/21/2016 at 10:00 AM in Charleston Courtroom #1, J. Waties Waring Judicial Center, 83 Meeting St, Charleston before Honorable Patrick Michael Duffy (chub,) (Entered: 10/23/2015)
10/26/2015	<u>139</u>	NOTICE of Hearing: Bar Meeting set for 12/8/2015 11:00 AM in Charleston Courtroom #1, J. Waties Waring Judicial Center, 83 Meeting St, Charleston before Honorable Patrick Michael Duffy. Jury Selection set for 1/21/2016 10:00 AM in Charleston Courtroom #1, J. Waties Waring Judicial Center, 83 Meeting St, Charleston before Honorable Patrick Michael Duffy (cper,) (Entered: 10/26/2015)
10/30/2015	<u>140</u>	CONSENT SIXTH AMENDED SCHEDULING ORDER: Motion in Limine due by 12/11/2015, Motions due by 12/4/2015, Rule 26(a)(3) Disclosures due by 1/18/2016, Pretrial Briefs due by 2/5/2016, Jury Selection Deadline 1/21/2016, Mediation Due by 11/13/2015, Date Certain Trial 2/29/2016. Signed by Honorable Patrick Michael Duffy on 10/30/15. (chub,) (Entered: 10/30/2015)
10/30/2015	<u>141</u>	OBJECTIONS by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The to <u>137</u> Order on Motion to Compel, Order on Motion for Protective Order,,,,,,. (Ott, Curtis) (Main Document 141 replaced on 11/3/2015) (egra,). Modified on 11/3/2015 to replaced with corrected document as provided by filing user (egra,). (Entered: 10/30/2015)
11/05/2015	<u>142</u>	OBJECTIONS by Theodore G Hartsock, Jr to <u>137</u> Order on Motion to Compel, Order on Motion for Protective Order,,,,,,. (Attachments: # <u>1</u> Exhibit Deposition Excerpt)(Maness, Mia) (Entered: 11/05/2015)
11/30/2015	<u>143</u>	ORDER overruling <u>141</u> Objections, filed by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The, and overruling <u>142</u> Objections filed by Theodore G Hartsock, Jr. Signed by Honorable Patrick Michael Duffy on 11/30/2015. (adeh,) (Entered: 11/30/2015)
12/01/2015	<u>144</u>	MOTION to Redact <u>126</u> Transcript,, by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 12/18/2015. No proposed order.(Ott, Curtis) (Entered: 12/01/2015)
12/04/2015	<u>145</u>	MOTION to Exclude <i>Oliver G. Wood, Jr.</i> by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due

		by 12/21/2015. (Attachments: # <u>1</u> Exhibit A - Wood Report, # <u>2</u> Exhibit B - Wood Transcript)No proposed order.(Ott, Curtis) (Entered: 12/04/2015)
12/04/2015	<u>146</u>	MOTION to Exclude <i>L. Wayne McCracken</i> by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 12/21/2015. (Attachments: # <u>1</u> Exhibit A - McCracken Report, # <u>2</u> Exhibit B - McCracken CV, # <u>3</u> Exhibit C - McCracken Depo Excerpts, # <u>4</u> Exhibit D - Listing of Cases)No proposed order.(Ott, Curtis) (Entered: 12/04/2015)
12/04/2015	<u>147</u>	MOTION to Seal (<i>McSwain</i>) by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 12/21/2015. (Attachments: # <u>1</u> Exhibit A - Document Index, # <u>2</u> Exhibit B - Supplemental Designation, # <u>3</u> Exhibit C - Certification by Counsel, # <u>4</u> Exhibit D - Certification by Counsel)No proposed order.(Ott, Curtis) (Entered: 12/04/2015)
12/04/2015	<u>148</u>	MOTION to Exclude <i>Richard H. McSwain</i> by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 12/21/2015. (Attachments: # <u>1</u> Exhibit A - McSwain CV, # <u>2</u> Exhibit B - Confidential Exhibit, # <u>3</u> Exhibit C - McSwain Depo Excerpts, # <u>4</u> Exhibit D - Confidential Exhibit, # <u>5</u> Exhibit E - Creep Articles, # <u>6</u> Exhibit F - Parsons Depo Excerpts, # <u>7</u> Exhibit G - Stroble Depo Excerpts, # <u>8</u> Exhibit H - Confidential Excerpts, # <u>9</u> Exhibit I - Badzinski Depo Excerpts)No proposed order.(Ott, Curtis) (Entered: 12/04/2015)
12/04/2015	<u>149</u>	MOTION to Seal (<i>Carlson</i>) by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 12/21/2015. (Attachments: # <u>1</u> Exhibit A - Document Index, # <u>2</u> Exhibit B - Supplemental Designation, # <u>3</u> Exhibit C - Certification by Counsel, # <u>4</u> Exhibit D - Certification by Counsel)No proposed order.(Ott, Curtis) (Entered: 12/04/2015)
12/04/2015	<u>150</u>	MOTION to Exclude <i>Dennis Carlson</i> by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 12/21/2015. (Attachments: # <u>1</u> Exhibit A - Carlson CV, # <u>2</u> Exhibit B - Confidential Exhibit, # <u>3</u> Exhibit C - Carlson Depo Excerpts, # <u>4</u> Exhibit D - Creep Articles, # <u>5</u> Exhibit E - Parsons Depo Excerpts, # <u>6</u> Exhibit F - Stroble Depo Excerpts, # <u>7</u> Exhibit G - Confidential Exhibit, # <u>8</u> Exhibit H - Badzinski Depo Excerpts, # <u>9</u> Exhibit I - Confidential Exhibit, # <u>10</u> Exhibit J - McSwain Depo Excerpts)No proposed order.(Ott, Curtis) (Entered: 12/04/2015)
12/04/2015	<u>151</u>	MOTION to Seal (<i>MSJ</i>) by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 12/21/2015. (Attachments: # <u>1</u> Exhibit A - Document Index, # <u>2</u> Exhibit B - Cert by Counsel - Carlson, # <u>3</u> Exhibit C - Supplemental Designation, # <u>4</u> Exhibit D - Cert by Counsel - McSwain, # <u>5</u> Exhibit E - Cert by Counsel - McCracken)No proposed order.(Ott, Curtis) (Entered: 12/04/2015)
12/04/2015	<u>152</u>	MOTION for Summary Judgment by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 12/21/2015. (Attachments: # <u>1</u> Exhibit 1 - Accident Report, # <u>2</u> Exhibit 2 - Stephens Excerpts, # <u>3</u> Exhibit 3 - Lazy Days, # <u>4</u> Exhibit 4 - Stephens Excerpts, # <u>5</u> Exhibit 5 - Volger Excerpts, # <u>6</u> Exhibit 6 - L. Rodrigues Excerpts, # <u>7</u> Exhibit 7 - Marsden Excerpts, # <u>8</u> Exhibit 8 - ATR Invoice, # <u>9</u> Exhibit 9 - Pace Excerpts, # <u>10</u> Exhibit 10 - L. Rodrigues Excerpts, # <u>11</u> Exhibit 11 - J. Rodrigues Excerpts, #

		<u>12</u> Exhibit 12 - Monaco, # <u>13</u> Exhibit 13 - Kunkle Tire, # <u>14</u> Exhibit 14 - Parsons Affidavit, # <u>15</u> Exhibit 15 - Complaint, # <u>16</u> Exhibit 16 - Carlson Excerpts, # <u>17</u> Exhibit 17 - Confidential Exhibit, # <u>18</u> Exhibit 18 - Confidential Exhibit, # <u>19</u> Exhibit 19 - McSwain Excerpts, # <u>20</u> Exhibit 20 - Plf's Answers to 2nd RTA, # <u>21</u> Exhibit 21 - McCracken Excerpts, # <u>22</u> Exhibit 22 - Confidential Exhibit, # <u>23</u> Exhibit 23 - Confidential Exhibit, # <u>24</u> Exhibit 24 - McGaha Excerpts, # <u>25</u> Exhibit 25 - Death Cert., # <u>26</u> Exhibit 26 - L. Hartsock Excerpts, # <u>27</u> Exhibit 27 - Seiler Excerpts)No proposed order.(Ott, Curtis) (Entered: 12/04/2015)
12/11/2015	<u>154</u>	MOTION in Limine <i>To Exclude Evidence of Sanctions Imposed for Purported Violations of Confidentiality Provisions in Other cases by His Expert Dennis Carlson</i> by Theodore G Hartsock, Jr. Response to Motion due by 1/4/2016. No proposed order.(Maness, Mia) (Entered: 12/11/2015)
12/11/2015	<u>155</u>	MOTION in Limine <i>to Exclude References to Monoco Recalls</i> by Theodore G Hartsock, Jr. Response to Motion due by 1/4/2016. (Attachments: # <u>1</u> Exhibit A Rodrigues 0107 Purchase Order, # <u>2</u> Exhibit B Rodrigues, Linda excerpt, # <u>3</u> Exhibit C Gregory Stephens depo excerpt, # <u>4</u> Exhibit D Exhibit 34 Gregory Stephens, # <u>5</u> Exhibit E Vogler, Michelle)No proposed order.(Maness, Mia) Modified on 12/14/2015 to edit docket text as requested by filing user (egra,). (Main Document 155 replaced on 12/14/2015) (egra,). Modified on 12/14/2015 to replace with correct main document as provided by filing user (egra,). (Entered: 12/11/2015)
12/11/2015	<u>156</u>	MOTION in Limine <i>Regarding Post Manufacture Changes and Substantially Similar Incidents</i> by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 1/4/2016. (Attachments: # <u>1</u> Exhibit A - Carlson Excerpt)No proposed order.(Ott, Curtis) (Entered: 12/11/2015)
12/11/2015	<u>157</u>	MOTION in Limine <i>to Exclude Evidence of Other Tires Used On The RV</i> by Theodore G Hartsock, Jr. Response to Motion due by 1/4/2016. (Attachments: # <u>1</u> Exhibit A Grant, Joseph, # <u>2</u> Exhibit B Stephens, Gregory, # <u>3</u> Exhibit C Glenn 00007, # <u>4</u> Exhibit D Rodrigues, James)No proposed order.(Maness, Mia) (Entered: 12/11/2015)
12/11/2015	<u>158</u>	MOTION in Limine (<i>Omnibus</i>) by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 1/4/2016. (Attachments: # <u>1</u> Exhibit A - Load/Inflation Info, # <u>2</u> Exhibit B - Affidavit of Don Fountain)No proposed order.(Ott, Curtis) (Entered: 12/11/2015)
12/11/2015	<u>159</u>	MOTION in Limine <i>To Exclude Evidence of Settlements</i> by Theodore G Hartsock, Jr. Response to Motion due by 1/4/2016. (Attachments: # <u>1</u> Exhibit A HartsockPL 144-151)No proposed order.(Maness, Mia) (Entered: 12/11/2015)
12/11/2015	<u>160</u>	MOTION in Limine <i>To Exclude Evidence of Plaintiff's Remarriage</i> by Theodore G Hartsock, Jr. Response to Motion due by 1/4/2016. (Attachments: # <u>1</u> Exhibit A Ted Hartsock depo excerpt)No proposed order.(Maness, Mia) (Entered: 12/11/2015)
12/11/2015	<u>161</u>	MOTION for Leave to File Excess Pages <i>Plaintiff's Motion to File Memorandum Exceeding Thirty-Five Pages</i> by Theodore G Hartsock, Jr. Response to Motion due by 1/4/2016. No proposed order.(Maness, Mia) (Entered: 12/11/2015)

12/11/2015	<u>162</u>	MOTION in Limine to <i>Exclude Referenced to State-of-the-Art</i> by Theodore G Hartsock, Jr. Response to Motion due by 1/4/2016. (Attachments: # <u>1</u> Exhibit A Kromer, James-redacted, # <u>2</u> Exhibit B Parsons, Terrence [3-8-12], # <u>3</u> Exhibit C Parsons, Terrence-Redacted, # <u>4</u> Exhibit D Grant, Joseph)No proposed order. (Maness, Mia) (Entered: 12/11/2015)
12/11/2015	<u>163</u>	MOTION to Seal <i>Plaintiff's Notice of Motion and Motion to Seal</i> by Theodore G Hartsock, Jr. Response to Motion due by 1/4/2016. (Attachments: # <u>1</u> Exhibit A Index, # <u>2</u> Exhibit B 15-10-28 Supp Desig of Confid Grant, # <u>3</u> Exhibit C 14-07-22 Cert of Confidentiality Koerner, # <u>4</u> Exhibit D 15-05-12 Designation of Confidentiality-Parsons, # <u>5</u> Exhibit E 13-12-12 Cert of Confidential Docs, # <u>6</u> Exhibit F 15-05-15 Designation of Confidentiality-Badzinski)No proposed order. (Maness, Mia) (Entered: 12/11/2015)
12/11/2015	<u>164</u>	MOTION in Limine to <i>Exclude Evidence that July 2, 2010 Drive Axle was Temporary</i> by Theodore G Hartsock, Jr. Response to Motion due by 1/4/2016. (Attachments: # <u>1</u> Exhibit A L. Rodrigues depo excerpts, # <u>2</u> Exhibit B J. Rodrigues depo excerpts, # <u>3</u> Exhibit SCDPS 0021, # <u>4</u> Exhibit D Pace depo excerpts, # <u>5</u> Exhibit E Vogler Ex 6, # <u>6</u> Exhibit F Vogler Ex 7)No proposed order.(Tanenbaum, Mark) (Entered: 12/11/2015)
12/11/2015	<u>165</u>	MOTION to <i>Exclude Defs' Experts' Opinions</i> by Theodore G Hartsock, Jr. Response to Motion due by 1/4/2016. (Attachments: # <u>1</u> Memo in Support Plfs' Memo in Support of Motion to Exclude, # <u>2</u> Exhibit 1 SCDPS-PHT-0214 Subject tire, # <u>3</u> Exhibit 2 J. Rodrigues Depo Excerpts, # <u>4</u> Exhibit 3 HartsockPL 0008, # <u>5</u> Exhibit 4 SCDPS-PHT-0047, # <u>6</u> Exhibit 5 SCDPS-PHT-0048, # <u>7</u> Exhibit 6 Craig McGaha Depo Excerpts, # <u>8</u> Exhibit 7 JT Manley Depo Excerpts, # <u>9</u> Exhibit 8 SCDPS-PHT-0174, # <u>10</u> Exhibit 9 Joseph Grant Depo Excerpts REDACTED Part1, # <u>11</u> Exhibit 9 Joseph Grant Depo Excerpts REDACTED Part 2, # <u>12</u> Exhibit 9 Joseph Grant Depo Excerpts REDACTED Part 3, # <u>13</u> Exhibit 9 Joseph Grant Depo Excerpts REDACTED Part 4, # <u>14</u> Exhibit 9 Joseph Grant Depo Excerpts REDACTED Part 5, # <u>15</u> Exhibit 9 Joseph Grant Depo Excerpts REDACTED Part 6, # <u>16</u> Exhibit 9 Joseph Grant Depo Excerpts REDACTED Part 7, # <u>17</u> Exhibit 9 Joseph Grant Depo Excerpts REDACTED Part 8, # <u>18</u> Exhibit 10 SCDPS 0007-0041, # <u>19</u> Exhibit 11 Linda Rodrigues Depo Excerpts, # <u>20</u> Exhibit 1 David Pace Depo Excerpts, # <u>21</u> Exhibit 13 VOGLER.EXH.006, # <u>22</u> Exhibit 14 VOGLER.EXH.007, # <u>23</u> Exhibit 15 STEPHENS_REPORT_0001-0012 Part1, # <u>24</u> Exhibit 15 STEPHENS_REPORT_0001-0012 Part2, # <u>25</u> Exhibit 15 STEPHENS_REPORT_0001-0012 Part3, # <u>26</u> Exhibit 15 STEPHENS_REPORT_0001-0012 Part4, # <u>27</u> Exhibit 15 STEPHENS_REPORT_0001-0012 Part 5, # <u>28</u> Exhibit 15 STEPHENS_REPORT_0001-0012 Part 6, # <u>29</u> Exhibit 16 Stephens Depo excerpts, # <u>30</u> Exhibit 17 Vogler depo excerpts, # <u>31</u> Exhibit 18 VOGLER_REPORT_0001-0021 Part1, # <u>32</u> Exhibit 18 VOGLER_REPORT_0001-0021 Part2, # <u>33</u> Exhibit 18 VOGLER_REPORT_0001-0021 Part3, # <u>34</u> Exhibit 18 VOGLER_REPORT_0001-0021 Part4, # <u>35</u> Exhibit 18 VOGLER_REPORT_0001-0021 Part, # <u>36</u> Exhibit 19 TANDY_REPORT_0001-0015, # <u>37</u> Exhibit 20 Tandy, Donald depo excerpts, # <u>38</u> Exhibit 21 GRANT_REPORT_0001-0037, # <u>39</u> Exhibit 22 Koerner, James Depo Excerpts

		REDACTED, # <u>40</u> Exhibit 23 Seiler, Denise Depo Excerpts REDACTED, # <u>41</u> Exhibit 24 Parsons 04-17-15 Depo Excerpts REDACTED, # <u>42</u> Exhibit 25 Parsons 05-10-12 Depo Excerpts REDACTED, # <u>43</u> Exhibit 26 Monaco Docs, # <u>44</u> Exhibit 27 McCracken-PHT-0066-006, # <u>45</u> Exhibit 28 Rodrigues 0107, # <u>46</u> Exhibit 29 LD-000011, # <u>47</u> Exhibit 30 McCracken 0106, # <u>48</u> Exhibit 31 McCracken-0097, # <u>49</u> Exhibit 32 Glenn 00007, # <u>50</u> Exhibit 33 SCDPS-PHT-0131-0132, # <u>51</u> Exhibit 34 McCracken-PHT-0003, # <u>52</u> Exhibit 35 Badzinski, Daniel Depo Excerpts REDACTED, # <u>53</u> Exhibit 36 McSwain Depo Excerpts, # <u>54</u> Exhibit 37 Parsons 03-08-12 Depo Excerpts REDACTED, # <u>55</u> Exhibit 38 Parsons 05-11-12 Depo Excerpts)No proposed order.(Maness, Mia) Modified on 12/14/2015 to edit docket text as provided by filing user (egra,). (Entered: 12/11/2015)
12/14/2015	<u>166</u>	ORDER granting <u>161</u> Motion for Leave to File Excess Pages. Signed by Honorable Patrick Michael Duffy on 12/14/2015. (egra,) (Entered: 12/14/2015)
12/14/2015	<u>167</u>	CONSENT TEXT ORDER AMENDING the following deadlines. Plaintiff's Response to Defendants' four Daubert Motions, Plaintiff's Response to Defendants' Motion for Summary Judgment, Plaintiff's Response to Defendants' Motion in Limine Omnibus, and Defendants' Response to Plaintiff's Daubert Motions are all due January 11, 2016. Signed by Honorable Patrick Michael Duffy on 12/14/2015. (egra,) Modified Text on 12/15/2015 (egra,). (Entered: 12/14/2015)
12/17/2015	<u>168</u>	Amended MOTION to Redact <u>126</u> Transcript,, by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 1/7/2016. No proposed order.(Ott, Curtis) (Entered: 12/17/2015)
12/28/2015	<u>170</u>	MOTION for Reconsideration re <u>143</u> Order, by Goodyear Dunlop Tires North America LTD, Goodyear Tire & Rubber Company, The. Response to Motion due by 1/14/2016. (Attachments: # <u>1</u> Exhibit A - Confidential Exhibit, # <u>2</u> Exhibit B - Carlson Testimony, # <u>3</u> Exhibit C - Legge Affidavit, # <u>4</u> Exhibit D - Seiler Excerpts)No proposed order.(Ott, Curtis) (Entered: 12/28/2015)
12/29/2015	<u>171</u>	ORDER granting <u>168</u> Amended Motion to Redact <u>126</u> Transcript. Signed by Honorable Patrick Michael Duffy on 12/29/2015. (egra,) (Entered: 12/29/2015)
01/05/2016	<u>172</u>	TEXT ORDER This case is continued to the April 2016 term of court. Entered at the direction of Honorable Patrick Michael Duffy on 01/05/2016. (egra,) (Entered: 01/05/2016)
01/11/2016	<u>173</u>	CONSENT TEXT ORDER Plaintiff's Response to Motion deadline for the following motions have been extended to January 25, 2016: <u>145</u> MOTION to Exclude, <u>146</u> MOTION to Exclude, <u>147</u> MOTION to Seal, <u>148</u> MOTION to Exclude, <u>149</u> MOTION to Seal, <u>150</u> MOTION to Exclude, <u>151</u> MOTION to Seal, <u>152</u> MOTION for Summary Judgment, <u>154</u> MOTION in Limine, <u>155</u> MOTION in Limine, <u>156</u> MOTION in Limine, <u>157</u> MOTION in Limine, <u>158</u> MOTION in Limine, <u>159</u> MOTION in Limine, <u>160</u> MOTION in Limine , <u>161</u> MOTION for Leave to File Excess Pages, <u>162</u> MOTION in Limine, <u>163</u> MOTION to Seal , <u>164</u> MOTION in Limine, <u>165</u> MOTION to Seal. Entered at

		<i>the direction of Honorable Patrick Michael Duffy on 01/11/2016. (egra,) (Entered: 01/11/2016)</i>
01/14/2016	<u>174</u>	RESPONSE in Opposition re <u>170</u> MOTION for Reconsideration re <u>143</u> Order, Response filed by Theodore G Hartsock, Jr.Reply to Response to Motion due by 1/25/2016 (Maness, Mia) (Entered: 01/14/2016)
01/19/2016	<u>175</u>	ORDER granting in part and denying in part <u>170</u> Motion for Reconsideration. As stated in written order, reconsideration denied but prior order is designated for appeal pursuant to 28 U.S.C. s. 1292(b). Signed by Honorable Patrick Michael Duffy on 1/19/16.(adeh,) (Entered: 01/19/2016)
02/04/2016	178	TEXT ORDER This case is continued to the June 2016 term of court. Signed by Honorable Patrick Michael Duffy on 02/04/2016. (egra,) (Entered: 02/04/2016)
02/23/2016	180	DELETION OF DOCKET ENTRY NUMBER 180-183 Reason: Per USCA - We are not required to file anything. (egra,) (Entered: 02/23/2016)

PACER Service Center			
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02/25/2016 16:31:58			
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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

CIVIL ACTION NO.: 2:13-cv-00419-PMD

THEODORE G. HARTSOCK, JR., AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF
SARAH MILLS HARTSOCK,

Plaintiff,

-versus-

GOODYEAR DUNLOP TIRES NORTH AMERICA, LTD., a foreign corporation; and THE GOODYEAR TIRE & RUBBER COMPANY, a foreign corporation,

Defendants.

FIRST AMENDED COMPLAINT
(Jury Trial Requested)

The Plaintiff above named, complaining of the Defendants herein, alleges and says:

PARTIES

1. Plaintiff brings this action on behalf of the Estate of his deceased wife pursuant to S.C. Code Ann. § 15-5-90, the Survival Statute, and on behalf of the statutory beneficiaries of the deceased pursuant to S.C. Code Ann. § 15-51-10, the Wrongful Death Act, for all damages allowed by law.

2. The Plaintiff is a citizen and resident of Charleston, South Carolina and is the duly appointed Personal Representative of the Estate of his deceased wife, Sarah Mills Hartsock who was a resident of Charleston, South Carolina at the time of the actions complained of herein.

3. Defendant GOODYEAR DUNLOP TIRES NORTH AMERICA, LTD

(hereinafter "DUNLOP") is, upon information and belief, a corporation organized pursuant to the laws of a state other than South Carolina, and is present and doing business in South Carolina.

4. Defendant THE GOODYEAR TIRE & RUBBER COMPANY (hereinafter "GOODYEAR") is a corporation organized pursuant to the laws of a state other than South Carolina, and is present and doing business in South Carolina. Upon information and belief, DUNLOP is a wholly owned subsidiary of GOODYEAR.

JURISDICTION AND VENUE

5. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332, as the Plaintiff and Defendant are citizens of different states, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6. Venue is proper in this Court pursuant to the *Order Granting Plaintiff's Motion to Change Venue to Charleston Division with Consent of Defendants* entered on February 25, 2013 (Entry No. 7).

FACTUAL BACKGROUND

7. Defendant DUNLOP manufactures tires at its facilities both abroad and in the United States for use on, among other things, Recreational Vehicles (hereinafter "RV" or "RVs").

8. Defendant GOODYEAR designs, manufacturers, markets, distributes, and sells tires both abroad and in the United States for use on, among other things, RVs.

9. Lazy Days R.V. Center, Inc. (hereinafter "LAZY DAYS") is a retailer of RVs and motor homes and is located in South Florida among other places.

10. Prior to August 25, 2003 Defendant GOODYEAR designed, marketed, distributed, and sold a light truck tire designated and branded as GOODYEAR G670RV, to be manufactured in Defendant DUNLOP factories, for use on RVs.

11. Sometime during the 35th week of 2003 (between August 25 and August 31, 2003) Defendant DUNLOP manufactured a tire branded as GOODYEAR G670RV size 295/80R22.5 LRH and bearing DOT# DANU 2CAW 3503 (hereinafter "THE TIRE") at its Buffalo, New York plant.

12. THE TIRE was sold to Monaco Coach to be used on a 2004 Monaco Signature Coach (hereinafter "THE VEHICLE"), bearing VIN 18571841029523, manufactured in February 2004, as original manufacturer's equipment.

13. Monaco Coach placed THE TIRE on the left front of THE VEHICLE as a steering tire.

14. Monaco Coach sold THE VEHICLE, with THE TIRE, to LAZY DAYS knowing it would be purchased and used by a consumer on the streets, roads and highways at high speeds and under certain loads.

15. On March 22, 2004, THE VEHICLE with THE TIRE was sold to James E. and Linda Rodrigues of Melbourne, FL, with THE TIRE as original manufacturer's equipment.

16. On July 6, 2010, THE VEHICLE was being operated by its owner on Interstate Highway 26 in Calhoun County, South Carolina, when THE TIRE failed, commonly called a "blowout" and also "delamination" and "de-treading." As a result thereof, the motor home crossed the median of Interstate Highway 26, bursting through the dividing cable barrier and striking Plaintiff's decedent's vehicle head-on. This resulted in

catastrophic injuries to the Plaintiff's decedent and her death.

17. Before passing away, Plaintiff's decedent, gravely injured as a result of the impact, consciously experienced her condition.

ACTIONS GIVING RISE TO LIABILITY

18. At all times material hereto, Defendant GOODYEAR adopted a design process for THE TIRE which was not common, usual, customary, prudent, or in accordance with established industry standards relating to the design of similar tires with similar intended and/or foreseeable functions.

19. At all times material hereto, Defendant DUNLOP adopted a manufacturing process for THE TIRE which was not common, usual, customary, prudent, or in accordance with established industry standards relating to the manufacture of similar tires with similar intended and/or foreseeable functions.

20. At all times material hereto, Defendants GOODYEAR and DUNLOP knew that THE TIRE would be installed and used on the front steer axle of THE VEHICLE and were aware of THE VEHICLE weight and load as well as the ability of THE TIRE to carry a given load at a given inflation pressure. Defendants GOODYEAR and DUNLOP knew the inflation pressure that Monaco Coach would instruct consumers in the use of THE TIRE while installed on the front steer axle of THE VEHICLE.

21. At all times material hereto, Defendants GOODYEAR and DUNLOP accepted and agreed to Monaco Coach's selection of THE TIRE for use on THE VEHICLE and Monaco Coach's intent to instruct owners and users of THE VEHICLE and THE TIRE to utilize 115 psi in the tires located on the steer axle of THE VEHICLE.

22. Defendant DUNLOP manufactured, Defendant GOODYEAR designed, and together Defendants placed THE TIRE into the stream of commerce, intending that it be used in the manner that it was being used at the time the above-mentioned failure occurred.

23. At all times material hereto, THE TIRE was maintained and inspected as often as a reasonably prudent person would have done under the same or similar circumstances, and at no time material hereto was THE TIRE subjected to any unintended and/or unforeseeable conditions.

24. THE TIRE was in substantially the same condition at the time of the above-mentioned failure as it was when it left the Defendants' possession or control.

COUNT I - NEGLIGENCE

25. Plaintiff realleges the allegations of Paragraphs 1 through 24 as if fully set forth herein.

26. The failure of THE TIRE, and the injuries to and the death of the Plaintiff's decedent, were proximately caused by the negligent, reckless, willful and grossly negligent acts and omissions of Defendants, combining and concurring:

- a) Designing and manufacturing THE TIRE without consideration for tire failure, blowout, tread and belt separation, and resulting loss of vehicle control while being used under intended and/or reasonably foreseeable conditions, or in an intended and/or reasonably foreseeable manner.
- b) Failing to perform testing adequate to determine the circumstances under which THE TIRE was likely to fail, blowout, or suffer tread and belt separation, and cause resulting loss of vehicle control while being used under intended and/or reasonably foreseeable conditions, or in an intended and/or reasonably foreseeable manner.

- c) Failing to give adequate warning(s) of the dangers associated with THE TIRE.
- d) Failing to give adequate instructions as to how to safely use and maintain THE TIRE.
- e) Failing to specify a safe inflation pressure when they knew or should have known that the use of THE TIRE on the front steer axle of THE VEHICLE, including the right front wheel position, at the 115 psi inflation pressure specified by Monaco Coach would not be safe to carry the weight of THE VEHICLE and that such use lacked any safety margin.
- f) Designing, testing, manufacturing, assembling, inspecting, and giving instructions for maintaining, repairing, recommending appropriate inflation pressure and replacing THE TIRE in such a manner that it was likely to fail even while being used in an intended and/or reasonably foreseeable manner.

COUNT II – STRICT LIABILITY

27. Plaintiff realleges the allegations of Paragraphs 1 through 24 as if fully set forth herein.

28. THE TIRE was in substantially the same condition from the time of the manufacture by Defendant DUNLOP and sale by Defendant GOODYEAR to the date of the aforesaid injury.

29. At the time of the design, manufacture and sale of THE TIRE, it was in a defective condition and unreasonably dangerous to the user.

30. By reason of the foregoing, the Defendants are strictly liable to the Plaintiff for the injuries and subsequent death of Plaintiff's decedent as a result of the incident.

COUNT III - BREACH OF EXPRESS AND IMPLIED WARRANTIES

31. Plaintiff realleges the allegations of Paragraphs 1 through 24 as if fully set forth herein.

32. Prior to, and at all times herein mentioned, Defendants expressly and impliedly warranted that THE TIRE was properly designed and manufactured; that it was of merchantable quality and reasonably fit for the purposes for which it was intended to be used; and that it was safe for the use.

33. THE TIRE was defective, unreasonably dangerous and not fit for the purposes for which it was intended, and did not conform to the express or implied warranties of the Defendants.

34. THE TIRE breached the implied and expressed warranties, which breach proximately caused the injuries and subsequent death of Plaintiff's decedent.

DAMAGES

SURVIVAL ACTION

35. Plaintiff realleges the allegations of Paragraphs 1 through 34 as if fully set forth herein.

36. This action is brought pursuant to S.C. Code Ann. §15-5-90, the Survival Statute, for the conscious pain and suffering of Plaintiff's decedent at the hands of Defendants.

37. As a direct and proximate result of the aforementioned acts of Defendants, combining and concurring, Plaintiff's decedent, upon information and belief, saw the RV as it was about to strike her head-on, and experienced great pain and suffering, and mental anguish before she died; all to her injury and damages in an amount of actual and punitive damages to be determined at the trial of this case.

WRONGFUL DEATH

38. Plaintiff realleges the allegations of Paragraphs 1 through 34 as if fully set forth herein.

39. Plaintiff brings this action pursuant to South Carolina Code Annotated §15-51-10, the Wrongful Death Act, on behalf of the statutory beneficiaries of the deceased for all damages authorized by the statute.

40. As a direct and proximate result of the aforesaid acts of Defendants, combining and concurring, Plaintiff's decedent died; her statutory beneficiaries have been deprived of her comfort, aid, companionship, and society; that as a result thereof, they are entitled to recover for damages in an amount of actual and punitive damages to be determined at the trial of this case.

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, in an amount of actual and punitive damages on each cause of action of the Complaint to be determined at the trial of this case, together with the costs and disbursements of this action.

[Signature on Following Page]

MARK C. TANENBAUM, P.A.

By s/ Mark C. Tanenbaum
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**ATTORNEYS FOR PLAINTIFF THEODORE G.
HARTSOCK JR., AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF
SARAH MILLS HARTSOCK**

Charleston, South Carolina

April 11, 2013

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff

v.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and Goodyear Tire &
Rubber Company, a foreign corporation,

Defendants.

Case No.: 2:13-cv-00419-PMD

**ANSWER OF DEFENDANT GOODYEAR
DUNLOP TIRES NORTH
AMERICA, LTD
(Jury Trial Demanded)**

Goodyear Dunlop Tires North America, LTD ("GDTNA") hereby answers Plaintiff's First Amended Complaint as follows. Each and every allegation not hereinafter specifically admitted, qualified, or explained, is expressly denied.

FOR A FIRST DEFENSE

1. In response to the allegations of Paragraph 1 of Plaintiff's First Amended Complaint, GDTNA admits only that Plaintiff purports to bring this action as the Personal Representative of the Estate of Sarah Mills Hartsock to recover damages pursuant to the wrongful death and survival statutes.

2. GDTNA lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 2 of Plaintiff's First Amended Complaint.

3. In response to the allegations for Paragraph 3 of Plaintiff's First Amended Complaint, GDTNA admits only that it is a corporation organized pursuant to the laws of a state other than South Carolina. Any allegations in addition to or inconsistent with the above response are denied.

4. In response to the allegations of Paragraph 4 of Plaintiff's First Amended Complaint, GDTNA admits only that The Goodyear Tire & Rubber Company ("Goodyear Tire") is a corporation organized pursuant to the laws of a state other than South Carolina and that it transacts business in South Carolina. GDTNA denies the remaining allegations of Paragraph 4.

5. In response to the allegations of Paragraph 5 of Plaintiff's First Amended Complaint GDTNA admits, for jurisdictional purposes only, this Court has subject matter jurisdiction over this case pursuant to diversity of citizenship.

6. GDTNA admits, for jurisdictional purposes only, the allegations of Paragraph 6 of Plaintiff's First Amended Complaint.

7. GDTNA admits only that GDTNA manufactured the G670RV size 295/80R22.5 LRH tire referenced in Plaintiff's First Amended Complaint in the United States. Any allegations in addition to or inconsistent with the above response are denied.

8. In response to the allegations of Paragraph 8, GDTNA admits only that Goodyear Tire designed, marketed and sold the G670RV size 295/80R22.5 LRH tire referenced in Plaintiff's First Amended Complaint in the United States. Any allegations in addition to or inconsistent with the above response are denied.

9. GDTNA lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 9 of Plaintiff's First Amended Complaint.

10. GDTNA admits that it manufactured, and Goodyear Tire designed, marketed and sold, G670RV size 295/80R22.5 tires in the United States. Any allegations in addition to or inconsistent with the above response are denied.

11. GDTNA admits the allegations of Paragraph 11 of Plaintiff's First Amended Complaint.

12. GDTNA lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 12 of Plaintiff's First Amended Complaint.

13. GDTNA lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 13 of Plaintiff's First Amended Complaint.

14. GDTNA lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 14 of Plaintiff's First Amended Complaint.

15. GDTNA lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 15 of Plaintiff's First Amended Complaint.

16. In response to the allegations of Paragraph 16 of Plaintiff's First Amended Complaint, GDTNA admits only that on July 6, 2010, an accident occurred on Interstate Highway 26 in Calhoun County, South Carolina between vehicles driven by Mr. James Rodrigues and Plaintiff's decedent. GDTNA further admits that the RV driven by Mr. Rodrigues traveled through the dividing cable barrier and struck the vehicle Plaintiff's decedent was driving, and that she died in the accident. Any allegations in addition to or inconsistent with the above response are denied.

17. GDTNA lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 17 of Plaintiff's First Amended Complaint.

18. GDTNA denies the allegations of Paragraph 18 of Plaintiff's First Amended Complaint.

19. GDTNA denies the allegations of Paragraph 19 of Plaintiff's First Amended Complaint.

20. GDTNA denies as phrased the allegations of Paragraph 20 of Plaintiff's First Amended Complaint.

21. GDTNA denies as phrased the allegations of Paragraph 21 of Plaintiff's First Amended Complaint.

22. In response to the allegations of Paragraph 22 of Plaintiff's First Amended Complaint, GDTNA admits only that it manufactured and Goodyear Tire designed the subject tire and that it was placed into the stream of commerce. GDTNA lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of Paragraph 22.

23. GDTNA lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 23 of Plaintiff's First Amended Complaint.

24. GDTNA lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 24 of Plaintiff's First Amended Complaint. GDTNA has not examined the tire identified in Plaintiff's First Amended Complaint.

FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION
(Negligence)

25. GDTNA incorporates by reference herein its responses to Paragraphs 1 through 24 of Plaintiff's First Amended Complaint.

26. GDTNA denies the allegations of Paragraph 26, including all subparagraphs, of Plaintiff's First Amended Complaint.

FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION
(Strict Liability)

27. GDTNA incorporates by reference herein its responses to Paragraphs 1 through 26 of Plaintiff's First Amended Complaint.

28. GDTNA lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 28 of Plaintiff's First Amended Complaint.

29. GDTNA denies the allegations of Paragraph 29 of Plaintiff's First Amended Complaint.

30. GDTNA denies the allegations of Paragraph 30 of Plaintiff's First Amended Complaint.

FOR A FIRST DEFENSE TO THE THIRD CAUSE OF ACTION
(Breach of Express and Implied Warranties)

31. GDTNA incorporates by reference herein its responses to Paragraphs 1 through 30 of Plaintiff's First Amended Complaint.

32. In response to the allegations of Paragraph 32 of Plaintiff's First Amended Complaint, GDTNA admits that a written limited warranty was provided with the tire and refers to the written limited warranty for its terms and disclaimers. GDTNA denies any allegations in addition to or inconsistent with the above response.

33. GDTNA denies the allegations of Paragraph 33 of Plaintiff's First Amended Complaint.

34. GDTNA denies the allegations of Paragraph 34 of Plaintiff's First Amended Complaint.

35. GDTNA incorporates by reference herein its responses to Paragraphs 1 through 34 of the First Amended Complaint.

36. In response to the allegations of Paragraph 36 of Plaintiff's First Amended Complaint, GDTNA admits only that Plaintiff purports to bring this action pursuant to the survival statute; otherwise denied.

37. In response to the allegations of Paragraph 37 of Plaintiff's First Amended Complaint, GDTNA lacks knowledge or information sufficient to form a belief about the truth of the allegations of what Plaintiff's decedent witnessed or experienced before, during and

immediately after the accident. GDTNA specifically denies Plaintiff is entitled an award of damages.

38. GDTNA incorporates by reference herein its response to Paragraphs 1 through 37 of the First Amended Complaint.

39. In response to the allegations of Paragraph 39 of Plaintiff's First Amended Complaint, GDTNA admits only that Plaintiff purports to bring this action pursuant to the wrongful death statute; otherwise denied.

40. GDTNA denies the allegations of Paragraph 40 of Plaintiff's First Amended Complaint.

FOR A SECOND DEFENSE

41. Plaintiff's First Amended Complaint in whole or in part, fails to state a claim against GDTNA upon which relief may be granted.

FOR A THIRD DEFENSE

42. GDTNA states that the injuries and damages alleged in Plaintiff's First Amended Complaint may have been caused by an intervening, superseding action for which GDTNA are in no way liable. Plaintiff is therefore not entitled to recover from GDTNA in this action.

FOR A FOURTH DEFENSE

43. GDTNA states that the sole proximate cause of the injuries and damages alleged in Plaintiff's First Amended Complaint may have been the actions, omissions, or negligence of a person or persons other than GDTNA for whose actions, omissions, or negligence GDTNA is in no way liable. Plaintiff is therefore not entitled to recover from GDTNA in this action.

FOR A FIFTH DEFENSE

44. GDTNA states that the proximate cause of the injuries and damages alleged in

Plaintiff's First Amended Complaint may have been the misuse, improper maintenance and/or abuse of the subject tire for which GDTNA is not responsible. Plaintiff is therefore not entitled to recover from GDTNA in this action.

FOR A SIXTH DEFENSE

45. GDTNA submits that the damages for which Plaintiff seeks recovery may be due to and proximately caused by the modification or alteration of the subject tire which bars Plaintiffs' recovery.

FOR A SEVENTH DEFENSE

46. GDTNA pleads the defenses of sophisticated user and/or learned intermediary that may bar or limit recovery against GDTNA.

FOR AN EIGHTH DEFENSE

47. GDTNA affirmatively pleads the content of S.C. Code Ann. § 15-73-20 as a complete defense to the allegations of Plaintiff's First Amended Complaint.

FOR A NINTH DEFENSE

48. GDTNA pleads applicability of The Economic Development, Citizens and Small Business Protection Act of 2005, effective July 1, 2005, which amended S.C. Code Ann. §§ 15-38-15 [joint and several liability], and other pertinent statutory sections, and invoke the remedies and procedures provided therein. Specifically, GDTNA submits that they are entitled to a proper apportionment of fault among all other potential tortfeasors, whether they are named as a defendant or not.

FOR A TENTH DEFENSE

49. GDTNA submits that the subject tire was designed, manufactured and assembled in compliance with applicable industry and governmental standards and regulations and, therefore, Plaintiff cannot recover against GDTNA.

FOR AN ELEVENTH DEFENSE

50. GDTNA submits that the subject tire was designed, manufactured and assembled consistent with the prevailing industry customs and practices and, therefore, Plaintiff cannot recover against GDTNA.

FOR A TWELFTH DEFENSE

51. GDTNA submits that the subject tire was designed, manufactured and assembled in conformance with the state-of-the-art and did not present an unreasonable risk of harm to Plaintiff's decedent and, therefore, Plaintiff cannot recover against GDTNA.

FOR A THIRTEENTH DEFENSE

52. GDTNA affirmatively pleads all defenses that are or may become available to GDTNA under *Restatement Second of Torts*, § 402A and the comments thereto as codified by *S.C. Code Ann.* § 15-73-30.

FOR A FOURTEENTH DEFENSE

53. GDTNA submits that Plaintiff's claims, in whole or in part, are expressly or impliedly preempted by federal law.

FOR A FIFTEENTH DEFENSE

54. GDTNA states that to the extent Plaintiff's First Amended Complaint seeks the recovery of punitive damages, they are unconstitutional on the following grounds:

- a. An award of punitive damages in this case would violate GDTNA's rights under

the Contract Clause of Article I, Section 10 of the Constitution of the United States and Article I, Section 4 of the Constitution of South Carolina;

b. An award of punitive damages in this case would violate the Equal Protection Clause of the United States Constitution and of the Constitution of South Carolina;

c. An award of punitive damages in this case would violate the Excessive Fines Clause of the United States Constitution and of the Constitution of South Carolina;

d. Lack of sufficient standards governing whether to award punitive damages and the amount of such punitive damages in South Carolina violates the Due Process Clause of the Fourteenth Amendment of the Constitution of the United States and Article I, Section 3 of the Constitution of South Carolina;

e. An award of punitive damages in this case would violate GDTNA's due process rights guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 3 of the Constitution of South Carolina because South Carolina's law regarding the standards for determining liability for in the amount of punitive damages fails to give GDTNA prior notice of the conduct for which punitive damages may be imposed;

f. An award of punitive damages in this case would violate GDTNA's due process rights guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 3 of the Constitution of South Carolina because under South Carolina law, a jury award of punitive damages is not subject to post-trial and appellate court review under constitutionally adequate objective standards to assure that the award is rationally related to the state's legitimate goals of deterrence and retribution;

g. An award of punitive damages in this case would violate GDTNA's due process rights guaranteed by the Fourteenth Amendment to the United States Constitution and Article I,

Section 3 of the Constitution of South Carolina because under South Carolina law, a jury award of punitive damages is not subject to post-trial review through an evidentiary hearing that requires the trial court to weigh the excessiveness of the award; and

h. Punitive damages are penal in nature and GDTNA is therefore entitled to the same procedural safeguards afforded to criminal defendants under the Fourteenth Amendment of the Constitution of the United States and Article I, Section 3 of the Constitution of South Carolina; as such, proof beyond a reasonable doubt should be required if Plaintiff seeks an award of punitive damages.

FOR A SIXTEENTH DEFENSE

55. To the extent Plaintiff seeks punitive damages against GDTNA under the strict liability or breach of warranty causes of action, those claims are barred because punitive damages are not recoverable under those causes of action.

FOR A SEVENTEENTH DEFENSE

56. GDTNA submits that they are entitled to a set-off or credit for all amounts paid to Plaintiff by any third party, including, but not limited to, Mr. Rodrigues or his insurance company, for the injuries and damages for which Plaintiff now seeks recovery.

FOR AN EIGHTEENTH DEFENSE

57. GDTNA refers to and incorporates herein by reference the terms, limitations, disclaimers and exclusions of any warranties issued with the sale of the subject tire. GDTNA alleges Plaintiff's claims for breach of warranties are barred because Plaintiff's decedent or the tire's owner failed to give timely notice of any alleged breach of warranty. Further, GDTNA would show that Plaintiff's claims for breach of warranties are barred because such warranties are expressly excluded, disclaimed and are limited by the agreements between the parties or by a

written warranty, which accompanied the sale of the product at issue; any warranties had expired prior to the accident date; and plaintiff's recovery for breach of warranty is limited to remedies set forth in the written warranty.

FOR A NINETEENTH DEFENSE

58. To the extent there has been any spoliation of evidence, GDTNA submits that such spoliation prevents Plaintiff from satisfying his burden of proof and prevents GDTNA from adequately preparing a defense to Plaintiff's allegations. GDTNA further submits that it has been irreparably prejudiced by Plaintiff's spoliation of evidence and that Plaintiff's recovery should therefore be barred.

FOR A TWENTIETH DEFENSE

59. GDTNA submits that Plaintiff's injuries and damages, if any, may have been due to, caused and occasioned by Plaintiff's own negligence and therefore, Plaintiff's claims against GDTNA should be barred and reduced by the amount of such negligence.

FOR A TWENTY-FIRST DEFENSE

60. GDTNA submits that it has not had an opportunity to conduct a sufficient investigation or to engage in adequate discovery regarding the circumstances of Plaintiff's allegations. GDTNA intends to act as best it can to inform themselves of the pertinent facts and prevailing circumstances surrounding any reported damage as alleged in Plaintiff's First Amended Complaint, and gives notice of their intent to assert any further defenses that their information gathering process may indicate are supported by fact and law. GDTNA thus reserve the right to amend this Answer and assert additional defenses.

WHEREFORE, having fully answered Plaintiff's First Amended Complaint, GDTNA prays that the First Amended Complaint be dismissed, with prejudice, and for such other and

further relief as the Court may deem just and proper.

/s/ Curtis L. Ott

Curtis L. Ott (Fed. I.D. No. 5939)

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Attorneys for Defendant

Goodyear Dunlop Tires North America, LTD.

April 25, 2013

Columbia, South Carolina

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff

v.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and Goodyear Tire &
Rubber Company, a foreign corporation,

Defendants.

Case No.: 2:13-cv-00419-PMD

**ANSWER OF DEFENDANT THE
GOODYEAR TIRE & RUBBER
COMPANY
(Jury Trial Demanded)**

The Goodyear Tire & Rubber Company ("Goodyear Tire") hereby answers Plaintiff's First Amended Complaint as follows. Each and every allegation not hereinafter specifically admitted, qualified, or explained, is expressly denied.

FOR A FIRST DEFENSE

1. In response to the allegations of Paragraph 1 of Plaintiff's First Amended Complaint, Goodyear Tire admits only that Plaintiff purports to bring this action as the Personal Representative of the Estate of Sarah Mills Hartsock to recover damages pursuant to the wrongful death and survival statutes.

2. Goodyear Tire lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 2 of Plaintiff's First Amended Complaint.

3. In response to the allegations for Paragraph 3 of Plaintiff's First Amended Complaint, Goodyear Tire admits only that Goodyear Dunlop Tires North America, Ltd. ("GDTNA") is a corporation organized pursuant to the laws of a state other than South Carolina. Any allegations in addition to or inconsistent with the above response are denied.

4. In response to the allegations of Paragraph 4 of Plaintiff's First Amended Complaint, Goodyear Tire admits only that it is a corporation organized pursuant to the laws of a state other than South Carolina and that it transacts business in South Carolina. Goodyear Tire denies the remaining allegations of Paragraph 4.

5. In response to the allegations of Paragraph 5 of Plaintiff's First Amended Complaint Goodyear Tire admits, for jurisdictional purposes only, this Court has subject matter jurisdiction over this case pursuant to diversity of citizenship.

6. Goodyear Tire admits, for jurisdictional purposes only, the allegations of Paragraph 6 of Plaintiff's First Amended Complaint.

7. Goodyear Tire admits only that GDTNA manufactured the G670RV size 295/80R22.5 LRH tire referenced in Plaintiff's First Amended Complaint in the United States. Any allegations in addition to or inconsistent with the above response are denied.

8. In response to the allegations of Paragraph 8, Goodyear Tire admits only that it designed, marketed and sold the G670RV size 295/80R22.5 LRH tire referenced in Plaintiff's First Amended Complaint in the United States. Any allegations in addition to or inconsistent with the above response are denied.

9. Goodyear Tire lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 9 of Plaintiff's First Amended Complaint.

10. Goodyear Tire admits it designed, marketed and sold, and GDTNA manufactured, G670RV size 295/80R22.5 tires in the United States. Any allegations in addition to or inconsistent with the above response are denied.

11. Goodyear Tire admits the allegations of Paragraph 11 of Plaintiff's First Amended Complaint.

12. Goodyear Tire lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 12 of Plaintiff's First Amended Complaint.

13. Goodyear Tire lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 13 of Plaintiff's First Amended Complaint.

14. Goodyear Tire lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 14 of Plaintiff's First Amended Complaint.

15. Goodyear Tire lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 15 of Plaintiff's First Amended Complaint.

16. In response to the allegations of Paragraph 16 of Plaintiff's First Amended Complaint, Goodyear Tire admits only that on July 6, 2010, an accident occurred on Interstate Highway 26 in Calhoun County, South Carolina between vehicles driven by Mr. James Rodrigues and Plaintiff's decedent. Goodyear Tire further admits that the RV driven by Mr. Rodrigues traveled through the dividing cable barrier and struck the vehicle Plaintiff's decedent was driving, and that she died in the accident. Any allegations in addition to or inconsistent with the above response are denied.

17. Goodyear Tire lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 17 of Plaintiff's First Amended Complaint.

18. Goodyear Tire denies the allegations of Paragraph 18 of Plaintiff's First Amended Complaint.

19. Goodyear Tire denies the allegations of Paragraph 19 of Plaintiff's First Amended Complaint.

20. Goodyear Tire denies as phrased the allegations of Paragraph 20 of Plaintiff's First Amended Complaint.

21. Goodyear Tire denies as phrased the allegations of Paragraph 21 of Plaintiff's First Amended Complaint.

22. In response to the allegations of Paragraph 22 of Plaintiff's First Amended Complaint, Goodyear Tire admits only that it designed and GDTNA manufactured the subject tire and that it was placed into the stream of commerce. Goodyear Tire lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of Paragraph 22.

23. Goodyear Tire lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 23 of Plaintiff's First Amended Complaint.

24. Goodyear Tire lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 24 of Plaintiff's First Amended Complaint. Goodyear Tire has not examined the tire identified in Plaintiff's First Amended Complaint.

FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION
(Negligence)

25. Goodyear Tire incorporates by reference herein its responses to Paragraphs 1 through 24 of Plaintiff's First Amended Complaint.

26. Goodyear Tire denies the allegations of Paragraph 26, including all subparagraphs, of Plaintiff's First Amended Complaint.

FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION
(Strict Liability)

27. Goodyear Tire incorporates by reference herein its responses to Paragraphs 1 through 26 of Plaintiff's First Amended Complaint.

28. Goodyear Tire lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 28 of Plaintiff's First Amended Complaint.

29. Goodyear Tire denies the allegations of Paragraph 29 of Plaintiff's First Amended Complaint.

30. Goodyear Tire denies the allegations of Paragraph 30 of Plaintiff's First Amended Complaint.

FOR A FIRST DEFENSE TO THE THIRD CAUSE OF ACTION
(Breach of Express and Implied Warranties)

31. Goodyear Tire incorporates by reference herein its responses to Paragraphs 1 through 30 of Plaintiff's First Amended Complaint.

32. In response to the allegations of Paragraph 32 of Plaintiff's First Amended Complaint, Goodyear Tire admits that a written limited warranty was provided with the tire and refers to the written limited warranty for its terms and disclaimers. Goodyear Tire denies any allegations in addition to or inconsistent with the above response.

33. Goodyear Tire denies the allegations of Paragraph 33 of Plaintiff's First Amended Complaint.

34. Goodyear Tire denies the allegations of Paragraph 34 of Plaintiff's First Amended Complaint.

35. Goodyear Tire incorporates by reference herein its responses to Paragraphs 1 through 34 of the First Amended Complaint.

36. In response to the allegations of Paragraph 36 of Plaintiff's First Amended Complaint, Goodyear Tire admits only that Plaintiff purports to bring this action pursuant to the survival statute; otherwise denied.

37. In response to the allegations of Paragraph 37 of Plaintiff's First Amended Complaint, Goodyear Tire lacks knowledge or information sufficient to form a belief about the truth of the allegations of what Plaintiff's decedent witnessed or experienced before, during and

immediately after the accident. Goodyear Tire specifically denies Plaintiff is entitled an award of damages.

38. Goodyear Tire incorporates by reference herein its response to Paragraphs 1 through 37 of the First Amended Complaint.

39. In response to the allegations of Paragraph 39 of Plaintiff's First Amended Complaint, Goodyear Tire admits only that Plaintiff purports to bring this action pursuant to the wrongful death statute; otherwise denied.

40. Goodyear Tire denies the allegations of Paragraph 40 of Plaintiff's First Amended Complaint.

FOR A SECOND DEFENSE

41. Plaintiff's First Amended Complaint in whole or in part, fails to state a claim against Goodyear Tire upon which relief may be granted.

FOR A THIRD DEFENSE

42. Goodyear Tire states that the injuries and damages alleged in Plaintiff's First Amended Complaint may have been caused by an intervening, superseding action for which Goodyear Tire is in no way liable. Plaintiff is therefore not entitled to recover from Goodyear Tire in this action.

FOR A FOURTH DEFENSE

43. Goodyear Tire states that the sole proximate cause of the injuries and damages alleged in Plaintiff's First Amended Complaint may have been the actions, omissions, or negligence of a person or persons other than Goodyear Tire for whose actions, omissions, or negligence Goodyear Tire is in no way liable. Plaintiff is therefore not entitled to recover from Goodyear Tire in this action.

FOR A FIFTH DEFENSE

44. Goodyear Tire states that the proximate cause of the injuries and damages alleged in Plaintiff's First Amended Complaint may have been the misuse, improper maintenance and/or abuse of the subject tire for which Goodyear Tire is not responsible. Plaintiff is therefore not entitled to recover from Goodyear Tire in this action.

FOR A SIXTH DEFENSE

45. Goodyear Tire submits that the damages for which Plaintiff seeks recovery may be due to and proximately caused by the modification or alteration of the subject tire which bars Plaintiffs' recovery.

FOR A SEVENTH DEFENSE

46. Goodyear Tire pleads the defenses of sophisticated user and/or learned intermediary that may bar or limit recovery against Goodyear Tire.

FOR AN EIGHTH DEFENSE

47. Goodyear Tire affirmatively pleads the content of S.C. Code Ann. § 15-73-20 as a complete defense to the allegations of Plaintiff's First Amended Complaint.

FOR A NINTH DEFENSE

48. Goodyear Tire pleads applicability of The Economic Development, Citizens and Small Business Protection Act of 2005, effective July 1, 2005, which amended S.C. Code Ann. §§ 15-38-15 [joint and several liability], and other pertinent statutory sections, and invoke the remedies and procedures provided therein. Specifically, Goodyear Tire submits that they are entitled to a proper apportionment of fault among all other potential tortfeasors, whether they are named as a defendant or not.

FOR A TENTH DEFENSE

49. Goodyear Tire submits that the subject tire was designed, manufactured and assembled in compliance with applicable industry and governmental standards and regulations and, therefore, Plaintiff cannot recover against Goodyear Tire.

FOR AN ELEVENTH DEFENSE

50. Goodyear Tire submits that the subject tire was designed, manufactured and assembled consistent with the prevailing industry customs and practices and, therefore, Plaintiff cannot recover against Goodyear Tire.

FOR A TWELFTH DEFENSE

51. Goodyear Tire submits that the subject tire was designed, manufactured and assembled in conformance with the state-of-the-art and did not present an unreasonable risk of harm to Plaintiff's decedent and, therefore, Plaintiff cannot recover against Goodyear Tire.

FOR A THIRTEENTH DEFENSE

52. Goodyear Tire affirmatively pleads all defenses that are or may become available to Goodyear Tire under *Restatement Second of Torts*, § 402A and the comments thereto as codified by *S.C. Code Ann.* § 15-73-30.

FOR A FOURTEENTH DEFENSE

53. Goodyear Tire submits that Plaintiff's claims, in whole or in part, are expressly or impliedly preempted by federal law.

FOR A FIFTEENTH DEFENSE

54. Goodyear Tire states that to the extent Plaintiff's First Amended Complaint seeks the recovery of punitive damages, they are unconstitutional on the following grounds:

- a. An award of punitive damages in this case would violate Goodyear Tire's rights

under the Contract Clause of Article I, Section 10 of the Constitution of the United States and Article I, Section 4 of the Constitution of South Carolina;

b. An award of punitive damages in this case would violate the Equal Protection Clause of the United States Constitution and of the Constitution of South Carolina;

c. An award of punitive damages in this case would violate the Excessive Fines Clause of the United States Constitution and of the Constitution of South Carolina;

d. Lack of sufficient standards governing whether to award punitive damages and the amount of such punitive damages in South Carolina violates the Due Process Clause of the Fourteenth Amendment of the Constitution of the United States and Article I, Section 3 of the Constitution of South Carolina;

e. An award of punitive damages in this case would violate Goodyear Tire's due process rights guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 3 of the Constitution of South Carolina because South Carolina's law regarding the standards for determining liability for in the amount of punitive damages fails to give Goodyear Tire's prior notice of the conduct for which punitive damages may be imposed;

f. An award of punitive damages in this case would violate Goodyear Tire's due process rights guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 3 of the Constitution of South Carolina because under South Carolina law, a jury award of punitive damages is not subject to post-trial and appellate court review under constitutionally adequate objective standards to assure that the award is rationally related to the state's legitimate goals of deterrence and retribution;

g. An award of punitive damages in this case would violate Goodyear Tire's due process rights guaranteed by the Fourteenth Amendment to the United States Constitution and

Article I, Section 3 of the Constitution of South Carolina because under South Carolina law, a jury award of punitive damages is not subject to post-trial review through an evidentiary hearing that requires the trial court to weigh the excessiveness of the award; and

h. Punitive damages are penal in nature and Goodyear Tire is therefore entitled to the same procedural safeguards afforded to criminal defendants under the Fourteenth Amendment of the Constitution of the United States and Article I, Section 3 of the Constitution of South Carolina; as such, proof beyond a reasonable doubt should be required if Plaintiff seeks an award of punitive damages.

FOR A SIXTEENTH DEFENSE

55. To the extent Plaintiff seeks punitive damages against Goodyear Tire under the strict liability or breach of warranty causes of action, those claims are barred because punitive damages are not recoverable under those causes of action.

FOR A SEVENTEENTH DEFENSE

56. Goodyear Tire submits that they are entitled to a set-off or credit for all amounts paid to Plaintiff by any third party, including, but not limited to, Mr. Rodrigues or his insurance company, for the injuries and damages for which Plaintiff now seeks recovery.

FOR AN EIGHTEENTH DEFENSE

57. Goodyear Tire refers to and incorporates herein by reference the terms, limitations, disclaimers and exclusions of any warranties issued with the sale of the subject tire. Goodyear Tire alleges Plaintiff's claims for breach of warranties are barred because Plaintiff's decedent or the tire's owner failed to give timely notice of any alleged breach of warranty. Further, Goodyear Tire would show that Plaintiff's claims for breach of warranties are barred because such warranties are expressly excluded, disclaimed and are limited by the agreements

between the parties or by a written warranty, which accompanied the sale of the product at issue; any warranties had expired prior to the accident date; and plaintiff's recovery for breach of warranty is limited to remedies set forth in the written warranty.

FOR A NINETEENTH DEFENSE

58. To the extent there has been any spoliation of evidence, Goodyear Tire submits that such spoliation prevents Plaintiff from satisfying his burden of proof and prevents Goodyear Tire from adequately preparing a defense to Plaintiff's allegations. Goodyear Tire further submits that it has been irreparably prejudiced by Plaintiff's spoliation of evidence and that Plaintiff's recovery should therefore be barred.

FOR A TWENTIETH DEFENSE

59. Goodyear Tire submits that Plaintiff's injuries and damages, if any, may have been due to, caused and occasioned by Plaintiff's own negligence, and therefore, Plaintiff's claims against Goodyear Tire should be barred and reduced by the amount of such negligence.

FOR A TWENTY-FIRST DEFENSE

60. Goodyear Tire submits that it has not had an opportunity to conduct a sufficient investigation or to engage in adequate discovery regarding the circumstances of Plaintiff's allegations. Goodyear Tire intends to act as best it can to inform themselves of the pertinent facts and prevailing circumstances surrounding any reported damage as alleged in Plaintiff's First Amended Complaint, and gives notice of their intent to assert any further defenses that their information gathering process may indicate are supported by fact and law. Goodyear Tire thus reserves the right to amend this Answer and assert additional defenses.

WHEREFORE, having fully answered Plaintiff's First Amended Complaint, Goodyear Tire prays that the First Amended Complaint be dismissed, with prejudice, and for such other

and further relief as the Court may deem just and proper.

/s/ Curtis L. Ott

Curtis L. Ott (Fed. I.D. No. 5939)

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Attorneys for Defendant

The Goodyear Tire & Rubber Company

April 25, 2013
Columbia, South Carolina

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff,

v.

Goodyear Dunlop Tires North America,
LTD, a foreign corporation; and The
Goodyear Tire & Rubber Company, a
foreign corporation,

Defendants.

Case No.: 2:13-cv-00419-PMD

CONFIDENTIALITY ORDER

Whereas, the parties to this Consent Confidentiality Order (“parties”), have stipulated that certain discovery material is and should be treated as confidential, and have agreed to the terms of this order; accordingly, it is this 9th day of September, 2013, ORDERED:

1. **Scope.** All documents produced in the course of discovery, all responses to discovery requests and all deposition testimony and deposition exhibits and any other materials which may be subject to discovery (hereinafter collectively “documents”) shall be subject to this Order concerning confidential information as set forth below.

2. **Form and Timing of Designation.** Confidential documents shall be so designated by placing or affixing the word “CONFIDENTIAL” on the document in a manner which will not interfere with the legibility of the document and which will permit complete removal of the Confidential designation. Documents shall be designated CONFIDENTIAL prior to, or contemporaneously with, the production or disclosure of the documents. Inadvertent or unintentional production of documents without prior designation as confidential shall not be

deemed a waiver, in whole or in part, of the right to designate documents as confidential as otherwise allowed by this Order.

3. **Documents Which May be Designated Confidential.** Any party may designate documents as confidential but only after review of the documents by an attorney¹ who has, in good faith, determined that the documents contain information protected from disclosure by statute, sensitive personal information, trade secrets, or confidential research, development, or commercial information. The certification shall be made concurrently with the disclosure of the documents, using the form attached hereto at Attachment A which shall be executed subject to the standards of Rule 11 of the Federal Rules of Civil Procedure. Information or documents which are available in the public sector may not be designated as confidential.

4. **Depositions.** Portions of depositions shall be deemed confidential only if designated as such when the deposition is taken or within seven business days after receipt of the transcript. Such designation shall be specific as to the portions to be protected.

5. **Protection of Confidential Material.**

a. **General Protections.** Documents designated CONFIDENTIAL under this Order shall not be used or disclosed by the parties or counsel for the parties or any other persons identified below (§ 5.b.) for any purposes whatsoever other than preparing for and conducting the litigation in which the documents were disclosed (including any appeal of that litigation). The parties shall not disclose documents

¹ The attorney who reviews the documents and certifies them to be CONFIDENTIAL must be admitted to the Bar of at least one state but need not be admitted to practice in the District of South Carolina and need not apply for *pro hac vice* admission. By signing the certification, counsel submits to the jurisdiction of this court in regard to the certification.

designated as confidential to putative class members not named as plaintiffs in putative class litigation unless and until one or more classes have been certified.

b. **Limited Third Party Disclosures.** The parties and counsel for the parties shall not disclose or permit the disclosure of any documents designated CONFIDENTIAL under the terms of this Order to any other person or entity except as set forth in subparagraphs (1)-(5) below, and then only after the person to whom disclosure is to be made has executed an acknowledgment (in the form set forth at Attachment B hereto), that he or she has read and understands the terms of this Order and is bound by it. Subject to these requirements, the following categories of persons may be allowed to review documents which have been designated CONFIDENTIAL pursuant to this Order:

- (1) counsel and employees of counsel for the parties who have responsibility for the preparation and trial of the lawsuit;
- (2) parties and employees of a party to this Order but only to the extent counsel shall certify that the specifically named individual party or employee's assistance is necessary to the conduct of the litigation in which the information is disclosed²;
- (3) court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making photocopies of documents;

² At or prior to the time such party or employee completes his or her acknowledgment of review of this Order and agreement to be bound by it (Attachment B hereto), counsel shall complete a certification in the form shown at Attachment C hereto. Counsel shall retain the certification together with the form signed by the party or employee.

(4) consultants, investigators, or experts (hereinafter referred to collectively as “experts”) employed by the parties or counsel for the parties to assist in the preparation and trial of the lawsuit; and

(5) other persons only upon consent of the producing party or upon order of the court and on such conditions as are agreed to or ordered.

c. **Control of Documents.** Counsel for the parties shall take reasonable efforts to prevent unauthorized disclosure of documents designated as Confidential pursuant to the terms of this order. Counsel shall maintain a record of those persons, including employees of counsel, who have reviewed or been given access to the documents along with the originals of the forms signed by those persons acknowledging their obligations under this Order.

d. **Copies.** All copies, duplicates, extracts, summaries or descriptions (hereinafter referred to collectively as “copies”), of documents designated as Confidential under this Order or any portion of such a document, shall be immediately affixed with the designation “CONFIDENTIAL” if the word does not already appear on the copy. All such copies shall be afforded the full protection of this Order.

6. **Filing of Confidential Materials.** In the event a party seeks to file any material that is subject to protection under this Order with the court, that party shall take appropriate action to insure that the documents receive proper protection from public disclosure including: (1) filing a redacted document with the consent of the party who designated the document as confidential; (2) where appropriate (*e.g.* in relation to discovery and evidentiary motions), submitting the documents solely for *in camera* review; or (3) where the preceding measures are

not adequate, seeking permission to file the document under seal pursuant to the procedural steps set forth in Local Civil Rule 5.03, DSC, or such other rule or procedure as may apply in the relevant jurisdiction. Absent extraordinary circumstances making prior consultation impractical or inappropriate, the party seeking to submit the document to the court shall first consult with counsel for the party who designated the document as confidential to determine if some measure less restrictive than filing the document under seal may serve to provide adequate protection. This duty exists irrespective of the duty to consult on the underlying motion. Nothing in this Order shall be construed as a prior directive to the Clerk of Court to allow any document be filed under seal. The parties understand that documents may be filed under seal only with the permission of the court after proper motion pursuant to Local Civil Rule 5.03.

7. **Greater Protection of Specific Documents.** No party may withhold information from discovery on the ground that it requires protection greater than that afforded by this Order unless the party moves for an Order providing such special protection.

8. **Challenges to Designation as Confidential.** Any CONFIDENTIAL designation is subject to challenge. The following procedures shall apply to any such challenge.

- a. The burden of proving the necessity of a Confidential designation remains with the party asserting confidentiality.
- b. A party who contends that documents designated CONFIDENTIAL are not entitled to confidential treatment shall give written notice to the party who affixed the designation of the specific basis for the challenge. The party who so designated the documents shall have fifteen (15) days from service of the written notice to determine if the dispute can be resolved without judicial intervention and, if not, to move for an Order confirming the Confidential designation.

c. Notwithstanding any challenge to the designation of documents as confidential, all material previously designated CONFIDENTIAL shall continue to be treated as subject to the full protections of this Order until one of the following occurs:

- (1) the party who claims that the documents are confidential withdraws such designation in writing;
- (2) the party who claims that the documents are confidential fails to move timely for an Order designating the documents as confidential as set forth in paragraph 9.b. above; or
- (3) the court rules that the documents should no longer be designated as confidential information.

d. Challenges to the confidentiality of documents may be made at any time and are not waived by the failure to raise the challenge at the time of initial disclosure or designation.

9. Treatment on Conclusion of Litigation.

a. **Order Remains in Effect.** All provisions of this Order restricting the use of documents designated CONFIDENTIAL shall continue to be binding after the conclusion of the litigation unless otherwise agreed or ordered.

b. **Return of CONFIDENTIAL Documents.** Within thirty (30) days after the conclusion of the litigation, including conclusion of any appeal, all documents treated as confidential under this Order, including copies as defined above (¶5.d.) shall be returned to the producing party unless: (1) the document has been entered as evidence or filed (unless introduced or filed under seal); (2) the parties stipulate

to destruction in lieu of return; or (3) as to documents containing the notations, summations, or other mental impressions of the receiving party, that party elects destruction. Notwithstanding the above requirements to return or destroy documents, counsel may retain attorney work product including an index which refers or relates to information designated CONFIDENTIAL so long as that work product does not duplicate verbatim substantial portions of the text of confidential documents. This work product continues to be Confidential under the terms of this Order. An attorney may use his or her work product in a subsequent litigation provided that its use does not disclose the confidential documents.

10. **Order Subject to Modification.** This Order shall be subject to modification on motion of any party or any other person who may show an adequate interest in the matter to intervene for purposes of addressing the scope and terms of this Order. The Order shall not, however, be modified until the parties shall have been given notice and an opportunity to be heard on the proposed modification.

11. **No Judicial Determination.** This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be construed or presented as a judicial determination that any specific document or item of information designated as CONFIDENTIAL by counsel is subject to protection under Rule 26(c) of the Federal Rules of Civil Procedure or otherwise until such time as a document-specific ruling shall have been made.

12. **Persons Bound.** This Order shall take effect when entered and shall be binding upon: (1) counsel who signed below and their respective law firms; and (2) their respective clients.

IT IS SO ORDERED.


PATRICK MICHAEL DUFFY
United States District Judge

Charleston, South Carolina

**ATTACHMENT A
CERTIFICATION BY COUNSEL OF DESIGNATION
OF INFORMATION AS CONFIDENTIAL**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff,

v.

Goodyear Dunlop Tires North America,
LTD, a foreign corporation; and The
Goodyear Tire & Rubber Company, a
foreign corporation,

Defendants.

Case No.: 2:13-cv-00419-PMD

**CERTIFICATION BY COUNSEL OF
DESIGNATION OF INFORMATION AS
CONFIDENTIAL**

Documents produced herewith [whose bates numbers are listed below (or) which are listed on the attached index] have been marked as CONFIDENTIAL subject to the Confidentiality Order entered in this action which Order is dated [confidentiality order date].

By signing below, I am certifying that I have personally reviewed the marked documents and believe, based on that review, that they are properly subject to protection under the terms of Paragraph 3 of the Confidentiality Order.

Check and complete one of the two options below.

- ☐ I am a member of the Bar of the United States District Court for the District of South Carolina. My District Court Bar number is [District Court Bar #].
- ☐ I am not a member of the Bar of the United States District Court for the District of South Carolina but am admitted to the bar of one or more states. The state in which I conduct the majority of my practice is [state in which I practice most] where my Bar number is [that state's Bar #]. I understand that by completing this certification I am submitting to the jurisdiction of the United States District Court for the District of South Carolina as to any matter relating to this certification.

Date: [date attachment A signed]

[Signature of Counsel [s/name]]
Signature of Counsel

[Printed Name of Counsel [A]]
Printed Name of Counsel

ATTACHMENT B

**ACKNOWLEDGMENT OF UNDERSTANDING
AND
AGREEMENT TO BE BOUND**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff,

v.

Goodyear Dunlop Tires North America,
LTD, a foreign corporation; and The
Goodyear Tire & Rubber Company, a
foreign corporation,

Defendants.

Case No.: 2:13-cv-00419-PMD

**ACKNOWLEDGMENT OF
UNDERSTANDING AND AGREEMENT
TO BE BOUND**

The undersigned hereby acknowledges that he or she has read the Confidentiality Order dated [confidentiality order date], in the above captioned action, understands the terms thereof, and agrees to be bound by such terms. The undersigned submits to the jurisdiction of the United States District Court for the District of South Carolina in matters relating to the Confidentiality Order and understands that the terms of said Order obligate him/her to use discovery materials designated CONFIDENTIAL solely for the purposes of the above-captioned action, and not to disclose any such confidential information to any other person, firm or concern.

The undersigned acknowledges that violation of the Stipulated Confidentiality Order may result in penalties for contempt of court.

Name: [undersigned name [att B]]

Job Title: [Job Title [att B]]

Employer: [Employer [att B]]

Business Address: [Business Address [att B]]

Date: [date attachment B signed]

[Signature [attachment B]]
Signature

ATTACHMENT C

**CERTIFICATION OF COUNSEL OF NEED
FOR ASSISTANCE OF PARTY/EMPLOYEE**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff,

v.

Goodyear Dunlop Tires North America,
LTD, a foreign corporation; and The
Goodyear Tire & Rubber Company, a
foreign corporation,

Defendants.

Case No.: 2:13-cv-00419-PMD

**CERTIFICATION OF COUNSEL OF NEED
FOR ASSISTANCE OF
PARTY/EMPLOYEE**

Pursuant to the Confidentiality Order entered in this action, most particularly the provisions of Paragraph 5.b.2., I certify that the assistance of [name of assistant [att C]] is reasonably necessary to the conduct of this litigation and that this assistance requires the disclosure to this individual of information which has been designated as CONFIDENTIAL.

I have explained the terms of the Confidentiality Order to the individual named above and will obtain his or her signature on an "Acknowledgment of Understanding and Agreement to be Bound" prior to releasing any confidential documents to the named individual and I will release only such confidential documents as are reasonably necessary to the conduct of the litigation.

The individual named above is:

- ☐ A named party;
- ☐ An employee of named party [employee of named party]. This employee's job title is [employee's job title] and work address is [employee's work address].

Date: [date attachment C signed]

[Signature [attachment C]]
Signature

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

CIVIL ACTION NO. 2:13-cv-00419-PMD

THEODORE G. HARTSOCK, JR., AS PERSONAL	)	
REPRESENTATIVE OF THE ESTATE OF	)	
SARAH MILLS HARTSOCK,	)	
	)	
Plaintiff,	)	
	)	
-versus-	)	
	)	
GOODYEAR DUNLOP TIRES NORTH AMERICA,	)	
LTC., a foreign corporation; and THE GOODYEAR	)	
TIRE & RUBBER COMPANY, a foreign corporation,	)	
	)	
Defendants.	)	
	)	

PLAINTIFF'S NOTICE OF MOTION AND MOTION TO COMPEL

YOU WILL PLEASE TAKE NOTICE THAT the Plaintiff above named, by and through his undersigned counsel, will move before the Honorable P. Michael Duffy, United States District Judge, for the District of South Carolina, Charleston Division, at such time and place as the Court may appoint, for an order pursuant to Rules 26, 33, 34 and 37, Fed.R.Civ.P., for an order requiring Defendants to fully and completely respond to Plaintiff's Fifth Discovery Requests. Defendant's initial responses were received on May 23, 2014 (Exhibit A), supplemental responses were received October 7, 2014 (Exhibit B) and March 19, 2015. (Exhibit C).¹

Plaintiff specifically seeks an order compelling full responses to Discovery Request No's 9, 57, 68, 96 and 107 as discussed more fully below.

¹ The discovery responses of Defendants Goodyear and Dunlop are identical as to content. Accordingly, the individual responses are not differentiated and only Defendant Goodyear's responses are referred to and attached to this Motion.

A. FACTUAL OVERVIEW

On July 6, 2010, a 45 foot long recreational vehicle (RV) traveling east on Interstate 26 in Calhoun County, South Carolina, experienced a tread-belt separation of the left front tire that caused the driver to lose control, crash through the cable barrier, and collide with a westbound vehicle driven by Sarah Mills Hartsock, Plaintiff's wife, in the westbound lanes. Mrs. Hartsock died at the scene.

The RV that collided with Mrs. Hartsock's vehicle was equipped with tires manufactured by Defendant Goodyear Dunlop Tires North America, LTD (Dunlop), and designed, manufactured, marketed and distributed by Defendant Goodyear Tire & Rubber Company (Goodyear). The tires are G670RV, 295/80R22.5, load range H (the Subject Tire), manufactured in Buffalo, New York. Plaintiff brings suit under South Carolina's wrongful death and survival statutes, asserting that the RV's tire was defective and seeking recovery under product liability theories.

B. BACKGROUND OF DISPUTE

On June 24, 2014, Plaintiff took the deposition of Jim Koerner (Koerner) in Akron, Ohio. Koerner is the Goodyear design engineer who designed the G670RV, 295/80R22.5, load range H tire. (Exhibit D, Koerner Deposition 39:23-40-:1). He is also the designer of other tires of various sizes in the G670 product line. Plaintiff was aware of this fact prior to Koerner's deposition and considers Koerner's deposition to be one of the most important depositions in this case. Accordingly, prior to taking his deposition, Plaintiff sought to have in hand all relevant documents needed to conduct a thorough and cogent deposition of the tire designer. During the months leading up to the June 24, 2014 deposition, Plaintiff sent several discovery requests to Defendants and

followed up on a prior motion to compel (D.E. No. 73) in order to ensure that all of the relevant documents were received in advance of the deposition. At Koerner's deposition it immediately became clear that, notwithstanding Plaintiff's extensive discovery efforts, there were many documents responsive to Plaintiff's earlier discovery requests that had not been produced and were not available for use in the deposition.

In an effort to resolve issues concerning withheld documents, Plaintiff's counsel wrote defense counsel on August 11, 2014 identifying the documents that should have been produced in response to earlier discovery requests. (Exhibit E). The documents that had not been produced were specified using the terms and descriptions provided by Koerner, with references to the deposition pages where Koerner identified and/or discussed the documents. Plaintiff anticipated that Defendants would voluntarily agree to provide the missing materials clearly identified by Goodyear's employee.

Defendants instead responded by letter on October 7, 2014. (Exhibit F). The response stated that the defense needed "clarification" and needed the Plaintiff to "elaborate on the relevance of such information" so that they could consider the Plaintiff's requests in good faith. Some additional documents were provided in response to Interrogatory No's 68 and 98. (Exhibit F, p. 4).

A formal meet and confer telephone conference occurred on November 17, 2014, wherein Plaintiff's counsel attempted to answer Defendants' questions and concerns. At the end of the conference defense counsel indicated that they would respond further and agreed to search for and provide some additional information. Additional telephone conferences occurred on November 25, December 9, and December 12, 2014.

Defendants made a further written response on December 22, 2014. (Exhibit G). In a letter of that date they outlined their positions on the additional document production based upon the clarifications and demonstration of relevance provided by Plaintiff's counsel on November 17, 2014.

After the holidays Plaintiff emailed defense counsel to determine why no additional responses or materials had been provided. (Exhibit H).

On January 30, 2015, Defendants provided an additional response (Exhibit I) stating that supplemental documents referenced in the December 22 correspondence would be provided within ten days. No documents were produced. After further inquiry by Plaintiff's counsel on February 24, 2015 Defendants responded that they would begin producing documents during that week. (Exhibit J). On March 19, 2015 Defendants served additional responses. (Exhibit C).

C. GENERAL LAW

Rule 26(b), Fed. R. Civ. P., provides:

Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense—including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons who knows of any discoverable matter. . . . Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.

Relevance is determined by whether the information sought bears on, or "reasonably could lead to other matter that could bear on, any issue that is or may be in the case." Beazer Homes Corp. v. Hartford Fire Ins. Co., 2012 U.S. Dist. LEXIS 176782, *15 (D.S.C. Dec. 13, 2012) citing Oppenheimer Fund, Inc. v. Sanders, 437 U.S. 340, 351, 98 S. Ct. 2380, 57 L. Ed. 2d 253 (1978).

Generally, the purpose of discovery is to remove surprise from trial preparation so the parties can obtain evidence necessary to evaluate and resolve their dispute. Toward this end, Rule 26(b) is liberally interpreted to permit wide-ranging discovery of all information reasonably calculated to lead to discovery of admissible evidence; but the discoverable information need not be admissible at the trial.

In re MI Windows & Doors, Inc., 2013 U.S. Dist. LEXIS 5089, *2 (D.S.C. Apr. 9, 2013) citing U.S. E.E.O.C. v. Ian Schrager Hotels, Inc., 2000 U.S. Dist. LEXIS 21501, *3 (C.D. Cal. Mar. 8, 2000). "The party opposing a motion to compel bears the burden of showing why it should not be granted." Beazer Homes at *15.

D. DISCOVERY RESPONSES

Discovery Request No. 96: Any and all documents reflecting the idea conception, prototype and the Development Files, and Revision Histories for all G670 tires.

This request seeks the design files for the tires in the G670 line. Plaintiff has alleged both design defects and manufacturing defects in this case. It is axiomatic that, in a product liability design defect case, the design materials and design files are relevant and discoverable. In fact, the Court has previously ordered production of design materials for the inner liner, not only for the subject G670 size tire but for the other sizes in the G670 line. (DE 56, pp. 15-16; DE 65, pp. 3-5).²

² The court granted Plaintiff's Motion to Compel Goodyear to respond to this discovery request:

11) Produce any and all documents regarding the specification for the inner liner of the Goodyear G670RV, any specification changes to the inner liner, who was involved with any specification changes and why specifications were changed for the inner liner of any Goodyear G670RV. This includes all Goodyear G670RV tires, whether manufactured in the Buffalo plant or any other plant.

Incredibly, during Koerner's deposition he testified that the design file produced by Goodyear during discovery is not the complete design file for the G670RV 295/80R22.5 tire. Although Koerner participated in responding to discovery, Goodyear never asked him to pull his design file from the storage vault and his design file for his work in designing the Subject Tire has never been produced. (Exhibit D, Koerner Deposition 70:14-73:21). Goodyear's failure to provide a complete design file for the Subject Tire, suggests that it is unlikely Goodyear did a complete search, including pulling documents from the storage vault, for the inner liner specifications and changes as to the other tires in the G670 line. As a result of Goodyear's failure to provide all relevant documents, Plaintiff did not have access to the complete design materials at the deposition of the designer for the Subject Tire. Moreover, Plaintiff's lack of a complete collection of inner liner materials concerning the other tires in the G670 line hampered his ability to fully delve into the decision making processes that produced tire designs of varying inner liner thickness within the G670 line and to determine the engineering bases for the thickness of the Subject Tire inner liner.

Apparently recognizing that the discovery responses had not been full and complete Defendants served supplemental responses to Plaintiffs Fifth Request to Produce on October 7, 2014. (Exhibit B). The supplemental responses did not indicate whether the design file stored in the storage vault was being produced. Only 47 additional pages, Hartsock.021960/022007, were produced in conjunction with the supplemental responses.

Although the request for production asks for the design files for all tires in the G670 line, the production provided on October 7, 2014 included some documents for

the tire size at issue in this case 295/80R22.5 and six pages for only one of the other tires sizes in the G670 line, the 295/75R22.5 (Hartsock.021961, 021964, 021967, 021970, 021973 and 022003). No supplemental response regarding the other tires in the G670 line was provided.

A development file is the genesis of every tire design. It contains the design goals and philosophy, the rules and rationale for the design parameters, and the testing performed on the design prototypes. A development file also contains documents which evaluate potential design considerations and alternatives. These include those design elements that existed in other tire lines and that were adopted for use in the Subject Tire design or were at least considered for inclusion. It is hard to fathom that the Defendant would not have obtained the original file materials from the storage vault where they are kept in order to respond to the Plaintiff's discovery requests. Moreover, it seems likely to Plaintiff that the most important documents are the ones kept in the vault.

Defendants' discovery responses do not in any way indicate that they were producing materials except those kept in the storage vault. Defendants also do not claim that they overlooked or forgot about the existence of the storage vault when they responded to discovery. That would be a difficult position to defend since Goodyear employed the assistance of the tire designer, Koerner, to locate documents for production in this case. Koerner was unreservedly forthcoming during his deposition about the existence of files kept in the storage vault.

Neither Defendants' supplemental responses nor the cover letter accompanying them (Exhibit B), indicate the source of the additional documents produced on October 7, 2014. Possibly they were retrieved from the storage vault. Regardless of where they

came from, they reveal the existence of other documents which have not been produced. By way of example, Hartsock.021976³ is the developmental schedule estimate chart for the tire. It references certain events and other documents that have not been produced [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Hartsock.021977⁴ is an email confirming a meeting [REDACTED]

[REDACTED] No minutes or documents associated with this meeting have been produced.

Without the requested information Plaintiff will not be able to compare the Subject Tire to the other sizes in the G670 line to determine if the other tires in the line are more robust than the Subject Tire. Further, as discussed in additional detail below in connection with Discovery Request No. 68, Plaintiff also seeks to compare the Dunlop plant made design of the Subject Tire with the Goodyear plant made designs of other tires in the G670 line. Plaintiff has incomplete design data for the other tires in the line. (Exhibit K). On January 7, 2014 Defendants produced inner liner design data for seven of the ten tires in the G670 line. On February 14, 2014 Defendants produced

³ In accordance with Confidentiality Order ¶6(2), Plaintiff will provide this document to the Court for *in camera* review.

⁴ In accordance with Confidentiality Order ¶6(2), Plaintiff will provide this document to the Court for *in camera* review.

drawings for the same seven tires. The question remains whether these productions included documents from the storage vault. Only with complete design files for each of the tires in the G670 line will Plaintiff be able to meaningfully evaluate the design of the Subject Tire.

Plaintiff seeks an Order from the Court requiring a supplemental response wherein Defendants affirmatively state that the design files for all of the tires in the G670 line have been retrieved from the storage vault identified by Koerner and that the complete design files for each of the tires in the G670 line have been produced and provided to Plaintiff. Additionally, Plaintiff requests the Court's permission to reopen Koerner's deposition to address the additional file materials that were provided after his deposition and that should have been produced and available at the time he was originally deposed.

Discovery Request No. 9: Any and all documents reflecting any communications or notice provided to the NHTSA or any governmental or quasi governmental agency or entity concerning G670 tires or the marginal safety margin acknowledged by Terry Parsons.

Discovery Request No. 57: Any and all documents concerning any task force, committee, or team that dealt with RV tire issues and problems, including field performance and adjustment and claim trends that were undesirable.

Discovery Request No. 107: Any and all documents provided to or received from, or correspondence to or from, the NHTSA [National Highway Traffic and Safety Administration] regarding G670 or RV tires including any reporting to NHTSA regarding G670 or RV tires and all updates pursuant to the TREAD Act, 49

CFR Parts 571, 573, 579 or the EWR [early warning reporting] aspect of the TREAD Act.

These three requests seek Defendants' documents referencing problems and defect trends, including communications with the National Highway Traffic Safety Association (NHTSA). NHTSA is the organization charged with responsibility for monitoring and ensuring safety of motor vehicles on the roadway. Following the nation's largest tire recall in the early 2000's involving Firestone tires, Congress passed the Transportation Recall Enhancement, Accountability, and Document Act (TREAD Act), 49 U.S.C. §§ 30101-30170, enacted November 1, 2000, which added new subsection (m) to 49 U.S.C. § 30166.

The TREAD Act was enacted in the context of substantial numbers of deaths that occurred in the United States after defect-related deaths had occurred in South America and the Middle East. The multinational corporations that made and sold the vehicle (Ford Explorer) and equipment (Firestone tires) were aware of assertions that their products had caused these deaths and had conducted safety campaigns in foreign countries. They had not informed NHTSA of these matters and NHTSA was not aware of them until after it opened a formal defect investigation in the spring of 2000. Congress sought to correct this reporting deficiency, among other things.

67 Fed. Reg. 45822, 45826 (2002). The goal was to prevent another Firestone situation that festered for years and went unreported to NHTSA and the general public until exposed by the civil litigation process. For the first time an affirmative obligation was placed on tire manufacturers to provide to NHTSA "early warning" reports of injuries, deaths, claims, and defect trends and problems. 49 C.F.R. § 579.

In Koerner's deposition Plaintiff learned for the first time that Goodyear [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]⁵

Goodyear's data about [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] they have "stood on their objections" (Exhibit F, p. 4), referred Plaintiff to the NHTSA website (Exhibit G, p. 4) and asserted that they were unable to locate any non-protected documents. (Exhibit C, p. 3). Plaintiff has attempted to independently locate the data through public records searches but has been unable to obtain the information.

[REDACTED]
[REDACTED]
[REDACTED]

Plaintiff seeks an Order from the Court requiring Defendants to produce all documents associated with any "early warning" notification to NHTSA.

Discovery Request No. 68: Any and all documents, both in print and electronic format, reflecting inner liner targets and minimums referenced in the

⁵ Koerner Deposition 143:24-144:25 and 148:19-152:5, designated confidential by Defendants on July 22, 2014. In accordance with Confidentiality Order ¶6(2), Plaintiff has not attached the deposition excerpt hereto as an exhibit but will provide it to the Court for *in camera* review.

GMS computer (Goodyear's electronic reference guide for tire design) stored data base regarding inner liners in tires. Please see deposition of Terry Parsons Day #2, P. 419, L. 14 – P. 420, L. 1.⁶

This request seeks the Goodyear inner liner design criteria that Goodyear's own corporate representative, Terry Parsons (Parsons), revealed in the earlier Green case.⁷ Parsons testified that the inner liner design criteria were reference standards used to design tires. This includes the tire at issue in this case.

Defendants are aware that one of Plaintiff's defect theories in this case, as it was in the Green case, is that the inner liner of the tire was too thin. The deficient inner liner allowed highly pressurized inflation air to pass from the air chamber of the tire into the structure and steel belt package, causing separations. This tire failure phenomenon was acknowledged by Koerner.⁸

The Subject Tire was the second largest tire in the G670 line and was designed to be operated at the highest inflation pressure and carry more weight than all the other tires in the line, except one, yet it had one of the thinnest inner liners of all tires in the G670 line. The Subject Tire was manufactured at a Dunlop plant, as opposed to Goodyear plants where all the other tires in the G670 line were manufactured.

⁶ Parsons Deposition May 10, 2012, 419:14-420:1. In accordance with Confidentiality Order ¶6(2), Plaintiff has not attached the deposition excerpt hereto as an exhibit but will provide it to the Court for *in camera* review.

⁷ Kenneth J. Green, Nicole Ammons as Personal Representative of the Estate of William Y. Green, deceased, and Katherine Youngblood, as Personal Representative for the Estate of Jean M. Hodgins, deceased, v. Goodyear et al. (Palm Beach County Circuit Court, Case Nos. 50-2010 CA 003001 XXXX MB; 50-2010 CA 003026 XXXX MB; and 50-2010 CA 016336 XXXX MB) (collectively "the Green case")

⁸ Koerner Deposition 202:22-204:24, designated confidential by Defendants on July 22, 2014. In accordance with Confidentiality Order ¶6(2), Plaintiff has not attached the deposition excerpt hereto as an exhibit but will provide it to the Court for *in camera* review.

The relevance of the Subject Tire's inner liner thickness, particularly in comparison to other tires in the line designed for lesser inflation and weight bearing, is clear. Goodyear publishes design standards and guidelines that provide the company's engineering philosophy on how tires should be designed, including the thicknesses and materials used in the various components of the tire. Although the tire at issue said "Goodyear" on the side wall, it was essentially a Dunlop tire made at a Dunlop plant, pursuant to Dunlop's historical experience; however, the Dunlop plant had never before made an RV tire of this size and type. The comparison of the Dunlop experience based G670 tire with the other Goodyear made G670 tires is an important contrast that Plaintiff believes will reveal the existence of a clear defect [REDACTED]

Koerner, the designer of the Subject Tire (Exhibit D, Koerner Deposition 39:23-40:25), and several other tires in the G670 line, confirmed that Goodyear's global design manual contains an entire section regarding the appropriate dimensions and materials for tire inner liners. Koerner confirmed [REDACTED]

[REDACTED] Instead the tire's inner liner thickness was determined by the historic standard used at the Buffalo manufacturing plant, the source of which is unknown.⁹ Plaintiff believes that the Goodyear global design manual indicates a thicker inner liner for the tire at issue than

⁹ Koerner Deposition 29:13-31:16, 34:10-37:30, 42:2-21, and 415:15-417:20, designated confidential by Defendants on July 22, 2014. In accordance with Confidentiality Order ¶6(2), Plaintiff has not attached the deposition excerpt hereto as an exhibit but will provide it to the Court for *in camera* review.

the one actually used, because even lesser tires in the G670 line had thicker inner liners.

All tires in the G670 line were manufactured in Goodyear plants except one: the G670 295/80R22.5 Subject Tire was manufactured in a Dunlop plant. Koerner confirmed that the Buffalo plant where this tire was manufactured was acquired by Goodyear when it purchased Dunlop in late 1999 and that his knowledge of that plant is limited in that it begins with the 1999 acquisition. (Exhibit D, Koerner Deposition 30:15-24). The Goodyear design standards are critically important in this case (b)(7)(D)

(b)(7)(D)

(b)(7)(D)

(b)(7)(D)¹⁰

Plaintiff already has established that the inner liner of the 295/80R22.5 G670 tire is irreconcilably thin in comparison to the inner liners of the other tires in the G670 line. To the extent that the design of the Subject Tire is also at odds with and in violation of the very design standards set forth in Goodyear's own design manuals the proof of that fact is critically important in this case.

Goodyear claims that the design manuals are "highly confidential," however, the Court has already created a Confidentiality Order for this case and thousands of pages of confidential materials have previously been produced in this case within the confines of the Court's protective order. Plaintiff requests that the Court order production of the Goodyear Global Design Manual and Global Master Specifications in whatever forms

¹⁰ Koerner Deposition 416:3-7, designated confidential by Defendants on July 22, 2014. In accordance with Confidentiality Order ¶6(2), Plaintiff has not attached the deposition excerpt hereto as an exhibit but will provide it to the Court for *in camera* review.

they exist, specifically including the electronic stored versions referenced by Parsons and Koerner in their depositions.

E. CONCLUSION

Based on the law and argument presented above, Plaintiff respectfully requests that the Court grant his Motion to Compel and order Defendants to provide full responses to Discovery Request No's 9, 57, 68, 96 and 107

The undersigned hereby certifies and affirms, in accordance with Local Civil Rule 7.02 DSC, that prior to filing the instant Motion opposing counsel was consulted and a good faith attempt was made to resolve the matter contained in said Motion.

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ATTORNEYS FOR PLAINTIFF

April 9, 2015

Exhibit A

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff,

v.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and The Goodyear Tire
& Rubber Company, a foreign corporation,

Defendants.

Case No.: 2:13-cv-00419-PMD

**DEFENDANT, THE GOODYEAR
TIRE & RUBBER COMPANY'S
RESPONSE TO PLAINTIFF'S
FIFTH DISCOVERY REQUESTS**

Defendant, THE GOODYEAR TIRE & RUBBER COMPANY ("GOODYEAR" or "Defendant"), by and through its undersigned counsel, hereby submits its Response to Plaintiff's Fifth Discovery Requests.

Preliminary Statement

This matter involves a particular tire G670RV 295/80R22.5 bearing DOT No. DANU2CAW3503 ("Tire at Issue"), which designation indicates a particular tire manufactured by Goodyear Dunlop Tires North America, LTD ("GDTNA") at its Tonawanda (Buffalo), New York plant during the 35th week of 2003.

"Subject Tire" herein refers to tires built at the same plant, using the same material and construction specification, and which have the same cured tread pattern and markings as the "Tire at Issue."

During the hearing of April 15, 2014, this Court provided the parties with the scope of discovery and general parameters on the temporal scope of the production. To that end, counsel for the GOODYEAR communicated with Plaintiff's counsel to attempt to reach an agreement on the general and temporal scope of discovery; however, to date, Plaintiff's counsel has not responded to this request.

Counsel for GOODYEAR also requested that Plaintiff limit, or withdraw select portions of the Fifth Discovery Request, in accordance with the Court's scope of discovery as addressed during the hearing of April 15, 2014, as well as its Order of May 5, 2014 (DE 83). Plaintiff's

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counsel has refused to withdraw his discovery requests and/or limit the scope of the discovery to comply with the Court's rulings.

GOODYEAR objects to Plaintiff's instruction located at the end of the Requests to the extent that it is contrary to the dictates of Rule 26(e)(1), Fed. R. Civ. P., which requires supplementation to the extent that a discovery response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

This set of discovery requests are allegedly based on the deposition of Terrence Parsons taken on March 8, May 10 and May 11, 2012 in the Green v. Goodyear litigation previously pending in Palm Beach County, Florida. GOODYEAR objects to Plaintiff's requests to the extent that they mischaracterize the testimony pertaining to the information and documents described.

RESPONSES

DISCOVERY REQUEST NO. 1

Any and all exam files, examination reports, color photographs, and notes for all G670 claim tires, including any tires sold outside of the United States, reviewed and analyzed by the Defendant. Please see deposition of Terry Parsons Day #1, P. 12, L. 21 - P. 13, L. 7; Day #2, P. 348 L. 22 - P. 349 L. 5, P. 356, L. 1 - 3, 9; Day #3, P. 157 L. 5 - P. 158 L. 6.

RESPONSE: Subject to the objections stated below, GOODYEAR states that this request is duplicative of previously propounded discovery and incorporates its response and objections to Plaintiff's Fourth Discovery Request No. 7 as if set forth fully herein.

GOODYEAR objects to this Request because despite its effort to promote cooperative discovery, whereby it requested Plaintiff withdraw and/or limit said discovery to comply with the Court's ruling, Plaintiff has not agreed to do so. GOODYEAR further objects to this Request as it is overly broad and unduly burdensome, as it seeks information concerning "any tires sold outside of the United States" without any relevance to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation.. GOODYEAR also incorporates its objections based on the work product doctrine and attorney client privilege as addressed in its

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Motion for Reconsideration filed on May 16, 2014 (DE 84) and asserted herein. See Privilege Log.

DISCOVERY REQUEST NO. 2

Any and all exam files, examination reports, color photographs, testing including destructive testing and notes for all G670 claim tires, including any tires sold outside of the United States, reviewed and analyzed by Defendant, Terry Parsons or the other analysts. Please see deposition of Terry Parsons Day #2, P. 348 L. 22 – P. 349 L. 9, P. 358 L. 11 – 22; Day #3, P. 157 L. 5 – P. 158 L. 6.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 1 as if set out fully herein.

DISCOVERY REQUEST NO. 3

Any and all documents that include or reference the policy that requires all analysts' to look at returned tires. Please see deposition of Terry Parsons Day #1, P. 15 L. 18 – 20.

RESPONSE: Subject to the objections stated below, GOODYEAR states it has no such written policy.

GOODYEAR objects to this Request as it seeks documents and other information that is not relevant to the Tire at Issue, substantially similar RVs or to the claims and defenses asserted in this litigation, and the Request is not reasonably calculated to lead to the discovery of admissible evidence.

DISCOVERY REQUEST NO. 4

Any and all documents showing the examination results and findings from all analysts' examinations of all G670 tires, including any tires sold outside of the United States.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 1 as if set out fully herein.

DISCOVERY REQUEST NO. 5

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Produce for inspection all G670 claim tires, including any tires sold outside of the United States.

RESPONSE: GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. The Request seeks information concerning "all" G670 "claim" tires for an unlimited time period, and pertaining to all claims regardless of the geographical location where the tires were sold. GOODYEAR also objects to this Request as the term "claim" is not defined; and to the extent it requests materials which constitute GOODYEAR's work product, the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is unduly burdensome in its search for, and overly broad as it seeks information concerning, "any tires sold outside of the United States" without any relevance to the Tire at Issue, to substantially similar RVs or to the claims and defenses asserted in this litigation. GOODYEAR also objects to the Request to the extent it suggests GOODYEAR must preserve the broad subject of the Request.

DISCOVERY REQUEST NO. 6

As to any pieces of the subject tire, subject RV, or accident scene evidence that Defendant collected, inspected, became aware of, or obtained after the accident, produce the materials for inspection and produce any and all documents pertaining thereto.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff is in possession of photographs taken by a certain consulting expert under Bates Label STEPHENS 000001-000112 and GRANT 000001-000060. GOODYEAR also understands that Plaintiff's investigator, David Roberts, collected tire remnants from the scene of the accident and provided the remnants to the South Carolina Highway Patrol. GOODYEAR is not in possession of any remnants of the subject tire or portions of the RV. Goodyear objects to the production of other photographs and notes and/or documents generated by its consulting experts pertaining to

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their examination of the tires, accident scene or RV involved in the accident of July 6, 2010, as such information is protected by the attorney client privilege and work product doctrine.

DISCOVERY REQUEST NO. 7

Any and all documents regarding the Defendant's inspection of the subject tire, subject RV, or accident scene that predate the filing of the lawsuit against the Defendant.

RESPONSE: None.

DISCOVERY REQUEST NO. 8

Any and all documents reflecting the date and means by which the Defendant first learned of each and every blowout or failure of any G670 tire that resulted in any personal injury or death.

RESPONSE: Subject to the objections stated below, GOODYEAR states that this Request is duplicative of Plaintiff's First Discovery Request No. 9 and incorporates its Response and Objections therein to Plaintiff's First Discovery Request No. 9 and the documents produced therein. Further, it identifies and produces the following additional Complaints of alleged personal injury/death occurring between July 6, 2006 and July 6, 2013:

- (1) Lowry v. Goodyear, Bates Label HARTSOCK.020491-020541; and,
- (2) Merrill v. Goodyear, Bates Label HARTSOCK.020542-020570.

Additionally, in the interest of cooperative discovery, GOODYEAR is not aware of claims for personal injury or wrongful death asserted concerning an incident which occurred prior to July 6, 2006 involving the G670RV 295/80R22.5 tire.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as overly broad as it is duplicative of previously propounded discovery. GOODYEAR further objects as Plaintiff's request is not limited to a reasonable time period and to the production of documents protected by the attorney client privilege and work product doctrine.

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DISCOVERY REQUEST NO. 9

Any and all documents reflecting any communications or notice provided to the NHTSA or any governmental or quasi governmental agency or entity concerning G670 tires or the marginal safety margin acknowledged by Terry Parsons.

RESPONSE: Subject to the objections stated below, GOODYEAR will search for non-protected documents submitted to NHTSA concerning the fitment of G670RV 295/80R22.5 tires on substantially similar RVs from the date of manufacture of the Tire at Issue to the date of Plaintiff's accident, July 6, 2010. If Plaintiff will identify what is meant by the phrase "government or quasi governmental agency or entity," it will respond with responsive information identified. To the extent that Plaintiff seeks information concerning the TREAD Act, Plaintiff is referred to GOODYEAR's Response to Discovery Request No. 107.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to the request as the terms "governmental" or "quasi governmental agency" are undefined and to the extent the phrase of "marginal safety margin" is being used contrary to the meaning provided by Mr. Parsons in his deposition. GOODYEAR also objects to this Request to the extent that it seeks documents generated by consulting experts, documents protected by the attorney client privilege and work product doctrine or documents protected from disclosure pursuant to agreements binding on GOODYEAR. Objection is also raised to documents that have been accorded confidential treatment pursuant to 49 CFR Part 512 (NHTSA Confidential Business Information Rule), 5 U.S.C. 552(b) and 5 U.S.C. 552(b)(4), or otherwise submitted to such organizations and accorded confidential treatment pursuant to agreement.

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DISCOVERY REQUEST NO. 10

Terry Parsons' deposition and trial testimony list from 1996 – present, C.V., resume and employee personnel file, with earnings information redacted. Please see deposition of Terry Parsons Day #1, P. 18 L. 21 – 25.

RESPONSE: Subject to the objections stated below, GOODYEAR will search for the current deposition and trial testimony list of Terry Parsons, in addition to his curriculum vitae.

GOODYEAR objects to this Request on the grounds that Mr. Parsons' employment files are neither relevant nor material, cover a time period which is overly broad in time and scope, are protected from disclosure by privacy rights of the employee and the Health Insurance Portability and Accountability Act, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. For instance, where employees are operating within the course and scope of their employment, that employee's employment records are neither relevant nor discoverable. GOODYEAR also objects as its personnel files contain confidential business information.

DISCOVERY REQUEST NO. 11

The deposition and trial testimony lists, C.V.s, resumes and employee personnel files, with earnings information redacted, of the persons who built, constructed and inspected the subject tire in this case and the subject tire in Green v Goodyear, and the following representatives and employees of the Defendant who have been noticed for deposition in this case:

- a. Terry Parsons
- b. Dan Badzinski
- c. Jim Koerner
- d. Art Strobel
- e. Jeff Row
- f. Mike Wilps
- g. Goodyear employee – I.D. # T654S27
- h. Goodyear employee – I.D. # VMB226
- i. Goodyear employee – I.D. # NO8LLW1
- j. Goodyear employee – I.D. # AO43761
- k. Goodyear employee – I.D. # JPN1172
- l. Robert Carncross
- m. Jose Nawrot
- n. William Kolb

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- o. R. Brian Lindsay
- p. Reggie Leduc
- q. Hugh Thompson
- r. John Strusaker

RESPONSE: Subject to the objections stated below, to the extent that such information is available and exists, GOODYEAR will search for the current deposition and trial testimony list and curriculum vitae of above named individuals currently employed by GOODYEAR. As to employees currently employed by GDTNA, Plaintiff is referred to GDTNA's Response to Request No. 11.

GOODYEAR objects to this Request on the grounds that the employment files of the above listed GOODYEAR employees, as well as "the persons who built, constructed and inspected the subject tire in this case and the subject tire in Green v Goodyear" is not only irrelevant and immaterial but also, overly broad in time and scope, in violation of the privacy rights of the employee and the Health Insurance Portability and Accountability Act, and is not reasonably calculated to lead to the discovery of admissible evidence. For instance, where employees are operating within the course and scope of their employment, that employee's employment records are neither relevant nor discoverable. GOODYEAR also objects as its personnel files contain confidential business information. It also seeks the premature disclosures of consulting experts.

DISCOVERY REQUEST NO. 12

Any and all documents referencing the design specifications, including development file, release file, cured tire cross section drawings, inner liner materials, compounds, and gauges, inner liner contours and cut tire documents, of all medium truck or RV tires other than the G670 made at the Tonawanda New York plant from January 1, 2000 – present. Please see deposition of Terry Parsons Day #1, P. 32 L. 11 – 22, P. 38 L. 13 – P. 39 L. 1.

RESPONSE: GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. It is further not limited to a reasonable time. GOODYEAR also objects to this Request in that it seeks information concerning "all medium truck or RV tires other than the G670 made at the

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Tonawanda New York plant” the subject of which is overly broad, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. The Request is also unduly burdensome as it “any and all” documents without limitation.

Furthermore, to the extent this request seeks specific materials composition GOODYEAR objects to this request because it seeks the discovery of trade secret information, including confidential materials, research, development and technical information (such as the materials composition of its product). It is essential to GOODYEAR’s operations that certain of its work and information remain confidential. Disclosure of these trade secrets would result in substantial prejudice and harm to GOODYEAR. GOODYEAR’s confidential policies, research, development and technical information (such as the composition of its materials) are valuable and crucial trade secrets of the company that give GOODYEAR an advantage over its competitors. GOODYEAR makes reasonable efforts to maintain the secrecy of this information. This information would be very valuable to GOODYEAR’s competitors, who would benefit greatly by learning certain information requested herein.

DISCOVERY REQUEST NO. 13

Any and all documents referencing the design specifications, including development file, release file, cured tire cross section drawings, inner liner materials, compounds, and gauges, inner liner contours and cut tire documents, of all tires, other than the G670 made at the Tonawanda New York plant from January 1, 2000 – present, that used the same or similar inner liner compound as was used in the G670 and identified in Hartsock.000425-000595 as G18F8 and G10A8.

RESPONSE: GOODYEAR incorporates its Response and Objections to Request No. 12 as if set out fully herein.

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DISCOVERY REQUEST NO. 14

Any and all documents referencing the design specifications, including development file, release file, cured tire cross section drawings, inner liner materials, compounds, and gauges, inner liner contours and cut tire documents, of all tires, other than the G670 made at the Tonawanda New York plant from January 1, 2000 – present, that used the same or similar steel belt skim coat and gum strip/wedge compound as was used in the G670 and identified in Hartsock.000425-000595 as G33T4, G12R3, B17X1, G21G4 and G2036.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 12 as if set out fully herein.

DISCOVERY REQUEST NO. 15

The engineering data book identified by Terry Parsons Day #1, P. 50 L. 13 – 25, P. 54 L. 1 – 7.

RESPONSE: Plaintiff is in possession of the Engineering Data Book previously produced under Bates Label HARTSOCK.002915-002993.

DISCOVERY REQUEST NO. 16

Any and all documents reflecting the identities of the recreational vehicle manufacturers who collaborated with Defendant regarding the design of the G670 tire, and any and all documents describing the nature, extent and amount of collaboration that occurred. Please see deposition of Terry Parsons Day #1, P. 56 L. 22 – P. 57 L. 6

RESPONSE: Subject to the objections stated below, GOODYEAR will search for communications at or around the time of the manufacture of the G670RV 295/80R22.5 tire with RV manufacturers, to the extent these exist, concerning their input on the design of this tire.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. The Request, is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

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DISCOVERY REQUEST NO. 17

Any and all documents confirming or setting forth that the trucking industry considers that 20% over deflection should be avoided, and any and all documents setting forth whether the Defendant utilized this standard in the design of the G670 tire or in setting the performance and use standards for the G670 tire. Please see deposition of Terry Parsons Day #1, P. 79 L. 22 – P. 80 L. 5

RESPONSE: Subject to the objections stated below, GOODYEAR produces the following documents referred to by Mr. Parsons in his deposition cited by Plaintiffs in this Request:

- (a) Radial Truck Tire Service Manual of February 2001 as Bates Label HARTSOCK.020571-020676; and,
- (b) Radial Truck Tire Service Manual of December 2003 as Bates Label HARTSOCK.020677-020786.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. The Request is also unduly burdensome as it seeks document pertaining to all tires and "any and all documents".

DISCOVERY REQUEST NO. 18

Any and all documents describing and specifying how the 20% over deflection standard applied to the subject tire and to G670 tires on RVs.

RESPONSE: GOODYEAR states that it has not located any records responsive to this Request as the statement referred to in Discovery Request No. 17 pertained to the trucking industry. See Response to Discovery Request No. 17 above incorporated fully herein

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DISCOVERY REQUEST NO. 19

Any and all documents reflecting the relationship between the amount of, or extent of, over deflection and tire failure, including the stamping and literature Defendant refers to and relies on for this analysis. Please see deposition of Terry Parsons Day #1, P. 83 L. 10 – P. 84 L. 3.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's Request is duplicative of previously propounded discovery and seeks documents already in the possession of Plaintiff. GOODYEAR identifies the following documents referred to by Mr. Parsons in his deposition cited in this Request and previously produced:

- (a) Goodyear RV Tire and Care Guide - Bates Label HARTSOCK.000001-000137;
- (b) Warranty in effect at the time of manufacture - Bates Label HARTSOCK.000077-000078;
- (c) Drawings Template produced under Bates Label HARTSOCK.000856-000864.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence.

DISCOVERY REQUEST NO. 20

Any and all documents and testing describing the nature, extent, amount and conditions of under inflation or over deflection that cause or produce separations in G670 tires.

RESPONSE: Subject to the objections stated below, Defendant refers Plaintiff to Bates Labels HARTSOCK.000596-000828, HARTSOCK.000602.1-000607.1, HARTSOCK.000829-000850, HARTSOCK.003055-003511, HARTSOCK.004843-004861, HARTSOCK.007403-007618, HARTSOCK.007992-008010 for the documents from the development and release for production of the G670RV 295/80R22.5 tire at the Tonawanda plant, which contain information responsive to this Request. GOODYEAR will search for testing of the G670RV 295/80R22.5 tire conducted from 35th week of 2003 (date of manufacture of the Tire at Issue) to July 6, 2010 (date of Plaintiff's accident) involving conditions of underinflation and overdeflection that cause tread separations and supplement this response accordingly.

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GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. The Request is also unduly burdensome as it is not limited to the Tire at Issue, to a reasonable time and seeks "any and all" documents without limitation.

DISCOVERY REQUEST NO. 21

Any and all documents, color copies of photographs, videos, and demonstration films of G670 production and prototype test tires tested by Defendant, specifically including those contained within Defendant's "Test Lab Database." Please see deposition of Terry Parsons Day #1, P. 112 L. 6 – 16, P. 114, L. 25 - P. 116, L. 5; Day #2, P. 548, L. 18 - P. 549, L. 10.

RESPONSE: Subject to the objections stated below, GOODYEAR refers to the photographs previously produced in response to the Fourth Request to Produce No. 18 under Bates Label HARTSOCK.014336-014343.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. The Request is also overly broad and unduly burdensome as it is not limited to the Tire at Issue, to a reasonable time and seeks "any and all" documents without limitation. GOODYEAR further objects to this Request as it is duplicative of Plaintiff's Fourth Request to Produce No. 18.

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DISCOVERY REQUEST NO. 22

Any and all documents, Cut Tire Analysis Program, Cut Tire Sheets, scanned images of tire sections, actual tire sections, protocols for evaluating findings and analysis of compliance with specifications and tolerances for all G670 cut tire analysis from development through present. Please see deposition of Terry Parsons Day #1, P. 119 L. 9 – 23, P. 122 L. 12 – 21, P. 124 L. 7 – P. 125 L. 1, P. 126 L. 7 – 15, P. 140 L. 25 – P. 141 L. 1, P. 142 L. 22 – P. 143 L. 22, P. 144 L. 13 – P. 145 L. 10, P. 147 L. 25 – P. 148 L. 10, P. 150 L. 14 – 23.

RESPONSE: Subject to the objections stated below, GOODYEAR refers Plaintiff to the following documents:

- (a) Cut Tire Sheets for the G670RV 295/80R22.5 tire produced under Bates Labels:

HARTSOCK.007535, HARTSOCK.007545, HARTSOCK.007592,
HARTSOCK.007782, HARTSOCK.007785, HARTSOCK.007788,
HARTSOCK.007791, HARTSOCK.007794, HARTSOCK.007797,
HARTSOCK.007800, HARTSOCK.008008, HARTSOCK.008281,
HARTSOCK.008283, HARTSOCK.008285, HARTSOCK.008287,
HARTSOCK.008289, HARTSOCK.008291, HARTSOCK.008293,
HARTSOCK.008475, HARTSOCK.008477, HARTSOCK.008479,
HARTSOCK.008481, HARTSOCK.008483, HARTSOCK.008485,
HARTSOCK.008487, HARTSOCK.008488-008496, HARTSOCK.014013,
HARTSOCK.014015, HARTSOCK.014017, HARTSOCK.014019,
HARTSOCK.014021, HARTSOCK.014023, HARTSOCK.014025,
HARTSOCK.014026-014034. *See also* Cut Tire Sheets included within
development and release files produced under Bates Labels:
HARTSOCK.000596-000828, HARTSOCK.003055-003511,
HARTSOCK.004843-004861, HARTSOCK.007403-007618,
HARTSOCK.007992-008010.

- (b) Cured Cross Section Drawings concerning the G670RV 295/80R22.5 tire
produced under Bates Label: HARTSOCK.000858-000864,
HARTSOCK.002903-002904, HARTSOCK.004759-004760,
HARTSOCK.004762-004763, HARTSOCK.004842, HARTSOCK.007214-

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007215, HARTSOCK.007727-007730, HARTSOCK.007991,
HARTSOCK.008268-008272, HARTSOCK.013952-013954,
HARTSOCK.014314.

GOODYEAR further produces two additional Cut Tire Sheets located concerning the G670 RV under Bates Label HARTSOCK.020787-020788.

GOODYEAR further states it will also search for scanned images of the cut tire sections of the G670RV 295/80R22.5 tire and instructions for conducting cut tire analysis in effect during the 35th week of 2003 (date of manufacture of the Tire at Issue) to July 6, 2010 (date of Plaintiff's accident) and will supplement this Response if any records are identified.

GDTNA objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence GDTNA also objects to the request as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation to time or scope. GOODYEAR further objects to this Request as it is duplicative of previous Requests and seeks documents Plaintiff possess by virtue of GOODYEAR's previous production, and which are being produced in accordance with this Court's Order of May 5, 2014.

DISCOVERY REQUEST NO. 23

Any and all Full Section Drawings for all G670 tires. Please see deposition of Terry Parsons Day #1, P. 166 L. 24 – P. 167 L. 6.

RESPONSE: Subject to the objections stated below, GOODYEAR states that it has not located any full cured drawings concerning the G670RV 295/80R22.5 dated from the 35th week of 2003 (date of manufacture of the Tire at Issue) to July 6, 2010 (date of Plaintiff's accident).

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. The Request is also

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unduly burdensome as it is not limited to the Tire at Issue, to a reasonable time and seeks "any and all" documents without limitation.

DISCOVERY REQUEST NO. 24

Any and all documents, the development files, release files, specifications and tolerances, cross sections drawings, inner liner specifications and tolerances, inner liner contours, contour die drawings and specifications, inner liner compounds, plant specifications, including any changes that occurred concerning the design and manufacture, of the G149 RSA, G169 RSA, G647 RSS, G286, G291, and Marathon LHS tires. Please see deposition of Terry Parsons Day #1, P. 199 L.17 – P. 200 L. 1; Day #3, P. 115 L. 16 – P. 116 L. 9, P. 119 L. 1 - 18.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 12 as if set out fully herein.

DISCOVERY REQUEST NO. 25

Any and all Joint Venture Agreements between Goodyear and Dunlop, including related correspondence and documentation. Please see deposition of Terry Parsons Day #2, P. 215 L. 20 – P. 217 L.1.

RESPONSE: Subject to the objections stated below, there is no joint venture agreement between GOODYEAR and GDTNA concerning the design and manufacture of the G670 295/80R22.5 tire.

GOODYEAR objects to this Request as it is duplicative of previously propounded discovery. Defendant incorporates its response and objections to Plaintiff's Fourth Discovery Request No. 1 as if set forth fully herein. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" agreements, correspondence and documentation without limitation or relevant to the issues and claims asserted in this litigation or to a reasonable time. GOODYEAR further objects to this Request to the extent this Request seeks documents that contain confidential, proprietary and trade secret information. GOODYEAR further objects to this Request as the term "Dunlop" is undefined herein, and it is vague, ambiguous and unclear in this Request whether the reference is to a corporate entity.

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DISCOVERY REQUEST NO. 26

Any and all documents referencing exchange of money, funds, or financial credits between the Defendants concerning G670 tires.

RESPONSE: GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. It is also unduly burdensome due to the request of "any and all documents" without limiting the request to a relevant issue in this litigation or to a reasonable time. GOODYEAR further objects to this Request as the Request for information concerning the exchange of money, funds or financial credits between the co-Defendants is overly broad and unduly burdensome in its search for such information and not relevant to Plaintiff's claims of alleged tire failure or defenses in this litigation.

DISCOVERY REQUEST NO. 27

Any and all documents regarding Defendant Goodyear's communications to Defendant Dunlop concerning manufacture of G670 tires. Please see deposition of Terry Parsons Day #2, P. 216, L. 21 - P. 217, L.2.

RESPONSE: GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. Further, GOODYEAR objects to this Request as it is overly broad and unduly burdensome as the Request is not limited to the Tire at Issue and seeks "any and all" documents without any relevance to the issues in this litigation or to a reasonable time. Further, this request is duplicative of previously propounded discovery. GOODYEAR refers to its response and objections to Plaintiff's Fourth Discovery Request No. 1 as if set forth fully herein. GOODYEAR also objects to this Request as the term "Dunlop" is undefined herein, and it is vague, ambiguous and unclear in this Request whether the reference is to a corporate entity or brand.

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DISCOVERY REQUEST NO. 28

Any and all documents reflecting communications, exchange of funds, credits and claims between Defendant Goodyear and Monaco, and between Defendant Goodyear and any other RV manufacturer or distributor, concerning G670 tires, including any tires sold outside of the United States. Please see deposition of Terry Parsons Day #2, P. 218, L. 16 - P. 219, L. 5, P 247 L 18 - 24.

RESPONSE: Subject to the objections stated below, GOODYEAR states that it will search for the number of warranty claims made by Monaco for the G670RV 295/80R22.5 tire from the 35th week of 2003 (the date of the manufacture of the Tire at Issue) to July 6, 2010 (the date of Plaintiff's accident).

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects as the Request is not limited to a reasonable time period. The Request is also unduly burdensome as it pertains to all G670 tires and all RV manufacturers without a showing of substantial similarity, and seeks "any and all documents" without limitation to scope or a reasonable time. GOODYEAR further objects to this Request as it is unduly burdensome and overly broad as it seeks information concerning "any tires sold outside of the United States" without any relevance to the Tire at Issue, to substantially similar RVs or to the claims and defenses asserted in this litigation. Further, information concerning the exchange of money and funds exchanged between the GOODYEAR and Monaco is not relevant to Plaintiff's claims of alleged tire failure or defenses in this litigation.

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DISCOVERY REQUEST NO. 29

Any and all documents showing the quantity, price, cost, profit and date of sale of all G670 tires to Monaco, including the sale of the specific Hartsock tire and Green tire and any tires sold outside of the United States. Please see deposition of Terry Parsons Day #2, P. 218 L. 22 – P. 219 L. 5.

RESPONSE: Subject to the objections stated below, GOODYEAR states that it does not track the individual sale of tires. GOODYEAR, will search for documents reflecting the number of G670RV 295/80R22.5 tires sold to substantially similar RV manufacturers from the date of manufacture of the Tire at Issue(35th week of 2003) to the date of Plaintiff's accident, July 6, 2010, and will supplement this Response if any records are located.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request on the grounds that "any and all" information concerning the "price, cost, profit" of all G670 tires, including those sold outside the United States, is overly broad and unduly burdensome in its search for such items as such information is not relevant to Plaintiff's claims of alleged tire failure or defenses in this litigation. It is also not limited to a reasonable time.

DISCOVERY REQUEST NO. 30

Any and all documents showing the quantity, price, cost, profit and date of sale of all G670 tires to RV manufacturers other than Monaco, including any tires sold outside of the United States. Please see deposition of Terry Parsons Day #2, P. 247 L. 18 - 24.

RESPONSE: GOODYEAR incorporates its above Responses and Objections to Requests Nos. 28 and 29 as if set out fully herein.

DISCOVERY REQUEST NO. 31

Any and all documents regarding fitment, sale, recommendations and discussions between Defendants and any RV or motor vehicle manufacturer or distributor regarding use of the subject tire as original equipment on Monaco and Fleetwood vehicles and vehicles of any

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other RV manufacturer, including the recommended inflation pressures listed on the vehicle placard. Please see deposition of Terry Parsons Day #2, P. 247, L. 18 - 24.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's Request is duplicative of previously propounded discovery and refers Plaintiff to GOODYEAR's response and objection to Plaintiff's Fourth Discovery Request No. 3. GOODYEAR will also search for documents reflecting communications, occurring from the 35th week of 2003 (date of manufacture of the Tire at Issue) to July 6, 2010 (date of Plaintiff's accident), between GOODYEAR and manufacturers of substantially similar RVs concerning the appropriate fitment and tire pressure of the G670RV 295/80R22.5 tires on substantially similar RVs.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. Nonetheless, this request is duplicative of previously propounded discovery. GOODYEAR further objects to this Request as it not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

DISCOVERY REQUEST NO. 32

Any and all documents showing the total revenue, cost, and profit pertaining to and derived by Defendant from the G670 tire line, including any tires sold outside of the United States, and including budgeting for the G670 line, cost cutting or cost containment efforts or evaluations.

RESPONSE: GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it not limited to a reasonable time period. The Request is also unduly burdensome as it pertains to all G670 tires and all RV manufacturers without a showing of substantial similarity, and seeks "any and all documents" without

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limitation. GOODYEAR further objects to this Request as it is unduly burdensome and overly broad as it seeks information concerning "any tires sold outside of the United States" and budgeting information without any relevance to the Tire at Issue, to substantially similar RVs or to the claims and defenses asserted in this litigation.

DISCOVERY REQUEST NO. 33

Any and all documents, including PowerPoint presentations, related to Defendant's meetings and discussions with Monaco and other RV manufacturers regarding the recommended inflation pressure that should be listed on the vehicle placard, the inflation pressure that should be utilized, "marginal" load carrying capacity, lack of margins, surveys, information gathered at RV rallies, and inflation issues with original equipment tires, including documents reflecting any recommendations made, testing requested or performed, and warnings to consumers or vehicle dealers and service personnel. Please see deposition of Terry Parsons Day #2, P. 228, L. 10 – 16, P. 232, L. 13 - P. 237, L. 4, P. 238, L. 8 – 21, P. 253, L. 22 - P. 254, L. 25, P. 304, L. 11 – 23, P. 305, L. 7 – 12, P. 307, L. 13 - P. 309, L. 7, P. 370, L. 10 - 13.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 31 as if set out fully herein.

DISCOVERY REQUEST NO. 34

Any and all documents reflecting uniformity standards, the results of uniformity testing and evaluation to determine what percentage of G670 tires were manufactured and met the standards and what percentage of tires failed uniformity testing, the disposition and cost of tires that failed testing, investigations concerning failures or failure rates, the level of failure required to institute corrective measures, and the corrective measures taken. Please see deposition of Terry Parsons Day #2, P. 255 L. 11 – P. 256 L. 21.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's request is duplicative of previously propounded discovery and seeks documents Plaintiff possess. GOODYEAR refers Plaintiff to the following documents:

- (a) Balance and run-out test results under BATES Label HARTSOCK.007813-007828 from April through August 2003;
- (b) MTR Product Visual Standards under Bates Label HARTSOCK.007224-007394;

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(c) Finishing Inspection Instructions under Bates Label HARTSOCK.007395-007402.

Further, GOODYEAR refers Plaintiff's to GDTNA's Response and Objections to Request No. 34..

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation. GOODYEAR further objects to this Request as information concerning the "disposition and cost of tires" pertaining to the entire G670 tire line is overly broad and not relevant to the issues in this litigation.

DISCOVERY REQUEST NO. 35

Any and all documents reflecting testing of air permeation, rates of permeation, through inner liner compounds, tire components, or completed tires, and the relationship between air permeation and separation, tire durability, or failure, including the inner liner and squeegee or barrier layer compounds identified on Hartsock.00012822-00013743 as F1868, and G2381, and Hartsock.000425- 000595 as G18F8, and G10A8 [also known as 6500 and 6178]. Please see deposition of Terry Parsons Day #2, P. 300 L. 9 – P 302 L. 5.

RESPONSE: This request is duplicative of previously propounded discovery. GOODYEAR refers to its response and objections to Plaintiff's Fourth Discovery Request Nos. 22-24 as if set forth fully herein.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents

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without limitation. Furthermore, to the extent this request seeks specific materials composition GOODYEAR objects to this request because it seeks the discovery of trade secret information, including confidential materials, research, development and technical information (such as the materials composition of its product). It is essential to GOODYEAR's operations that certain of its work and information remain confidential. Disclosure of these trade secrets would result in substantial prejudice and harm to GOODYEAR. GOODYEAR's confidential policies, research, development and technical information (such as the composition of its materials) are valuable and crucial trade secrets of the company that give GOODYEAR an advantage over its competitors. GOODYEAR makes reasonable efforts to maintain the secrecy of this information. This information would be very valuable to GOODYEAR's competitors, who would benefit greatly by learning certain information requested herein.

DISCOVERY REQUEST NO. 36

Any and all documents reflecting air permeation standards, testing of air permeation, rates of permeation, through inner liner, squeegee and barrier layer compounds used in G670 tires, G670 tire components, or G670 completed tires, and the relationship between air permeation and inter carcass pressurization and separation, tire durability, or failure, including test protocols and results of actual tests performed, and evaluation of permeation rates through different compounds, including the inner liner and squeegee or barrier layer compounds identified on Hartsock.00012822-00013743 as F1868, and G2381, and Hartsock.000425-000595 and .000605.1 as G18F8, and G10A8 [also known as 6500 and 6178]. Please see deposition of Terry Parsons Day #2, P. 300 L. 9 – P 302 L. 5; Day #3, P. 81, L. 1 – 14, P 90 L. 7 – 16.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 35 as if set out fully herein.

DISCOVERY REQUEST NO. 37

Any and all documents reflecting testing of anti-oxidative, and oxygen degradative properties, rates of degradation, of inner liner compounds, steel belt skim coat compounds, gum strip/wedge compounds, tire components, or completed tires, and the relationship between oxygen degradation and separation, tire durability, or failure, including the inner liner and squeegee or barrier layer compounds, steel belt skim coat, and gum strip/wedge compounds, including those identified on Hartsock.00012822-00013743 as F1868, G2381,

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and G1150 and Hartsock.000425-000595 and .000605.1 as G18F8, G10A8 [also known as 6500 and 6178] , G33T4, G12R3, B17X1, G2036, and G21G4. Please see deposition of Terry Parsons Day #2, P. 300 L. 9 – P 302 L. 5.

RESPONSE: GOODYEAR objects to this Request as it seeks documents that are not relevant to the claims or issues in this litigation as Plaintiff has not asserted any claim regarding the chronological age of the Tire at Issue in this litigation. GOODYEAR further objects to this Request as it seeks discovery that is not limited to the Tire at Issue or to a reasonable time period. The Request is also overly broad and unduly burdensome as it is not limited to the Tire at Issue and seeks “any and all” documents without limitation. GOODYEAR objects to this Request to the extent that it seeks information concerning the types and amounts of antidegradants used in proprietary compound formulas because it calls for the disclosure of highly confidential, core trade secrets of GOODYEAR including confidential research, development and technical information. Disclosure of these trade secrets would result in substantial prejudice and harm to GOODYEAR. GOODYEAR makes reasonable efforts to maintain the secrecy of this information, and the information would be very valuable to GOODYEAR’s competitors. GOODYEAR’s competitors would benefit greatly by learning certain information requested in Plaintiff’s Discovery Requests. Therefore, GOODYEAR contends it is essential to GOODYEAR’s operations that its work and documents remain confidential. Plaintiff has no good cause to seek highly confidential compound formula information, and its disclosure should be prohibited to protect GOODYEAR trade secrets. GOODYEAR further objects to this Request because the phrase “degradation” is not defined, vague and ambiguous, and renders the request overly broad, unduly burdensome. GOODYEAR also objects to this Request to the extent that it seeks documents generated by consulting experts, or documents protected by the attorney-client privilege and attorney work-product doctrine.

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DISCOVERY REQUEST NO. 38

Any and all documents reflecting anti-oxidative and oxygen degradation standards, testing of degradation, rates of degradation, to the inner liner, squeegee and barrier layer, steel belt skim coat, gum strip/wedge compounds used in G670 tires, G670 tire components, or G670 completed tires, and the relationship between oxygen degradation and inter carcass pressurization and separation, tire durability, or failure, including test protocols and results of actual tests performed, and evaluation of degradation properties and rates of different compounds, including the inner liner and squeegee or barrier layer, steel belt skim coat, and gum strip/wedge compounds identified on Hartsock.00012822-00013743 as F1868, G2381, and G1150 and Hartsock.000425-000595 and .000605.1 as G18F8, G10A8 [also known as 6500 and 6178], G33T4, G12R3, B17X1, G2036, and G21G4. Please see deposition of Terry Parsons Day #2, P. 300 L. 9 – P 302 L. 5; Day #3, P. 81, L. 1 – 14, P 90 L. 7 – 16.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 37 as if set out fully herein.

DISCOVERY REQUEST NO. 39

Any and all documents, including the design specifications, development file, release file, cured tire cross section drawings, inner liner materials, compounds, and gauges, inner liner contours and cut tire documents of other tires that use the same compounds used in the subject tire including compounds identified in Hartsock.000425-000595, and .000605.1 as G18F8, G10A8 [also known as 6500 and 6178], G33T4, G12R3, B17X1, G2036, and G21G4.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 12 as if set out fully herein.

DISCOVERY REQUEST NO. 40

Any and all documents reflecting the purchase of original equipment Goodyear tires, including G670 tires, and the payment of claims presented by Monaco and other Motorhome manufacturers as a result of tire failures, including any tires sold outside of the United States. Please see deposition of Terry Parsons Day #2, P. 344, L. 10 – P. 245 L. 7.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 12, 28 and 30 as if set out fully herein.

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DISCOVERY REQUEST NO. 41

Any and all documents that reflect the behavior, ability to migrate, path of migration, inter carcass pressurization, and effect of inflation pressurized air that enters the structure of a tire. Please see deposition of Terry Parsons Day #3, P. 92 L. 17 – P. 93 L. 23, P 102 L. 2 – P. 103 L. 7.

RESPONSE: Subject to the objections stated below, GOODYEAR states that this request is duplicative of previously propounded discovery and refers Plaintiffs to its response and objections to Plaintiff's Fourth Discovery Request Nos. 22-24 as if set forth fully herein.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

DISCOVERY REQUEST NO. 42

Any and all documents concerning air permeation standards, targets, specifications, tolerances and the expected and permissible air permeation rates for RV tires, medium truck tires, and G670 tires.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 12, 30 and 41 as if set out fully herein.

DISCOVERY REQUEST NO. 43

Any and all documents, including color photographs, regarding prototype or production tires, testing, test parameters, test results, design, construction, specifications, tolerances, inner liner specifications and tolerances, inner liner compounds, development, including requests from RV manufacturers, of truck tires including the G670 295/80R22.5 tire built with a cap ply, or cap strips. Please see deposition of Terry Parsons Day #2, P. 315, L. 10 - P. 319, L. 14.

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RESPONSE: Subject to the objections stated below, GOODYEAR states that this request is duplicative of previously propounded discovery and incorporates its response and objections to Plaintiff's Fourth Discovery Request No. 4 as if set forth fully herein. GOODYEAR further identifies the Monaco High Speed Test previously produced under Bates Label HARTSOCK.004878-004921.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation. Furthermore, to the extent this request seeks specific materials composition GOODYEAR objects to this request because it seeks the discovery of trade secret information, including confidential materials, research, development and technical information (such as the materials composition of its product). It is essential to GOODYEAR's operations that certain of its work and information remain confidential. Disclosure of these trade secrets would result in substantial prejudice and harm to GOODYEAR. GOODYEAR's confidential policies, research, development and technical information (such as the composition of its materials) are valuable and crucial trade secrets of the company that give GOODYEAR an advantage over its competitors. GOODYEAR makes reasonable efforts to maintain the secrecy of this information. This information would be very valuable to GOODYEAR's competitors, who would benefit greatly by learning certain information requested herein. GOODYEAR further objects to this Request as the request for "any and all" documents is overly broad and unduly burdensome as the records requested are not limited to the issues in this litigation or to a reasonable time.

DISCOVERY REQUEST NO. 44

Any and all documents regarding anti-oxidative and oxygen degradation standards, targets, specifications, tolerances, and the expected and permissible levels and rates of degradation for RV tires, medium truck tires, and G670 tires.

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RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 37 as if set out fully herein.

DISCOVERY REQUEST NO. 45

Any and all documents regarding design, evaluation, testing, building, or use of cap plies on RV, medium truck and G670 tires.

RESPONSE: Subject to the objections stated below, GOODYEAR incorporates its above Response and Objections to Request Nos. 12 and 43 as if set out fully herein.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also overly broad and unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

DISCOVERY REQUEST NO. 46

Any and all documents, including color photographs, regarding prototype or production tires, testing, test parameters, test results, design, construction, specifications, tolerances, inner liner specifications and tolerances, inner liner compounds, development, of truck tires built with a cap ply or cap strip pursuant to the ideas associated with, or patented claims contained in, Defendant patents. Please see deposition of Terry Parsons Day #2, P. 320 L. 2 – 25, P. 326 L. 11 - 23.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 12, 43 and 45 as if set out fully herein.

DISCOVERY REQUEST NO. 47

Any and all documents, including the complete patent application files, patent files, and testing and research regarding US Patents 4,502,520, 5,333,662, 5,435,369, 5,491,196, 5,922,153, 5,925,702 and 7,335,707 B2, and European Patent EP 0 931 815 A1, and any other patents applied for or held by Defendants regarding cap plies or cap strips on truck

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tires, or air permeation through tires and the relationship between air permeation and tire separation, durability and failure, or that support the Defendants claims and representations in the patent including that "Halobutyl rubber is generally one of the most expensive rubbers used in a tire," as well as the permeation testing documents referred to in the patents.

RESPONSE: Subject to the objections stated below, GOODYEAR incorporates its above Response and Objections to Request Nos. 12, 43 and 45 as if set out fully herein.

GOODYEAR objects to this Request on the grounds that it seeks patent files and underlying research and test files, the subject of which is not relevant to the Tire at Issue or Plaintiff's claims nor is the Request reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR objects to this Request as overly broad and unduly burdensome to the extent that it seeks information related to patents and underlying research not held or conducted by GOODYEAR. Furthermore, to the extent this request seeks specific materials composition GOODYEAR objects to this request because it seeks the discovery of trade secret information, including confidential materials, research, development and technical information (such as the materials composition of its product). It is essential to GOODYEAR's operations that certain of its work and information remain confidential. Disclosure of these trade secrets would result in substantial prejudice and harm to GOODYEAR. GOODYEAR's confidential policies, research, development and technical information (such as the composition of its materials) are valuable and crucial trade secrets of the company that give GOODYEAR an advantage over its competitors. GOODYEAR makes reasonable efforts to maintain the secrecy of this information. This information would be very valuable to GOODYEAR's competitors, who would benefit greatly by learning certain information requested herein.

DISCOVERY REQUEST NO. 48

Any and all documents, including the G159 testing referenced in Patent 5,435,369, that support the Defendants claims and representations in the patent including that "This invention relates to a pneumatic truck tire having belt edge reinforcement which prevents belt edge separation", "The reinforcement strips reduce belt edge strain levels by restricting circumferential growth in the shoulder region of the tire or by distributing the belt edge stresses over a larger area", "Tires made with 0 degree cord angle reinforcement in the overlay strip will demonstrate improved durability", "Trapped air would lead to the

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possibility of ply separations”, “The resulting decrease in belt edge strain levels improves the tires resistance to developing belt edge separations”, and “Tires made without the reinforcement had almost three times as many tread separations in about one half the number of tires when compared to the tires of the invention”.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 12 as if set out fully herein.

DISCOVERY REQUEST NO. 49

Any and all development files, specifications and tolerances, cross section drawings, inner liner specifications and tolerances, inner liner contours, contour die drawings and specifications, inner liner compounds, and plant specifications, including any changes that occurred, concerning the design and manufacture of the G286 tires that were made with cap plies and cap strips.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 12, 43 and 45 as if set out fully herein.

DISCOVERY REQUEST NO. 50

Any and all documents concerning the cost, effective cost, and effect on production or productivity, that adding cap plies or cap strips to G670 tires, or medium truck tires generally, creates or produces.

RESPONSE: GOODYEAR incorporates its Response and Objections to Request Nos. 12, 43 and 45 as if set out fully herein. In addition, GOODYEAR objects to this Request as overly broad and unduly burdensome, in that it seeks information concerning the cost of the cap plies or strips and the like pertaining to the entire G670 tire line or “medium truck tires” without limitation. To require GOODYEAR to search for and locate information related to all costs aspects of the entire G670 tire line and all medium truck tires without a limitation to time, to the Tire at Issue and without limiting the Request to a specific component or defect allegation related to the Tire at issue would be overly broad, unduly burdensome and not reasonable calculated to lead to the discovery of admissible evidence.

DISCOVERY REQUEST NO. 51

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Any and all documents related to modeling and testing of inter-laminar shear force, strain energy density, and stress and strain force in truck, RV, or G670 tires. Please see deposition of Terry Parsons Day #2, P. 323 L. 11 – P. 324, L. 8, P. 451 L.2 – P. 452 L. 4.

RESPONSE: Subject to the objections stated below, GOODYEAR states that this request is duplicative of previously propounded discovery and refers to its response and objections to Plaintiff's Fourth Discovery Request No. 5 as if set forth fully herein.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

DISCOVERY REQUEST NO. 52

Any and all documents related to the effect that cap plies have on the level, location or effect of inter-laminar shear force, and the relationship between interlaminar shear force and component separation in tires. Please see deposition of Terry Parsons Day #2, P. 325 L. 6 – P. 326 L. 4.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 12, 43, 45 and 51 as if set out fully herein. In addition, GOODYEAR objects to this Request as overly broad and unduly burdensome, in that it seeks information concerning cap plies, inter-laminar shear force and the like without limitation or relevance to the specific component or Plaintiff's defect allegation related to the Tire at issue, and as such is overly broad, unduly burdensome and not reasonable calculated to lead to the discovery of admissible evidence.

DISCOVERY REQUEST NO. 53

Any and all Goodyear's adjustment code lists. Please see deposition of Terry Parsons Day #2, P. 333, L. 1 - 12.

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RESPONSE: This Request is duplicative of prior discovery requests served by Plaintiff. GOODYEAR refers to its response and objections to Plaintiff's Fourth Discovery Request No. 6 as if set forth fully herein as Bates Label HARTSOCK.020488-020490.

DISCOVERY REQUEST NO. 54

Any and all Goodyear adjustment code classification documents. Please see deposition of Terry Parsons Day #2, P. 334, L. 4 - 13.

RESPONSE: This Request is duplicative of prior discovery requests served by Plaintiff. GOODYEAR refers to its response and objections to Plaintiff's Fourth Discovery Request No. 6 as if set forth fully herein as Bates Label HARTSOCK.020488-020490.

DISCOVERY REQUEST NO. 55

Any and all documents concerning production data for G670 tires, from the start of production of each to present, including total first stage construction, total second stage construction, total cured, total that passed uniformity testing, total that passed visual inspection, total sent to warehouse for sale, total scrapped or removed from production at any point for any reason, and the total cost of removed or scrapped production. Please see deposition of Terry Parsons Day #2, P. 338 L. 2 - 17, P. 340 L. 2 - 15.

RESPONSE: Subject to the objections stated below, GOODYEAR refers Plaintiff to GDTNA's response to this Request.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation. GOODYEAR further objects to this Request as Information concerning the cost of the removed or scrapped production and the like is overly broad unduly burdensome and not relevant to the issues in this litigation. To require GOODYEAR to search for and locate information related to all aspects of the entire G670 tire line without a limitation to time, to the Tire at Issue and without limiting the Request to a specific component or Plaintiff's defect

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allegation related to the Tire at issue would be overly broad, unduly burdensome and not reasonable calculated to lead to the discovery of admissible evidence.

DISCOVERY REQUEST NO. 56

Any and all documents, reports, compilations, monthly, quarterly or yearly analysis, and trend analysis of overall G670 and medium truck tire performance, returns, warranty claims, property damage or injury claims, blowouts, separations, failures and complaints, including past or future trend analysis, predictive modeling or forecasting.

RESPONSE: Subject to the objections stated below, GOODYEAR states that this Request is duplicative of Plaintiff's First Discovery Request No. 9 seeking information concerning claims made against this Defendant. GOODYEAR therefore refers Plaintiff to the documents produced therein.

The Request is also unduly burdensome as it is not limited to the Tire at Issue or substantially similar tires, and seeks "any and all" documents without limitation. Defendant further objects to this request to the extent it seeks information that is protected by the attorney client privilege and work product doctrine.

DISCOVERY REQUEST NO. 57

Any and all documents concerning any task force, committee, or team that dealt with RV tire issues and problems, including field performance and adjustment and claim trends that were undesirable.

RESPONSE: Defendant objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to the Request as it is over broad and unduly burdensome since it is not limited to an appropriate time period, to an appropriate scope or to information which is reasonably calculated to lead to the discovery of admissible evidence. Objection is further raised to the extent the information requested is protected by the attorney client privilege and the work product doctrine. Defendant further objects to this Request as it is unduly burdensome in its

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search for, and overly broad as it seeks information concerning “[a]ny and all documents” without any limitation or relevance to the Tire at Issue, to substantially similar RVs or to the claims and defenses asserted in this litigation.

DISCOVERY REQUEST NO. 58

Any and all documents regarding the expected, intended, and foreseeable useful chronologic life and mileage of G670 tires.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 37 as if set out fully herein.

DISCOVERY REQUEST NO. 59

Any and all documents, including the Tonawanda plant newsletter [formerly known as The Dunlop Times], reflecting communications to Tonawanda plant employees from January 1, 2000 to present. Please see deposition of Terry Parsons Day #2, P. 363 L. 21 – 25.

RESPONSE: Subject to the objections stated below, GOODYEAR refers Plaintiff to GDTNA’s response to this Request No. 59.

GOODYEAR objects to this Request as overly broad and unduly burdensome in that it seeks irrelevant information and requests documents for over fourteen (14) years which reflect “communications to Tonawanda plant employees” without any description whatsoever and without relating it to any aspect of the design or manufacture of the Tire at Issue. This Request is not limited to the issues or claims in this litigation, lacks a reasonable time scope, is unduly burdensome in its search for limitless documents, and is not reasonable calculated to lead to the discovery of admissible evidence.

DISCOVERY REQUEST NO. 60

Any and all documents regarding the release claim language that is used when Goodyear acknowledges that a returned tire failed due to a design or manufacturing defect. Please see deposition of Terry Parsons Day #2, P. 367 L. 16 – P. 368 L. 22.

RESPONSE: Subject to the objections stated below, the language of the Release speaks for itself. Plaintiff is further referred to the property damage files in his possession concerning

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the G670RV 295/80R22.5 tire as copies of non-confidential executed Release(s) were produced therein.

GOODYEAR objects to the Request as it is over broad and unduly burdensome since it is not limited to an appropriate time period, to an appropriate scope or to information which is reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request to the extent it seeks information protected by the attorney client privilege and work product doctrine.

DISCOVERY REQUEST NO. 61

Any and all documents reflecting the total production and sale of G670 tires and the percentage or number of tires that were sold for original equipment fitment on RVs or other vehicles, and the number of tires sold as replacement tires. Please see deposition of Terry Parsons Day #2, P. 374 L. 7 – 22.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 28 and 30 as if set out fully herein.

DISCOVERY REQUEST NO. 62

Any and all documents concerning the timing, reason, purpose, persons requesting, persons authorizing, nature and extent of the change, testing or evaluation of all requested engineering changes, cost of the requested changes that occurred to the design or manufacture of the inner liner, including squeegee and barrier layer of the G670 tire. Please see deposition of Terry Parsons Day #2, P. 383 L. 4 – P. 386 L. 1, P 481 L. 24 – P. 484 L. 15.

RESPONSE: Subject to the objections stated below, GOODYEAR refers Plaintiff to GDTNA's response to this Request.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue or substantially similar tires, and seeks

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“any and all” documents without limitation. Furthermore GOODYEAR objects to this request because it seeks the discovery of specific materials composition which constitutes the trade secrets of GOODYEAR. It is essential to GOODYEAR’s operations that certain of its work and information remain confidential. Disclosure of these trade secrets would result in substantial prejudice and harm to GOODYEAR. GOODYEAR’s confidential policies, research, development and technical information (such as the composition of its materials) are valuable and crucial trade secrets of the company that give GOODYEAR an advantage over its competitors. GOODYEAR makes reasonable efforts to maintain the secrecy of this information. This information would be very valuable to GOODYEAR’s competitors, who would benefit greatly by learning certain information requested herein.

DISCOVERY REQUEST NO. 63

Any and all documents describing the process involved, testing, evaluation, materials, compounds and tires considered and persons responsible for the design of G670 inner liners.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 62 as if set out fully herein.

DISCOVERY REQUEST NO. 64

Any and all documents and specifications reflecting the amounts and types of rubber compounds, formulae, recipes, percentage of butyl rubber, materials, part numbers, suppliers of materials, and material costs, including any modifications or changes, used in the inner liner and squeegee and barrier layer for all G670 tires, inclusive of the subject tire, from January 1, 1996 to present. Please see deposition of Terry Parsons Day #2, P. 395 L. 5 – P. 396 L. 25, P. 407 L. 5 – P. 408 L. 22.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 62 as if set out fully herein.

DISCOVERY REQUEST NO. 65

Any and all documents and specifications reflecting the amounts and types of rubber compounds, formulae, recipes, percentage of butyl rubber, materials, part numbers,

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suppliers of materials, and material costs, including any modifications or changes, used in the inner liner and squeegee and barrier layer compounds of the subject Hartsock tire identified on Hartsock.000501-506, Hartsock.000605.1 and Hartsock.000547 as, LN07075, LN14374, G18F8, G10A8, 6178, 6500, and CR00300. Please see deposition of Terry Parsons Day #2, P. 491 L. 19 – P. 492 L. 25.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 62 as if set out fully herein.

DISCOVERY REQUEST NO. 66

Any and all documents and specifications reflecting the amounts and types of rubber compounds, formulae, recipes, percentage of butyl rubber, materials, part numbers, suppliers of materials, and material costs, including any modifications or changes, used in the inner liner and squeegee and barrier layer compounds of all sizes of G670 tires made at any plant, including those identified on Hartsock.00012822-00013743 as F1868, and G2381.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 62 as if set out fully herein.

DISCOVERY REQUEST NO. 67

Any and all documents and drawings, showing the dimensions of the contour of the inner liners of G670 tires, including the inner liner layer, squeegee or barrier layer, contour die drawings and specifications including DIE# 0I67-450 [see Hartsock.000451], any changes, and the engineering reason or rationale for the contour shape and dimensions, including the inner liners/squeegee's/barrier layers identified on Hartsock.00012822-00013743 as LN40945, LN39138, LN40610, LN38922, LN01105, LN41203, LN07075, SQ40946, SQ40322, SQ36494, SQ39711, SQ00308, SQ00307.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 62 as if set out fully herein.

DISCOVERY REQUEST NO. 68

Any and all documents, both in print and electronic format, reflecting inner liner targets and minimums referenced in the GMS computer (Goodyear's electronic reference guide for tire design) stored data base regarding inner liners in tires. Please see deposition of Terry Parsons Day #2, P. 419, L. 14 - P. 420, L. 1.

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RESPONSE: Subject to the objections stated below, GOODYEAR refers Plaintiff to the following documents:

- (a) Cut Tire Sheets for the G670RV 295/80R22.5 tire produced under Bates Labels: HARTSOCK.007535, HARTSOCK.007545, HARTSOCK.007592, HARTSOCK.007782, HARTSOCK.007785, HARTSOCK.007788, HARTSOCK.007791, HARTSOCK.007794, HARTSOCK.007797, HARTSOCK.007800, HARTSOCK.008008, HARTSOCK.008281, HARTSOCK.008283, HARTSOCK.008285, HARTSOCK.008287, HARTSOCK.008289, HARTSOCK.008291, HARTSOCK.008293, HARTSOCK.008475, HARTSOCK.008477, HARTSOCK.008479, HARTSOCK.008481, HARTSOCK.008483, HARTSOCK.008485, HARTSOCK.008487, HARTSOCK.008488-008496, HARTSOCK.014013, HARTSOCK.014015, HARTSOCK.014017, HARTSOCK.014019, HARTSOCK.014021, HARTSOCK.014023, HARTSOCK.014025, HARTSOCK.014026-014034. See also Cut Tire Sheets included within development and release files produced under Bates Labels: HARTSOCK.000596-000828, HARTSOCK.003055-003511, HARTSOCK.004843-004861, HARTSOCK.007403-007618, HARTSOCK.007992-008010.
- (b) Cured Cross Section Drawings concerning the G670RV 295/80R22.5 tire produced under Bates Label: HARTSOCK.000858-000864, HARTSOCK.002903-002904, HARTSOCK.004759-004760, HARTSOCK.004762-004763, HARTSOCK.004842, HARTSOCK.007214-007215, HARTSOCK.007727-007730, HARTSOCK.007991, HARTSOCK.008268-008272, HARTSOCK.013952-013954, HARTSOCK.014314.

GOODYEAR will search for the visual standard applicable to the inner liner for the G670RV 295/80R22.5 tire in effect during the week of manufacture (35th week of 2003) of the Tire at Issue.

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GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation. GOODYEAR further objects to this Request to the extent it seeks the discovery of all specific technical information of the inner liner utilized in its tires which constitute the trade secrets of GOODYEAR. It is essential to GOODYEAR's operations that certain of its work and information remain confidential. Disclosure of these trade secrets would result in substantial prejudice and harm to GOODYEAR. GOODYEAR's confidential policies, research, development and technical information (such as the composition of its materials) are valuable and crucial trade secrets of the company that give GOODYEAR an advantage over its competitors. GOODYEAR makes reasonable efforts to maintain the secrecy of this information. This information would be very valuable to GOODYEAR's competitors, who would benefit greatly by learning certain information requested herein.

DISCOVERY REQUEST NO. 69

Any and all documents reflecting the component by component cost assigned to and associated with each component of G670 tires, including all documents necessary to determine cost for a single tire and also to compare the costs of the inner liner rubber compound with the cost of other tire components. Please see deposition of Terry Parsons Day #2, P. 421 L. 2 – 20.

RESPONSE: GOODYEAR refers to its above response and objections to Plaintiff's Fourth Discovery Request No. 62 as if set forth fully herein.

DISCOVERY REQUEST NO. 70

Any and all documents reflecting shearography and x-ray testing, and test results of G670 production tires and G670 test tires performed both before and after testing, including records of the number of tires that were scrapped, downgraded or deemed unsalable as a

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result of test findings. Please see deposition of Terry Parsons Day #2, P. 439, L. 21 - P. 441, L. 8, P. 549, L. 21-23.

RESPONSE: Subject to the objections stated below, GOODYEAR states that this request is duplicative of previously propounded discovery and refers to its response and objections to Plaintiff's Fourth Discovery Request No. 18 as if set forth fully herein. GOODYEAR further refers Plaintiff to GDTNA's response and objections to this Request for the search for records of the number of finished tires scrapped at the Tonawanda plant from May 2003 to May 2006.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

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DISCOVERY REQUEST NO. 71

All iterations of Defendant's Shearography Looseness Rating Legend. Please see deposition of Terry Parsons Day #2, P. 439, L. 20 -P. 441, L. 12; Day #3, P. 96 L. 8 – 21.

RESPONSE: This Request is duplicative of prior discovery requests served by Plaintiff. GOODYEAR incorporates its response and objections to Plaintiff's Fourth Discovery Request No. 14 as if set forth fully herein.

DISCOVERY REQUEST NO. 72

Any and all CAD [computer aided design] files, 2D or 3D, or other computer models of G670 tires, including those used to design or evaluate G670 tires or components, including FMEA [failure modes and effects analysis] and FEM [finite element modeling] of tire stresses and failure modes including inter laminar shear, and shear strain density. Please see deposition of Terry Parsons Day #2, P. 449, L. 21 – P. 450 L.9.

RESPONSE: Subject to the objections stated below, GOODYEAR states that this request is duplicative of previously propounded discovery and refers Plaintiff's to its response and objections to Plaintiff's Fourth Discovery Request No. 15 as if set forth fully herein. GOODYEAR will search for any computer modeling conducted on the G670 295/80R22.5 tires from the date of manufacture of the Tire at Issue to the date of accident of July 6, 2010, to evaluate the performance of the tire.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

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DISCOVERY REQUEST NO. 73

Any and all missing pages from the design file for the subject tire. Please see deposition of Terry Parsons Day #2, P. 477 L. 10 – P. 478 L. 17, P. 485 L. 3 - 12.

RESPONSE: This request is duplicative of previously propounded discovery. Nonetheless, GOODYEAR refers to its response and objections to Plaintiff's Fourth Discovery Request No. 16 as if set forth fully herein.

DISCOVERY REQUEST NO. 74

Any and all documents reflecting tests, test results, persons responsible for, and the engineering rational that led to the assignment of an "L" [75mph] speed rating to the G670 tires when the maximum U.S. speed limits and the engine governed speed limit of RVs was at or above 75mph. Please see deposition of Terry Parsons Day #2, P. 490 L. 10 – P. 491 L. 9.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's request is duplicative of previously propounded discovery and seeks documents Plaintiff is already in possession of. GOODYEAR refers Plaintiff to the following documents:

- (a) Release/Development file as bates Label HARTSOCK.000596-000828,
HARTSOCK.000602.1-000607.1, HARTSOCK.000829-000850,
HARTSOCK.003055-003511, HARTSOCK.004843-004861,
HARTSOCK.007403-007618, HARTSOCK.007992-008010; and,
- (b) 81 mph high speed test as Bates Label HARTSOCK.004922-004936.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

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Any and all documents reflecting tests, test results, persons responsible for, and the engineering rational concerning the maximum speed and duration of use, at given loads and inflation pressures, at which "L" [75mph] speed rated G670 tires can be operated without structural damage occurring to the tire, and any warnings given by Goodyear concerning the maximum use speed of G670 tires.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 74 as well as identifies the Engineering Data Book previously produced under Bates Label HARTSOCK.002915-002993.

DISCOVERY REQUEST NO. 76

Any and all documents reflecting tests, test results, persons responsible for, and the engineering rational concerning the speeds and duration of use, at given loads and inflation pressures, at which "L" [75mph] speed rated G670 tires will suffer structural damage and separation to the tire. Please see deposition of Terry Parsons Day #3, P. 204 L. 18 – P. 205 L. 12.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 74-75.

DISCOVERY REQUEST NO. 77

Any and all documents reflecting tests, test results, persons responsible for, and the engineering rational concerning the amount of under inflation or over deflection and duration of use, at given loads and inflation pressures, at which "L" [75mph] speed rated G670 tires will suffer structural damage and separation to the tire. Please see deposition of Terry Parsons Day #3, P. 204 L. 18 – P. 205 L. 12.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 74-75.

DISCOVERY REQUEST NO. 78

Any and all documents reflecting tests, test results, persons responsible for, and the engineering rational concerning the operating temperature and duration of use, at given loads and inflation pressures, at which "L" [75mph] speed rated G670 tires will suffer structural damage and separation to the tire. Please see deposition of Terry Parsons Day #3, P. 204 L. 18 – P. 205 L. 12.

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RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 74-75.

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Any and all documents reflecting tests, test results, persons responsible for, and the engineering rational concerning the maximum speed and duration of use, at given loads and inflation pressures, at which "L" [75mph] speed rated G670 tires can be operated without structural damage occurring to the tire.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 74-75.

DISCOVERY REQUEST NO. 80

Any and all documents reflecting the timing, reason, purpose, persons requesting, persons authorizing, nature and extent of any change, testing or evaluation of requested engineering changes, or cost of requested changes that occurred to the contour of the inner liner of the G670 tire, including drawings of the actual contour and extruder die. Please see deposition of Terry Parsons Day #2, P. 491 L. 19 – P. 492 L. 25, P. 498 L. 7 – P. 499 L. 23.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 62 and 67 as if set out fully herein.

DISCOVERY REQUEST NO. 81

Any and all documents reflecting tests, test results, persons responsible for, and the engineering rational concerning the intended and foreseeable normal operating temperature, maximum operating temperature and duration of use, at given loads, speeds and inflation pressures, at which G670 tires can be operated without heat induced structural damage occurring to the tire. Please see deposition of Terry Parsons Day #2, P. 538 L. 12 – 16, P. 550 L. 3 – 18.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 74-75.

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Any and all documents reflecting tests and test results of the actual measured intended and foreseeable normal operating temperature, and maximum operating temperature, of G670 tires, at given loads, speeds and inflation pressures, and the measured critical temperature at which structural heat induced damage begins to occur.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 74-75.

DISCOVERY REQUEST NO. 83

Any and all documents reflecting comparison testing of the G391E tire and Marathon LHS tire for RV use. Please see deposition of Terry Parsons Day #3, P. 106 L. 14 – P. 107 L. 10.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 12 as if set out fully herein.

DISCOVERY REQUEST NO. 84

Any and all documents reflecting collaborative testing between Goodyear and RV manufacturers. Please see deposition of Terry Parsons Day #3, P. 112 L. 18 – P.119 L. 14.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's request is duplicative of previously propounded discovery and seeks documents Plaintiff possess. GOODYEAR refers Plaintiff to the Monaco High Speed Test at Bates Label HARTSOCK.004878-004921.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

DISCOVERY REQUEST NO. 85

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Any and all documents reflecting Quality Assurance department review of any finished G670 tires that failed uniformity testing. Please see deposition of Terry Parsons Day #3, P. 153 L. 15 – P 154 L. 10.

RESPONSE: This request is duplicative of previously propounded discovery. Nonetheless, GOODYEAR refers to its response and objections to Plaintiff's Fourth Discovery Request No. 26 as if set forth fully herein.

DISCOVERY REQUEST NO. 86

Any and all documents, Smithers Reports, and color photographs or other similar reports, reflecting that Goodyear G670 tires of any size and plant manufacture, or other Goodyear or other manufacturer tires in size 295/80R 22.5 have been sectioned and its construction and components reviewed, measured and analyzed. Please see deposition of Terry Parsons Day #3, P. 161 L. 11 - 22.

RESPONSE: GOODYEAR refers to its response and objections to Request Nos. 1 and 12 as if set forth fully herein. Further, GOODYEAR states none as to the "Smithers Reports" contained in Claim No. 459580/Thomas and referred to in Mr. Parsons' deposition cited in this Request. The incident tire referenced in the Claim No. 459580 was shipped to Smithers' Laboratory at the request of Progressive Insurance's Claim Representative.

DISCOVERY REQUEST NO. 87

Any and all documents, Smithers Reports, and color photographs or other similar reports reflecting that the Defendant analyzed, measured or reviewed construction or performance of competitor tires or Goodyear family tires of any size and plant manufacture in conjunction with its development and design of RV and medium truck tires, including the G670 tire line and the G291 tire in size 295/80R22.5 manufactured at the Defendant's Wolverhampton plant.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request Nos. 12 and 85.

DISCOVERY REQUEST NO. 88

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Any and all documents reflecting static or dynamic component or complete tire adhesion testing of G670 tires from development to present. Please see deposition of Terry Parsons Day #3, P. 172 L. 16 - 19.

RESPONSE: GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it pertains to all G670 tires and all RV manufacturers without a showing of substantial similarity, and seeks "any and all documents" without limitation. Further, the phrase "complete tire adhesion testing" is ambiguous as it is undefined and is subject to various meanings. There are also numerous materials used in the design and construction of a tire, as well the tire components and tire component assemblies. To require GOODYEAR to search for and locate information related to all aspects of the entire G670 tire line and the design and manufacture of tires without a limitation to time, to the Tire at Issue and without limiting the Request to a specific component, aspect of the manufacturing process, or defect allegation related to the Tire at Issue would be overly broad, unduly burdensome and not reasonable calculated to lead to the discovery of admissible evidence. If Plaintiff will agree to limit this Request to comply with the Court's Order and address the deficiencies, GOODYEAR will search for responsive documents.

DISCOVERY REQUEST NO. 89

Any and all documents reflecting static or dynamic component, steel belt wire or cord, or complete tire impact testing of G670 tires. Please see deposition of Terry Parsons Day #3, P. 172 L. 20 - 24.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 88 as if set out fully herein. Further, GOODYEAR objects to this Request as the phrase "complete tire impact testing" is vague, ambiguous, and undefined and is subject to various meanings.

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DISCOVERY REQUEST NO. 90

Any and all documents quantifying and reflecting the amount of "margin of extra performance" in G670 tires. Please see deposition of Terry Parsons Day #3, P.185 L. 10 - 22.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's request is duplicative of previously propounded discovery and seeks documents Plaintiff possess. GOODYEAR refers Plaintiff to the following documents:

- (a) Documents related to the development and production release of the G670RV 295/80R22.5 tire at Bates Labels HARTSOCK.000596-000828,
HARTSOCK.000602.1-000607.1, HARTSOCK.000829-000850,
HARTSOCK.003055-003511, HARTSOCK.004843-004861,
HARTSOCK.007403-007618, HARTSOCK.007992-008010;
- (b) FMVSS testing concerning the G670RV 295/80R22.5 tire at Bates Labels
HARTSOCK.000851-000855, HARTSOCK.002913-002914,
HARTSOCK.004765-004803, HARTSOCK.007222-007223,
HARTSOCK.007731-007756.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation. GOODYEAR further objects to the extent the request seeks information protected by the attorney client privilege and work product doctrine.

DISCOVERY REQUEST NO. 91

Any and all documents quantifying, correlating or reflecting the equivalent on vehicle and roadway speeds, and on vehicle and on roadway inter-laminar shear to the test speeds of 67 inch and 120 inch diameter test wheels, and the inter-laminar shear forces imparted by the

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test wheels. Please see deposition of Terry Parsons Day #3, P. 202 L. 9 – 21, P. 218 L. 16 – P. 219 L. 6, P. 221 L. 14 – P. 22 L. 8.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 74-75 as if set out fully herein.

DISCOVERY REQUEST NO. 92

Any and all documents reflecting tests, test results and persons responsible for, the engineering rational and the specific Safety Margins, Targets, Bogeys, and Level of Performance Beyond the published ratings of G670 tires, at given loads, speeds, temperatures and inflation pressures. Please see deposition of Terry Parsons Day #3, P. 209 L. 20 – P. 210 L. 22.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's request is duplicative of previously propounded discovery and seeks documents Plaintiff possess. GOODYEAR refers Plaintiff to the following documents:

- (a) Documents related to the development and production release of the G670RV 295/80R22.5 tire at Bates Labels HARTSOCK.000596-000828,
HARTSOCK.000602.1-000607.1, HARTSOCK.000829-000850,
HARTSOCK.003055-003511, HARTSOCK.004843-004861,
HARTSOCK.007403-007618, HARTSOCK.007992-008010;
- (b) Load Charts located in the Recreation Vehicle Tire and Care Guides produced under Bates Label HARTSOCK.000001-000137.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents

DISCOVERY REQUEST NO. 93

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Any and all documents concerning on vehicle, on road, or on test track evaluation or testing performed by Goodyear or any third party of any RV tires or other tires that Goodyear used to evaluate the performance, durability or other characteristics of the G670 tire.

RESPONSE: Subject to the objections stated below, GOODYEAR states that it has not located on vehicle, road or test track testing of the G670RV 295/80R22.5 tire to evaluate its performance, conducted from the 35th week of 2003 (the date of manufacture of the Tire at Issue) to July 6, 2010 (the date of Plaintiff's accident).

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents. Defendant objects to the phrase "other characteristics" as it is ambiguous as it is undefined and subject to various meanings.

DISCOVERY REQUEST NO. 94

Any and all affidavits filed by Defendants in any G670 claim or case.

RESPONSE: Subject to the objections stated below, Plaintiff's request is duplicative of previously propounded discovery and seeks documents Plaintiff possess and which have been filed in the Green and Hartsock litigation. As to any other Affidavits filed by this Defendant, these are a matter of public record and/or are subject to the Protective Order in that case to the extent that they contain confidential materials/information.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also

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unduly burdensome as it is not limited to the Tire at Issue and seeks “any and all” affidavits without regard to the subject matter.

DISCOVERY REQUEST NO. 95

Any and all depositions, including exhibits, of the Defendants’ representatives, employees or former employees in any G670 claim or case.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff’s request is duplicative of previously propounded discovery and seeks documents Plaintiff already is in possession of. Plaintiff is referred to those documents produced in the response to Plaintiff’s First Discovery Request, No. 13 under Bates Label HARTSOCK.008200-008210, HARTSOCK.008211-008315, HARTSOCK.008316-008674, HARTSOCK.008675-008677, HARTSOCK.008678, HARTSOCK.008679-008681, HARTSOCK.013762-014313.

GOODYEAR objects to this Request as it is contrary to this Court’s May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. Defendant further objects to this Request for “any and all” depositions of its employees whether current or former in any “case” to the extent it seeks information that is not relevant to the claims and defenses in this litigation, not reasonably calculated to lead to the discovery of admissible evidence and is overly broad and unduly burdensome.

DISCOVERY REQUEST NO. 96

Any and all documents reflecting the idea conception, prototype and the Development Files Release Files, and Revision Histories for all G670 tires.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff’s request is duplicative of previously propounded discovery and seeks documents Plaintiff possess. GOODYEAR refers Plaintiff to the following documents:

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- (a) Documents related to the development and production release of the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.000596-000828, HARTSOCK.000602.1-000607.1, HARTSOCK.000829-000850, HARTSOCK.003055-003511, HARTSOCK.004843-004861, HARTSOCK.007403-007618, HARTSOCK.007992-008010;
- (b) Specifications and specification change records concerning the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.000425-000595, HARTSOCK.002376-002902, HARTSOCK.004650-004755, HARTSOCK.004806-004841, HARTSOCK.005011-005021, HARTSOCK.006385-006446, HARTSOCK.006692-007213, HARTSOCK.007619-007724, HARTSOCK.007956-007990, HARTSOCK.013955-013987, HARTSOCK.014050-014051.
- (c) Cured Cross Section Drawings concerning the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.000858-000864, HARTSOCK.002903-002904, HARTSOCK.004759-004760, HARTSOCK.004762-004763, HARTSOCK.004842, HARTSOCK.007214-007215, HARTSOCK.007727-007730, HARTSOCK.007991, HARTSOCK.008268-008272, HARTSOCK.013952-013954, HARTSOCK.014314.

GOODYEAR further produces specification change document, "SCC No. 72686" at Bates Label HARTSOCK.020789-020790.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

DISCOVERY REQUEST NO. 97

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Any and all documents reflecting the reasons for, justifications concerning, and cost and production implications of, each revision to G670 tires considered or implemented.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's request is duplicative of previously propounded discovery and seeks documents Plaintiff possess. GOODYEAR incorporates its Response and Objections to Fourth Discovery Request Nos. 17 and 19 as if fully set forth herein. GOODYEAR refers Plaintiff to the following documents:

- (a) Specifications and specification change records concerning the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.000425-000595,
HARTSOCK.002376-002902, HARTSOCK.004650-004755,
HARTSOCK.004806-004841, HARTSOCK.005011-005021,
HARTSOCK.006385-006446, HARTSOCK.006692-007213,
HARTSOCK.007619-007724, HARTSOCK.007956-007990,
HARTSOCK.013955-013987, HARTSOCK.014050-014051.
- (b) Cured Cross Section Drawings concerning the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.000858-000864, HARTSOCK.002903-002904,
HARTSOCK.004759-004760, HARTSOCK.004762-004763,
HARTSOCK.004842, HARTSOCK.007214-007215, HARTSOCK.007727-
007730, HARTSOCK.007991, HARTSOCK.008268-008272,
HARTSOCK.013952-013954, HARTSOCK.014314.

GOODYEAR further produces specification change document, "SCC No. 72686" at Bates Label HARTSOCK.020789-020790.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue or substantially similar tires, and seeks "any and all" documents without limitation. GOODYEAR objects to the phrase "production implications of" as it is ambiguous since it is undefined and subject to various meanings.

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Further, GOODYEAR objects to this Request as the Request for information concerning the cost of the changes and the like pertaining to the entire G670 tire line is overly broad, unduly burdensome and not relevant to the issues in this litigation. To require GOODYEAR to search for and locate information related to all G670 tires without a limitation to time, to the Tire at Issue and without limiting the Request to a specific component or defect allegation related to the Tire at issue would be overly broad, unduly burdensome and not reasonable calculated to lead to the discovery of admissible evidence. Furthermore, to the extent this request seeks specific materials composition GOODYEAR objects to this request because it seeks the discovery of trade secret information, including confidential materials, research, development and technical information (such as the materials composition of its product). It is essential to GOODYEAR's operations that certain of its work and information remain confidential. Disclosure of these trade secrets would result in substantial prejudice and harm to GOODYEAR. GOODYEAR's confidential policies, research, development and technical information (such as the composition of its materials) are valuable and crucial trade secrets of the company that give GOODYEAR an advantage over its competitors. GOODYEAR makes reasonable efforts to maintain the secrecy of this information. This information would be very valuable to GOODYEAR's competitors, who would benefit greatly by learning certain information requested herein.

DISCOVERY REQUEST NO. 98

Any and all Tire Builder Instructions, Work Instructions, Final Finish Instructions, for G670 tires, including processing, storage, and handling of the inner liner components.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's request is duplicative of previously propounded discovery and seeks documents Plaintiff possess. GOODYEAR refers Plaintiff to the following documents:

- (a) MTR Product Visual Standards – Bates Label HARTSOCK.007224-007394;
- (b) Finishing Inspection Instructions – Bates Label HARTSOCK.007395-007402;
- (c) Quality Process Control Plan for GDTNA – Bates Label HARTSOCK.007774-007780;

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- (d) MTR Runout and Balance Limits under Bates Label HARTSOCK.007757-007773;
- (e) Age Limits on Materials in Process – Bates Label HARTSOCK.007801-007812.
- (f) Job Description and Work Instructions – Bates Label HARTSOCK.007829-007899;
- (g) Green Tire Building Specifications – Bates Label HARTSOCK.007900-007916.

GOODYEAR will search for the visual standard applicable to the inner liner for the G670RV 295/80R22.5 tire in effect during the week of manufacture (35th week of 2003) of the Tire at Issue.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

DISCOVERY REQUEST NO. 99

Any and all documents concerning the foreseeable, expected and permissible level of stretching and thinning of the G670 inner liner during tire manufacture, and how to determine if the inner liner has been stretched too thin and as a result the tire must be scrapped.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 98 as if set out fully herein.

DISCOVERY REQUEST NO. 100

Any and all documents concerning what other Goodyear Family tires used the same inner liner compound as the G670 tire.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request

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No. 12 as if set out fully herein.

DISCOVERY REQUEST NO. 101

Any and all documents regarding the relationship between tire blowout and failure, including on the steer axle of RVs, and loss of vehicle control and accident, inclusive of any analysis of the likelihood of injury or death.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's Request is duplicative of previously propounded discovery and seeks documents Plaintiff possess. GOODYEAR identifies the following documents:

- (a) Recreation Vehicle Tire and Care Guide produced under Bates Label HARTSOCK.000001-000137;
- (b) Warranty in effect at the time of manufacture of the Tire at Issue produced under Bates Label HARTSOCK.000077-000078;
- (c) Industry literature produced under Bates Label HARTSOCK.000158-000181;
- (d) Consumer Tire Guide produced under Bates Label HARTSOCK.000182-000197;
- (e) Care and Service of Automobile and Light Truck Tire Guides under Bates Label HARTSOCK.000198-000312;
- (f) New Consumer Tire Guide produced under Bates Label HARTSOCK.000313-000324;
- (g) Goodyear website materials produced under Bates Label HARTSOCK.000869-000885.

GOODYEAR will also search for literature concerning the controllability of an RV after a tire disablement dated from the manufacture of the tire to the date of Plaintiff's accident, July 6, 2010.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also

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unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation. Further, to the extent Plaintiff seeks document protected by the attorney client privilege and work product doctrine, GOODYEAR objects to same.

DISCOVERY REQUEST NO. 102

Any and all documents reflecting the recommended and appropriate amount of inflation pressure that Mr. Rodrigues, the owner of the subject RV, should have kept in the steer axle tires of the subject RV based upon the measured weight on each tire of the front axle by Mr. Rodrigues of 6,770 pounds for the left front tire and 6,770 pounds for the right front tire.

RESPONSE: Subject to the objections stated below, Plaintiff is directed to the following documents previously produced or Plaintiff's possess for instructions and inflation pressure information from RV manufacturer Monaco and the industry responsive to this Request:

- (a) Monaco Coach Owner's Manual for the subject RV identified by Bates Label Hartsock-MONACO-0092-0671.
- (b) Industry Literature produced under Bates Label HARTSOCK.000158-000181;
- (c) Care and Service of Automobile/Truck and Light Truck Tire Guides under Bates Label HARTSOCK.000198-000312.

Discovery and investigation is ongoing.

To the extent a further response is sought, GOODYEAR objects to this Request to the extent that Plaintiff seeks the premature disclosure of expert opinion in that testifying experts have not yet been identified and no reports have been prepared. The Request is unduly burdensome as it seeks "any and all" documents. GOODYEAR also objects to this request as phrased as vague and ambiguous in that it seeks a determination of the recommended tire pressure for tires on a RV in a manner that is not consistent with the appropriate way to determine the appropriate tire pressure and fails to identify, among other criteria, the weight of each axle and tire position on the subject RV, as well as the weight distribution of any items loaded onto the subject RV. See Section 2 of the Monaco Owners' Manual under Bates Label Hartsock-MONACO-0092-0671.

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DISCOVERY REQUEST NO. 103

Any and all documents reflecting any impact testing of G670 tires or medium truck tires, or testing that shows any scientific relationship between an impact to a tire while in use and a separation occurring hundreds or thousands of use miles later.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 88 as if set out fully herein.

DISCOVERY REQUEST NO. 104

Any and all test records for the G670, whether run in the development process, in the manufacturing process, in the quality control process, in post-production process or at any other time or for any other purpose, said tests to include, but not be limited to the following:

- a. DOT FMVSS-119 Extended Certification;
- b. Heat Rise tests;
- c. Bead durability tests;
- d. Crown durability tests;
- e. W84 or comparable test data for this tire including electronic postproduction and pre-production, in both data format and paper format;
- f. L04 heat rise tests, or the comparable tests for this tire, in both electronic data format and paper format;
- g. W16 tests or comparable test data for this tire including electronic postproduction and pre-production, in both data format and paper format;
- h. W64 tests or comparable test data for this tire including electronic postproduction and pre-production, in both data format and paper format;
- i. G09 tests or comparable test data for this tire including electronic postproduction and pre-production, in both data format and paper format; DOT
- j. Laboratory Durability Testing – Heat Rise Tests -
- k. All tests to determine the dynamic heat build-up at specific loads, speeds and inflations,
- l. Road tests, Ford work only
- m. Wheel tests, (Release package)
- n. All speed tests, whether High speed tests, or High speed wheel tests, for any purpose,
- p. Internal heat tests,
- q. Endurance tests,
- r. Durability tests,
- s. All tests which relate to the approval of the G670 tire for over the road use at highway speeds, whether on an RV or a truck, at 55mph or above.

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RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's request is duplicative of previously propounded discovery and requests documents Plaintiff possess. GOODYEAR refers Plaintiff to the following documents:

- (a) Tests conducted on the G670RV 295/80R22.5 tire that were identified as part of its development and/or production release as Bates Label HARTSOCK.000596-000828, HARTSOCK.000602.1-000607.1, HARTSOCK.000829-000850, HARTSOCK.003055-003511, HARTSOCK.004843-004861, HARTSOCK.007403-007618, HARTSOCK.007992-008010;
- (b) FMVSS testing for the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.000851-000855, HARTSOCK.002913-002914, HARTSOCK.004765-004803, HARTSOCK.007222-007223, HARTSOCK.007731-007756;
- (c) 2005 testing of the bead for the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.004937-005010; and
- (d) Test data and reports conducted on the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.008026-008040.

GOODYEAR continues to search for tests used in the release and the production of the Tire at Issue and, to the extent not already in Plaintiff's possession, will supplement this response if any responsive information is located.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. GOODYEAR further objects to the extent the request seeks information protected by the attorney client privilege and work product doctrine. The Request is also unduly burdensome as it is not limited to the Tire at Issue, and seeks "any and all" test records.

DISCOVERY REQUEST NO. 105

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Any and all tests, documents, technical papers and submissions to any organization, non-governmental or governmental agency which you rely upon to equate drum test speeds to real world highway speeds or to flatbed speeds as developed by Cal Span.

RESPONSE: Subject to the objections stated below, GOODYEAR will search for non-protected documents which were submitted on its behalf to NHTSA concerning drum test speeds developed by Cal Span.

Defendant objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it seeks "any and all" documents.

DISCOVERY REQUEST NO. 106

Any and all tests, documents or other materials which compare the performance of the G670 tire to the G195 tire in those tests set forth at RFP 104 a thru s or on any other criteria.

RESPONSE: GOODYEAR incorporates its above Response and Objections to Request No. 12 as if set out fully herein.

DISCOVERY REQUEST NO. 107

Any and all documents provided to our received from, or correspondence to or from, the NHTSA [National Highway Traffic and Safety Administration] regarding G670 or RV tires including any reporting to NHTSA regarding G670 or RV tires and all updates pursuant to the TREAD Act, 49 CFR Parts 571, 573, 579 or the EWR [early warning reporting] aspect of the TREAD Act.

RESPONSE: GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence.

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GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation. GOODYEAR further objects to Plaintiff's Request for "any and all documents reflecting any communications" because the Request is overly broad, unduly burdensome and not limited to a relevant time period. Moreover, this Request seeks information across all G670 tire lines and RV tires. GOODYEAR also objects to this Request to the extent that it seeks documents generated by consulting experts, documents protected by the attorney client privilege and work product doctrine or documents protected from disclosure pursuant to agreements binding on GOODYEAR. Objection is also raised to documents that have been accorded confidential treatment pursuant to 49 CFR Part 512 (NHTSA Confidential Business Information Rule), 5 U.S.C. 552(b) and 5 U.S.C. 552(b)(4), or otherwise submitted to such organizations and accorded confidential treatment pursuant to agreement.

DISCOVERY REQUEST NO. 108

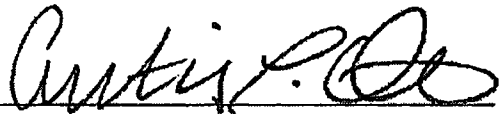
Documents, and diagrams showing the layout, departments, location of machines, and areas of the Tonawanda plant during the time period that G670 tires were manufactured at the plant, and any legends or documents necessary to explain the layout.

RESPONSE: Subject to the objections stated below, GOODYEAR refers Plaintiff to GDTNA's responses and objections to this Request.

GOODYEAR objects to this Request in that it seeks detailed information regarding the layout of the Tonawanda plant and machines that is proprietary and confidential to this Defendant. GOODYEAR further objects to this Request in that it seeks information that is not relevant to the claims or defense in this litigation, is unlimited in time, and is not reasonably calculated to lead to the discovery of admissible evidence.

Exhibit A

5:13-419-JMC


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Attorneys for Defendants

May 23, 2014

Columbia, South Carolina

Exhibit B

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff,

v.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and The Goodyear Tire
& Rubber Company, a foreign corporation,

Defendants.

Case No.: 2:13-cv-00419-PMD

**DEFENDANT, THE GOODYEAR
TIRE & RUBBER COMPANY'S
SUPPLEMENTAL RESPONSE TO
PLAINTIFF'S FIFTH DISCOVERY
REQUESTS NOS. 68, 96, and 98**

Defendant, THE GOODYEAR TIRE & RUBBER COMPANY ("GOODYEAR" or "Defendant"), by and through its undersigned counsel, hereby submits its Supplemental Response to Plaintiff's Fifth Discovery Requests Numbers 68, 96, and 98.

Preliminary Statement

This matter involves a particular tire G670RV 295/80R22.5 bearing DOT No. DANU2CAW3503 ("Tire at Issue"), which designation indicates a particular tire manufactured by Goodyear Dunlop Tires North America, LTD ("GDTNA") at its Tonawanda (Buffalo), New York plant during the 35th week of 2003.

"Subject Tire" herein refers to tires built at the same plant, using the same material and construction specification, and which have the same cured tread pattern and markings as the "Tire at Issue."

During the hearing of April 15, 2014, this Court provided the parties with the scope of discovery and general parameters on the temporal scope of the production. To that end, counsel for the GOODYEAR communicated with Plaintiff's counsel to attempt to reach an agreement on the general and temporal scope of discovery; however, to date, Plaintiff's counsel has not responded to this request.

Counsel for GOODYEAR also requested that Plaintiff limit, or withdraw select portions of the Fifth Discovery Request, in accordance with the Court's scope of discovery as addressed

Exhibit B

during the hearing of April 15, 2014, as well as its Order of May 5, 2014 (DE 83). Plaintiff's counsel has refused to withdraw his discovery requests and/or limit the scope of the discovery to comply with the Court's rulings.

GOODYEAR objects to Plaintiff's instruction located at the end of the Requests to the extent that it is contrary to the dictates of Rule 26(e)(1), Fed. R. Civ. P., which requires supplementation to the extent that a discovery response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

This set of discovery requests are allegedly based on the deposition of Terrence Parsons taken on March 8, May 10 and May 11, 2012 in the Green v. Goodyear litigation previously pending in Palm Beach County, Florida. GOODYEAR objects to Plaintiff's requests to the extent that they mischaracterize the testimony pertaining to the information and documents described.

SUPPLEMENTAL RESPONSES

DISCOVERY REQUEST NO. 68

Any and all documents, both in print and electronic format, reflecting inner liner targets and minimums referenced in the GMS computer (Goodyear's electronic reference guide for tire design) stored data base regarding inner liners in tires. Please see deposition of Terry Parsons Day #2, P. 419, L. 14 - P. 420, L. 1.

RESPONSE: Subject to the objections stated below, GOODYEAR refers Plaintiff to the following documents:

- (a) Cut Tire Sheets for the G670RV 295/80R22.5 tire produced under Bates Labels:
HARTSOCK.007535, HARTSOCK.007545, HARTSOCK.007592,
HARTSOCK.007782, HARTSOCK.007785, HARTSOCK.007788,
HARTSOCK.007791, HARTSOCK.007794, HARTSOCK.007797,
HARTSOCK.007800, HARTSOCK.008008, HARTSOCK.008281,
HARTSOCK.008283, HARTSOCK.008285, HARTSOCK.008287,
HARTSOCK.008289, HARTSOCK.008291, HARTSOCK.008293,
HARTSOCK.008475, HARTSOCK.008477, HARTSOCK.008479,

Exhibit B

HARTSOCK.008481, HARTSOCK.008483, HARTSOCK.008485,
HARTSOCK.008487, HARTSOCK.008488-008496, HARTSOCK.014013,
HARTSOCK.014015, HARTSOCK.014017, HARTSOCK.014019,
HARTSOCK.014021, HARTSOCK.014023, HARTSOCK.014025,
HARTSOCK.014026-014034. *See also* Cut Tire Sheets included within
development and release files produced under Bates Labels:
HARTSOCK.000596-000828, HARTSOCK.003055-003511,
HARTSOCK.004843-004861, HARTSOCK.007403-007618,
HARTSOCK.007992-008010.

- (b) Cured Cross Section Drawings concerning the G670RV 295/80R22.5 tire
produced under Bates Label: HARTSOCK.000858-000864,
HARTSOCK.002903-002904, HARTSOCK.004759-004760,
HARTSOCK.004762-004763, HARTSOCK.004842, HARTSOCK.007214-
007215, HARTSOCK.007727-007730, HARTSOCK.007991,
HARTSOCK.008268-008272, HARTSOCK.013952-013954,
HARTSOCK.014314.

GOODYEAR will search for the visual standard applicable to the inner liner for the G670RV 295/80R22.5 tire in effect during the week of manufacture (35th week of 2003) of the Tire at Issue.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation. GOODYEAR further objects to this Request to the extent it seeks the discovery of all specific technical information of the inner liner utilized in its tires which constitute the trade secrets of GOODYEAR. It is essential to GOODYEAR's operations that certain of its work and information remain confidential. Disclosure of these trade secrets would

Exhibit B

result in substantial prejudice and harm to GOODYEAR. GOODYEAR's confidential policies, research, development and technical information (such as the composition of its materials) are valuable and crucial trade secrets of the company that give GOODYEAR an advantage over its competitors. GOODYEAR makes reasonable efforts to maintain the secrecy of this information. This information would be very valuable to GOODYEAR's competitors, who would benefit greatly by learning certain information requested herein.

SUPPLEMENTAL RESPONSE:

Subject to the above stated objections, GOODYEAR refers Plaintiff to the visual standard applicable to the inner liner for the G670RV 295/80R22.5 tire in effect during the week of manufacture (35th week of 2003) of the Tire at Issue (Bates Label HARTSOCK.021932-021943). Further, GOODYEAR produces as Bates Label HARTSOCK.021944-021959 as the Global Master Specification for Cut Tire Limits that contains information utilized by the Buffalo plant for medium radial truck tires manufactured in 2003.

DISCOVERY REQUEST NO. 96

Any and all documents reflecting the idea conception, prototype and the Development Files Release Files, and Revision Histories for all G670 tires.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's request is duplicative of previously propounded discovery and seeks documents Plaintiff possess. GOODYEAR refers Plaintiff to the following documents:

- (a) Documents related to the development and production release of the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.000596-000828, HARTSOCK.000602.1-000607.1, HARTSOCK.000829-000850, HARTSOCK.003055-003511, HARTSOCK.004843-004861, HARTSOCK.007403-007618, HARTSOCK.007992-008010;
- (b) Specifications and specification change records concerning the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.000425-000595, HARTSOCK.002376-002902, HARTSOCK.004650-004755, HARTSOCK.004806-004841, HARTSOCK.005011-005021, HARTSOCK.006385-006446, HARTSOCK.006692-007213,

Exhibit B

HARTSOCK.007619-007724, HARTSOCK.007956-007990,
HARTSOCK.013955-013987, HARTSOCK.014050-014051.

- (c) Cured Cross Section Drawings concerning the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.000858-000864, HARTSOCK.002903-002904,
HARTSOCK.004759-004760, HARTSOCK.004762-004763,
HARTSOCK.004842, HARTSOCK.007214-007215, HARTSOCK.007727-
007730, HARTSOCK.007991, HARTSOCK.008268-008272,
HARTSOCK.013952-013954, HARTSOCK.014314.

GOODYEAR further produces specification change document, "SCC No. 72686" at Bates Label HARTSOCK.020789-020790.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

SUPPLEMENTAL RESPONSE:

Subject to the above stated objections, GOODYEAR produces additional documents pertaining to the development of the G670RV 295/80R22.5 tire as Bates Label HARTSOCK.021960-022007.

Exhibit B

DISCOVERY REQUEST NO. 98

Any and all Tire Builder Instructions, Work Instructions, Final Finish Instructions, for G670 tires, including processing, storage, and handling of the inner liner components.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's request is duplicative of previously propounded discovery and seeks documents Plaintiff possess. GOODYEAR refers Plaintiff to the following documents:

- (a) MTR Product Visual Standards – Bates Label HARTSOCK.007224-007394;
- (b) Finishing Inspection Instructions – Bates Label HARTSOCK.007395-007402;
- (c) Quality Process Control Plan for GDTNA – Bates Label HARTSOCK.007774-007780;
- (d) MTR Runout and Balance Limits under Bates Label HARTSOCK.007757-007773;
- (e) Age Limits on Materials in Process – Bates Label HARTSOCK.007801-007812.
- (f) Job Description and Work Instructions – Bates Label HARTSOCK.007829-007899;
- (g) Green Tire Building Specifications – Bates Label HARTSOCK.007900-007916.

GOODYEAR will search for the visual standard applicable to the inner liner for the G670RV 295/80R22.5 tire in effect during the week of manufacture (35th week of 2003) of the Tire at Issue.

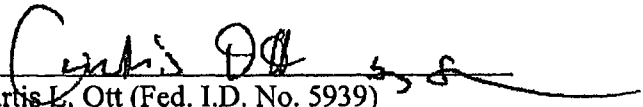
GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

SUPPLEMENTAL RESPONSE:

Subject to the above stated objections, GOODYEAR refers Plaintiff to the visual standard applicable to the inner liner for the G670RV 295/80R22.5 tire in effect during the week

Exhibit B

of manufacture (35th week of 2003) of the Tire at Issue (Bates Label HARTSOCK.021932-021943). Further, GOODYEAR produces as Bates Label HARTSOCK.021944-021959 as the Global Master Specification for Cut Tire Limits that contains information utilized by the Buffalo plant for medium radial truck tires manufactured in 2003.


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Attorneys for Defendants

October 7, 2014

Columbia, South Carolina

Exhibit B

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff

v.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and The Goodyear Tire
& Rubber Company, a foreign corporation,

Defendants.

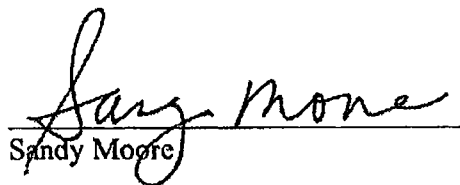
Case No.: 5:13-cv-00419-PMD

CERTIFICATE OF SERVICE

The undersigned employee of Gallivan, White & Boyd, P.A., does hereby certify that I have served all counsel in this action with a copy of the document(s) listed below by e-mail and by depositing same in the United States Mail first class postage prepaid, to the address indicated below.

DOCUMENT(S):	DEFENDANT, THE GOODYEAR TIRE & RUBBER COMPANY'S SUPPLEMENTAL RESPONSE TO PLAINTIFF'S FIFTH DISCOVERY REQUESTS NOS. 68, 96, and 98
COUNSEL SERVED:	Mark C. Tanenbaum Mark C. Tanenbaum, P.A. P.O. Box 20757 Charleston, South Carolina 29413 David R. Fountain, Jr. Clark, Fountain, LaVista, Prather, Keen & Littky-Rubin 1919 N. Flagler Drive West Palm Beach, FL 33407

Exhibit B


Sandy Moore

Columbia, South Carolina

October 7, 2014

Exhibit B

**CERTIFICATION BY COUNSEL OF DESIGNATION
OF INFORMATION AS CONFIDENTIAL**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff,

v.

Goodyear Dunlop Tires North America,
LTD, a foreign corporation; and The
Goodyear Tire & Rubber Company, a
foreign corporation,

Defendants.

Case No.: 2:13-cv-00419-PMD

**CERTIFICATION BY COUNSEL OF
DESIGNATION OF INFORMATION AS
CONFIDENTIAL**

Documents produced herewith whose bates numbers are listed below have been marked as CONFIDENTIAL subject to the Confidentiality Order entered in this action which Order is dated September 9, 2013:

HARTSOCK. 021932-022007

By signing below, I am certifying that I have personally reviewed the marked documents and believe, based on that review, that they are properly subject to protection under the terms of Paragraph 3 of the Confidentiality Order.

Check and complete one of the two options below.

- ☐ I am a member of the Bar of the United States District Court for the District of South Carolina. My District Court Bar number is [District Court Bar #].

Exhibit B

x I am not a member of the Bar of the United States District Court for the District of South Carolina but am admitted to the bar of one or more states. The state in which I conduct the majority of my practice is Florida where my Bar number is 0555592. I understand that by completing this certification I am submitting to the jurisdiction of the United States District Court for the District of South Carolina as to any matter relating to this certification.

Date: October 7, 2014

/s/Bianca G. Liston

Signature of Counsel

Bianca G. Liston

Printed Name of Counsel

Exhibit B

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff

v.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and The Goodyear Tire
& Rubber Company, a foreign corporation,

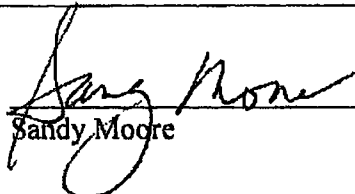
Defendants.

Case No.: 5:13-cv-00419-PMD

CERTIFICATE OF SERVICE

The undersigned employee of Gallivan, White & Boyd, P.A., does hereby certify that I have served all counsel in this action with a copy of the document(s) listed below by e-mail and by depositing same in the United States Mail first class postage prepaid, to the address indicated below.

DOCUMENT(S):	CERTIFICATION BY COUNSEL OF DESIGNATION OF INFORMATION AS CONFIDENTIAL
COUNSEL SERVED:	Mark C. Tanenbaum Mark C. Tanenbaum, P.A. P.O. Box 20757 Charleston, South Carolina 29413 David R. Fountain, Jr. Clark, Fountain, LaVista, Prather, Keen & Littky-Rubin 1919 N. Flagler Drive West Palm Beach, FL 33407


Sandy Moore

Columbia, South Carolina

October 7, 2014

Exhibit C

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff,

v.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and The Goodyear Tire
& Rubber Company, a foreign corporation,

Defendants.

Case No.: 2:13-cv-00419-PMD

**DEFENDANT, THE GOODYEAR
TIRE & RUBBER COMPANY'S FIRST
SUPPLEMENTAL RESPONSE TO
PLAINTIFF'S FIFTH DISCOVERY
REQUESTS NOS. 9, 10, 11, 16, 20, 22,
29, 31, 72, 101, 104, AND 105**

Defendant, THE GOODYEAR TIRE & RUBBER COMPANY ("GOODYEAR" or "Defendant"), by and through its undersigned counsel, hereby submits its First Supplemental Response to Plaintiff's Fifth Discovery Requests Nos. 9, 10, 11, 16, 20, 22, 29, 31, 72, 101, 104, and 105.

Preliminary Statement

This matter involves a particular tire G670RV 295/80R22.5 bearing DOT No. DANU2CAW3503 ("Tire at Issue"), which designation indicates a particular tire manufactured by Goodyear Dunlop Tires North America, LTD ("GDTNA") at its Tonawanda (Buffalo), New York plant during the 35th week of 2003.

"Subject Tire" herein refers to tires built at the same plant, using the same material and construction specification, and which have the same cured tread pattern and markings as the "Tire at Issue."

During the hearing of April 15, 2014, this Court provided the parties with the scope of discovery and general parameters on the temporal scope of the production. To that end, counsel for the GOODYEAR communicated with Plaintiff's counsel to attempt to reach an agreement on the general and temporal scope of discovery; however, to date, Plaintiff's counsel has not responded to this request.

Exhibit C

Counsel for GOODYEAR also requested that Plaintiff limit, or withdraw select portions of the Fifth Discovery Request, in accordance with the Court's scope of discovery as addressed during the hearing of April 15, 2014, as well as its Order of May 5, 2014 (DE 83). Plaintiff's counsel has refused to withdraw his discovery requests and/or limit the scope of the discovery to comply with the Court's rulings.

GOODYEAR objects to Plaintiff's instruction located at the end of the Requests to the extent that it is contrary to the dictates of Rule 26(e)(1), Fed. R. Civ. P., which requires supplementation to the extent that a discovery response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

This set of discovery requests are allegedly based on the deposition of Terrence Parsons taken on March 8, May 10 and May 11, 2012 in the Green v. Goodyear litigation previously pending in Palm Beach County, Florida. GOODYEAR objects to Plaintiff's requests to the extent that they mischaracterize the testimony pertaining to the information and documents described.

SUPPLEMENTAL RESPONSES

DISCOVERY REQUEST NO. 9

Any and all documents reflecting any communications or notice provided to the NHTSA or any governmental or quasi governmental agency or entity concerning G670 tires or the marginal safety margin acknowledged by Terry Parsons.

RESPONSE: Subject to the objections stated below, GOODYEAR will search for non-protected documents submitted to NHTSA concerning the fitment of G670RV 295/80R22.5 tires on substantially similar RVs from the date of manufacture of the Tire at Issue to the date of Plaintiff's accident, July 6, 2010. If Plaintiff will identify what is meant by the phrase "government or quasi governmental agency or entity," it will respond with responsive information identified. To the extent that Plaintiff seeks information concerning the TREAD Act, Plaintiff is referred to GOODYEAR's Response to Discovery Request No. 107.

Exhibit C

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to the request as the terms "governmental" or "quasi governmental agency" are undefined and to the extent the phrase of "marginal safety margin" is being used contrary to the meaning provided by Mr. Parsons in his deposition. GOODYEAR also objects to this Request to the extent that it seeks documents generated by consulting experts, documents protected by the attorney client privilege and work product doctrine or documents protected from disclosure pursuant to agreements binding on GOODYEAR. Objection is also raised to documents that have been accorded confidential treatment pursuant to 49 CFR Part 512 (NHTSA Confidential Business Information Rule), 5 U.S.C. 552(b) and 5 U.S.C. 552(b)(4), or otherwise submitted to such organizations and accorded confidential treatment pursuant to agreement.

SUPPLEMENTAL RESPONSE:

Subject to the objections stated above, GOODYEAR agreed to "search for non-protected documents submitted to NHTSA concerning the fitment of G670RV 295/80R22.5 tires on substantially similar RVs from the date of manufacture of the Tire at Issue to the date of Plaintiff's accident, July 6, 2010" and it has been unable to locate responsive documents.

DISCOVERY REQUEST NO. 10

Terry Parsons' deposition and trial testimony list from 1996 – present, C.V., resume and employee personnel file, with earnings information redacted. Please see deposition of Terry Parsons Day #1, P. 18 L. 21 – 25.

RESPONSE: Subject to the objections stated below, GOODYEAR will search for the current deposition and trial testimony list of Terry Parsons, in addition to his curriculum vitae.

GOODYEAR objects to this Request on the grounds that Mr. Parsons' employment files are neither relevant nor material, cover a time period which is overly broad in time and scope, are protected from disclosure by privacy rights of the employee and the Health Insurance Portability and Accountability Act, and because the Request is not reasonably calculated to lead to the

Exhibit C

discovery of admissible evidence. For instance, where employees are operating within the course and scope of their employment, that employee's employment records are neither relevant nor discoverable. GOODYEAR also objects as its personnel files contain confidential business information.

SUPPLEMENTAL RESPONSE:

Subject to the objections stated above, GOODYEAR produces as Bates Label HARTSOCK.022137-022144 the current curriculum vitae and deposition/ trial testimony list of Terrence L. Parsons.

DISCOVERY REQUEST NO. 11

The deposition and trial testimony lists, C.V.s, resumes and employee personnel files, with earnings information redacted, of the persons who built, constructed and inspected the subject tire in this case and the subject tire in Green v Goodyear, and the following representatives and employees of the Defendant who have been noticed for deposition in this case:

- a. Terry Parsons
- b. Dan Badzinski
- c. Jim Koerner
- d. Art Strobel
- e. Jeff Row
- f. Mike Wilps
- g. Goodyear employee – I.D. # T654S27
- h. Goodyear employee – I.D. # VMB226
- i. Goodyear employee – I.D. # NO8LLW1
- j. Goodyear employee – I.D. # AO43761
- k. Goodyear employee – I.D. # JPN1172
- l. Robert Carncross
- m. Jose Nawrot
- n. William Kolb
- o. R. Brian Lindsay
- p. Reggie Leduc
- q. Hugh Thompson
- r. John Strusaker

RESPONSE: Subject to the objections stated below, to the extent that such information is available and exists, GOODYEAR will search for the current deposition and trial testimony list and curriculum vitae of above named individuals currently employed by GOODYEAR. As

Exhibit C

to employees currently employed by GDTNA, Plaintiff is referred to GDTNA's Response to Request No. 11.

GOODYEAR objects to this Request on the grounds that the employment files of the above listed GOODYEAR employees, as well as "the persons who built, constructed and inspected the subject tire in this case and the subject tire in Green v Goodyear" is not only irrelevant and immaterial but also, overly broad in time and scope, in violation of the privacy rights of the employee and the Health Insurance Portability and Accountability Act, and is not reasonably calculated to lead to the discovery of admissible evidence. For instance, where employees are operating within the course and scope of their employment, that employee's employment records are neither relevant nor discoverable. GOODYEAR also objects as its personnel files contain confidential business information. It also seeks the premature disclosures of consulting experts.

SUPPLEMENTAL RESPONSE:

Subject to the objections stated above, GOODYEAR produces the following:

- (a) Curriculum vitae and testimony list of James Stroble under Bates Label HARTSOCK.022145-022151;**
- (b) Curriculum vitae and testimony list of Terrence L. Parsons under Bates Label HARTSOCK.022137-022144;**
- (c) Curriculum vitae of Reggie Leduc under Bates Label HARTSOCK.022152-022154.**

DISCOVERY REQUEST NO. 16

Any and all documents reflecting the identities of the recreational vehicle manufacturers who collaborated with Defendant regarding the design of the G670 tire, and any and all documents describing the nature, extent and amount of collaboration that occurred. Please see deposition of Terry Parsons Day #1, P. 56 L. 22 – P. 57 L. 6

RESPONSE: Subject to the objections stated below, GOODYEAR will search for communications at or around the time of the manufacture of the G670RV 295/80R22.5 tire with RV manufacturers, to the extent these exist, concerning their input on the design of this tire.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially

Exhibit C

similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. The Request, is also unduly burdensome as it is not limited to the Tire at Issue and seeks “any and all” documents without limitation.

SUPPLEMENTAL REPOSE:

Subject to the objections stated above, GOODYEAR has been unable to locate communications at or around the time of the manufacture of the G670RV 295/80R22.5 tire with RV manufacturers concerning their input on the design of this tire. Plaintiff is also referred to the deposition of James Koerner at 88:4-11.

DISCOVERY REQUEST NO. 20

Any and all documents and testing describing the nature, extent, amount and conditions of under inflation or over deflection that cause or produce separations in G670 tires.

RESPONSE: Subject to the objections stated below, Defendant refers Plaintiff to Bates Labels HARTSOCK.000596-000828, HARTSOCK.000602.1-000607.1, HARTSOCK.000829-000850, HARTSOCK.003055-003511, HARTSOCK.004843-004861, HARTSOCK.007403-007618, HARTSOCK.007992-008010 for the documents from the development and release for production of the G670RV 295/80R22.5 tire at the Tonawanda plant, which contain information responsive to this Request. GOODYEAR will search for testing of the G670RV 295/80R22.5 tire conducted from 35th week of 2003 (date of manufacture of the Tire at Issue) to July 6, 2010 (date of Plaintiff's accident) involving conditions of underinflation and overdeflection that cause tread separations and supplement this response accordingly.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. The Request is also unduly burdensome as it is not limited to the Tire at Issue, to a reasonable time and seeks “any and all” documents without limitation.

Exhibit C

SUPPLEMENTAL RESPONSE:

Subject to the objections stated above, GOODYEAR further refers Plaintiff to the Bead Improvement Test Plan previously produced and identified in supplemental disclosures as Bates Label HARTSOCK.021625-021931 and FMVSS 119 testing previously produced as Bates Labels HARTSOCK.000851-000855, HARTSOCK.002913-002914, HARTSOCK.004765-004803, HARTSOCK.007222-07223, HARTSOCK.007731-007756.

DISCOVERY REQUEST NO. 22

Any and all documents, Cut Tire Analysis Program, Cut Tire Sheets, scanned images of tire sections, actual tire sections, protocols for evaluating findings and analysis of compliance with specifications and tolerances for all G670 cut tire analysis from development through present. Please see deposition of Terry Parsons Day #1, P. 119 L. 9 – 23, P. 122 L. 12 – 21, P. 124 L. 7 – P. 125 L. 1, P. 126 L. 7 – 15, P. 140 L. 25 – P. 141 L. 1, P. 142 L. 22 – P. 143 L. 22, P. 144 L. 13 – P. 145 L. 10, P. 147 L. 25 – P. 148 L. 10, P. 150 L. 14 – 23.

RESPONSE: Subject to the objections stated below, GOODYEAR refers Plaintiff to the following documents:

- (a) Cut Tire Sheets for the G670RV 295/80R22.5 tire produced under Bates Labels: HARTSOCK.007535, HARTSOCK.007545, HARTSOCK.007592, HARTSOCK.007782, HARTSOCK.007785, HARTSOCK.007788, HARTSOCK.007791, HARTSOCK.007794, HARTSOCK.007797, HARTSOCK.007800, HARTSOCK.008008, HARTSOCK.008281, HARTSOCK.008283, HARTSOCK.008285, HARTSOCK.008287, HARTSOCK.008289, HARTSOCK.008291, HARTSOCK.008293, HARTSOCK.008475, HARTSOCK.008477, HARTSOCK.008479, HARTSOCK.008481, HARTSOCK.008483, HARTSOCK.008485, HARTSOCK.008487, HARTSOCK.008488-008496, HARTSOCK.014013, HARTSOCK.014015, HARTSOCK.014017, HARTSOCK.014019, HARTSOCK.014021, HARTSOCK.014023, HARTSOCK.014025, HARTSOCK.014026-014034. See also Cut Tire Sheets included within development and release files produced under Bates Labels:

Exhibit C

HARTSOCK.000596-000828, HARTSOCK.003055-003511,
HARTSOCK.004843-004861, HARTSOCK.007403-007618,
HARTSOCK.007992-008010.

- (b) Cured Cross Section Drawings concerning the G670RV 295/80R22.5 tire produced under Bates Label: HARTSOCK.000858-000864,
HARTSOCK.002903-002904, HARTSOCK.004759-004760,
HARTSOCK.004762-004763, HARTSOCK.004842, HARTSOCK.007214-007215, HARTSOCK.007727-007730, HARTSOCK.007991,
HARTSOCK.008268-008272, HARTSOCK.013952-013954,
HARTSOCK.014314.

GOODYEAR further produces two additional Cut Tire Sheets located concerning the G670 RV under Bates Label HARTSOCK.020787-020788.

GOODYEAR further states it will also search for scanned images of the cut tire sections of the G670RV 295/80R22.5 tire and instructions for conducting cut tire analysis in effect during the 35th week of 2003 (date of manufacture of the Tire at Issue) to July 6, 2010 (date of Plaintiff's accident) and will supplement this Response if any records are identified.

GDTNA objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence GDTNA also objects to the request as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation to time or scope. GOODYEAR further objects to this Request as it is duplicative of previous Requests and seeks documents Plaintiff possess by virtue of GOODYEAR's previous production, and which are being produced in accordance with this Court's Order of May 5, 2014.

Exhibit C

SUPPLEMENTAL RESPONSE:

Subject to the objections stated above, GOODYEAR refers Plaintiff to GDTNA's Response to this Request No. 22 and to the visual standard applicable to the inner liner for the G670RV 295/80R22.5 tire in effect during the week of manufacture (35th week of 2003) as Bates Label HARTSOCK.021932-021943; to Bates Label HARTSOCK.021944-021959 as the Global Master Specification for Cut Tire Limits that contains information utilized by the Buffalo plant for medium radial truck tires manufactured in 2003; and, to procedures for conducting testing previously produced as HARTSOCK.007917-007939.

DISCOVERY REQUEST NO. 29

Any and all documents showing the quantity, price, cost, profit and date of sale of all G670 tires to Monaco, including the sale of the specific Hartsock tire and Green tire and any tires sold outside of the United States. Please see deposition of Terry Parsons Day #2, P. 218 L. 22 – P. 219 L. 5.

RESPONSE: Subject to the objections stated below, GOODYEAR states that it does not track the individual sale of tires. GOODYEAR, will search for documents reflecting the number of G670RV 295/80R22.5 tires sold to substantially similar RV manufacturers from the date of manufacture of the Tire at Issue (35th week of 2003) to the date of Plaintiff's accident, July 6, 2010, and will supplement this Response if any records are located.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request on the grounds that "any and all" information concerning the "price, cost, profit" of all G670 tires, including those sold outside the United States, is overly broad and unduly burdensome in its search for such items as such information is not relevant to Plaintiff's claims of alleged tire failure or defenses in this litigation. It is also not limited to a reasonable time.

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SUPPLEMENTAL RESPONSE:

Subject to the objections stated above and pursuant to the Confidentiality Agreement, GOODYEAR produces as Bates Label HARTSOCK.022375-022382 a document reflecting the number of G670RV 295/80R22.5 tires sold to manufacturers of substantially similar Class A, three axle RVs from the date of manufacture of the Tire at Issue (35th week of 2003) to the date of Plaintiff's accident, July 6, 2010.

DISCOVERY REQUEST NO. 31

Any and all documents regarding fitment, sale, recommendations and discussions between Defendants and any RV or motor vehicle manufacturer or distributor regarding use of the subject tire as original equipment on Monaco and Fleetwood vehicles and vehicles of any other RV manufacturer, including the recommended inflation pressures listed on the vehicle placard. Please see deposition of Terry Parsons Day #2, P. 247, L. 18 - 24.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's Request is duplicative of previously propounded discovery and refers Plaintiff to GOODYEAR's response and objection to Plaintiff's Fourth Discovery Request No. 3. GOODYEAR will also search for documents reflecting communications, occurring from the 35th week of 2003 (date of manufacture of the Tire at Issue) to July 6, 2010 (date of Plaintiff's accident), between GOODYEAR and manufacturers of substantially similar RVs concerning the appropriate fitment and tire pressure of the G670RV 295/80R22.5 tires on substantially similar RVs.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. Nonetheless, this request is duplicative of previously propounded discovery. GOODYEAR further objects to this Request as it not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

SUPPLEMENTAL RESPONSE:

Subject to the objections stated above and pursuant to the Confidentiality Agreement, GOODYEAR produces the Bates Labelled documents/materials reflecting

Exhibit C

communications, which may have occurred from the 35th week of 2003 (date of manufacture of the Tire at Issue) to July 6, 2010 (date of Plaintiff's accident), between GOODYEAR and manufacturers of substantially similar, Class A, three axle RVs concerning the appropriate fitment and tire pressure of the G670RV 295/80R22.5 tires on substantially similar RVs:

- (a) Bates Label HARTSOCK.022156 - CD containing three (3) .avi files;
- (b) Bates Label HARTSOCK.022157-022366 - containing information produced under the Confidentiality Agreement; and,
- (c) Bates Label HARTSOCK.022367-022368 containing a non-confidential document.

Plaintiff is also referred to the Recreational Vehicle and Tire Guides previously produced under Bates Label HARTSOCK.0001-000137.

DISCOVERY REQUEST NO. 72

Any and all CAD [computer aided design] files, 2D or 3D, or other computer models of G670 tires, including those used to design or evaluate G670 tires or components, including FMEA [failure modes and effects analysis] and FEM [finite element modeling] of tire stresses and failure modes including inter laminar shear, and shear strain density. Please see deposition of Terry Parsons Day #2, P. 449, L. 21 – P. 450 L.9.

RESPONSE: Subject to the objections stated below, GOODYEAR states that this request is duplicative of previously propounded discovery and refers Plaintiff's to its response and objections to Plaintiff's Fourth Discovery Request No. 15 as if set forth fully herein. GOODYEAR will search for any computer modeling conducted on the G670 295/80R22.5 tires from the date of manufacture of the Tire at Issue to the date of accident of July 6, 2010, to evaluate the performance of the tire.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly

Exhibit C

burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation.

SUPPLEMENTAL RESPONSE:

Subject to the objections stated above GOODYEAR has been unable to locate computer modeling conducted on the G670RV 295/80R22.5 tires from the date of manufacture of the Tire at Issue to the date of accident of July 6, 2010, to evaluate the performance of the Subject Tire.

DISCOVERY REQUEST NO. 101

Any and all documents regarding the relationship between tire blowout and failure, including on the steer axle of RVs, and loss of vehicle control and accident, inclusive of any analysis of the likelihood of injury or death.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's Request is duplicative of previously propounded discovery and seeks documents Plaintiff possess. GOODYEAR identifies the following documents:

- (a) Recreation Vehicle Tire and Care Guide produced under Bates Label HARTSOCK.000001-000137;
- (b) Warranty in effect at the time of manufacture of the Tire at Issue produced under Bates Label HARTSOCK.000077-000078;
- (c) Industry literature produced under Bates Label HARTSOCK.000158-000181;
- (d) Consumer Tire Guide produced under Bates Label HARTSOCK.000182-000197;
- (e) Care and Service of Automobile and Light Truck Tire Guides under Bates Label HARTSOCK.000198-000312;
- (f) New Consumer Tire Guide produced under Bates Label HARTSOCK.000313-000324;
- (g) Goodyear website materials produced under Bates Label HARTSOCK.000869-000885.

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GOODYEAR will also search for literature concerning the controllability of an RV after a tire disablement dated from the manufacture of the tire to the date of Plaintiff's accident, July 6, 2010.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it is not limited to the Tire at Issue and seeks "any and all" documents without limitation. Further, to the extent Plaintiff seeks document protected by the attorney client privilege and work product doctrine, GOODYEAR objects to same.

SUPPLEMENTAL RESPONSE:

Subject to the above stated objections, GOODYEAR produces as Bates Label HARTSOCK.022155 videos from third parties entitled "Big-Rig Truck Driver Training - Blowouts" and "RV - The Critical Factor."

DISCOVERY REQUEST NO. 104

Any and all test records for the G670, whether run in the development process, in the manufacturing process, in the quality control process, in post-production process or at any other time or for any other purpose, said tests to include, but not be limited to the following:

- a. DOT FMVSS-119 Extended Certification;
- b. Heat Rise tests;
- c. Bead durability tests;
- d. Crown durability tests;
- e. W84 or comparable test data for this tire including electronic postproduction and pre-production, in both data format and paper format;
- f. L04 heat rise tests, or the comparable tests for this tire, in both electronic data format and paper format;
- g. W16 tests or comparable test data for this tire including electronic postproduction and pre-production, in both data format and paper format;
- h. W64 tests or comparable test data for this tire including electronic postproduction and pre-production, in both data format and paper format;
- i. G09 tests or comparable test data for this tire including electronic postproduction and pre-production, in both data format and paper format; DOT
- j. Laboratory Durability Testing - Heat Rise Tests -

Exhibit C

- k. All tests to determine the dynamic heat build-up at specific loads, speeds and inflations,
- l. Road tests, Ford work only
- m. Wheel tests, (Release package)
- n. All speed tests, whether High speed tests, or High speed wheel tests, for any purpose,
- p. Internal heat tests,
- q. Endurance tests,
- r. Durability tests,
- s. All tests which relate to the approval of the G670 tire for over the road use at highway speeds, whether on an RV or a truck, at 55mph or above.

RESPONSE: Subject to the objections stated below, GOODYEAR states that Plaintiff's request is duplicative of previously propounded discovery and requests documents Plaintiff possess. GOODYEAR refers Plaintiff to the following documents:

- (a) Tests conducted on the G670RV 295/80R22.5 tire that were identified as part of its development and/or production release as Bates Label HARTSOCK.000596-000828, HARTSOCK.000602.1-000607.1, HARTSOCK.000829-000850, HARTSOCK.003055-003511, HARTSOCK.004843-004861, HARTSOCK.007403-007618, HARTSOCK.007992-008010;
- (b) FMVSS testing for the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.000851-000855, HARTSOCK.002913-002914, HARTSOCK.004765-004803, HARTSOCK.007222-007223, HARTSOCK.007731-007756;
- (c) 2005 testing of the bead for the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.004937-005010; and
- (d) Test data and reports conducted on the G670RV 295/80R22.5 tire at Bates Label HARTSOCK.008026-008040.

GOODYEAR continues to search for tests used in the release and the production of the Tire at Issue and, to the extent not already in Plaintiff's possession, will supplement this response if any responsive information is located.

GOODYEAR objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially

Exhibit C

similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. GOODYEAR further objects to the extent the request seeks information protected by the attorney client privilege and work product doctrine. The Request is also unduly burdensome as it is not limited to the Tire at Issue, and seeks "any and all" test records.

SUPPLEMENTAL RESPONSE:

Subject to the objections stated below and pursuant to the Confidentiality Agreement, GOODYEAR produces as Bates Label HARTSOCK.022369-022372 a plunger energy test conducted on June 11, 2003.

DISCOVERY REQUEST NO. 105

Any and all tests, documents, technical papers and submissions to any organization, non-governmental or governmental agency which you rely upon to equate drum test speeds to real world highway speeds or to flatbed speeds as developed by Cal Span.

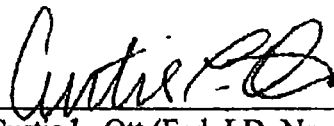
RESPONSE: Subject to the objections stated below, GOODYEAR will search for non-protected documents which were submitted on its behalf to NHTSA concerning drum test speeds developed by Cal Span.

Defendant objects to this Request as it is contrary to this Court's May 5, 2014 Order, seeks documents and other information that are not relevant to the Tire at Issue, substantially similar RVs or the claims and defenses asserted in this litigation, and because the Request is not reasonably calculated to lead to the discovery of admissible evidence. GOODYEAR further objects to this Request as it is not limited to a reasonable time period. The Request is also unduly burdensome as it seeks "any and all" documents.

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SUPPLEMENTAL RESPONSE:

Subject to the objections stated above, GOODYEAR agreed to search for “non-protected documents which were submitted on Goodyear’s behalf to NHTSA concerning drum test speeds developed by Cal Span” and has not located responsive documents.


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*Attorneys for Defendants, The Goodyear Tire &
Rubber Company and Goodyear Dunlop Tires
North America, LTD*

Columbia, South Carolina

March 19, 2015

Exhibit C

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff

v.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and The Goodyear Tire
& Rubber Company, a foreign corporation,

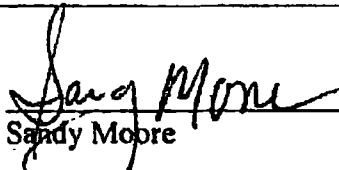
Defendants.

Case No.: 5:13-cv-00419-PMD

CERTIFICATE OF SERVICE

The undersigned employee of Gallivan, White & Boyd, P.A., does hereby certify that I have served all counsel in this action with a copy of the document(s) listed below by e-mail and by depositing same in the United States Mail first class postage prepaid, to the address indicated below.

DOCUMENT(S):	DEFENDANT, THE GOODYEAR TIRE & RUBBER COMPANY'S FIRST SUPPLEMENTAL RESPONSE TO PLAINTIFF'S FIFTH DISCOVERY REQUESTS NOS. 9, 10, 11, 16, 20, 22, 29, 31, 72, 101, 104, AND 105
COUNSEL SERVED:	Mark C. Tanenbaum Mark C. Tanenbaum, P.A. P.O. Box 20757 Charleston, South Carolina 29413 David R. Fountain, Jr. Clark, Fountain, LaVista, Prather, Keen & Littky-Rubin 1919 N. Flagler Drive West Palm Beach, FL 33407


Sandy Moore

Columbia, South Carolina
March 19, 2015

Exhibit C

**CERTIFICATION BY COUNSEL OF DESIGNATION
OF INFORMATION AS CONFIDENTIAL**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff,

v.

Goodyear Dunlop Tires North America,
LTD, a foreign corporation; and The
Goodyear Tire & Rubber Company, a
foreign corporation,

Defendants.

Case No.: 2:13-cv-00419-PMD

**CERTIFICATION BY COUNSEL OF
DESIGNATION OF INFORMATION AS
CONFIDENTIAL**

Documents produced herewith whose bates numbers are listed below have been marked as CONFIDENTIAL subject to the Confidentiality Order entered in this action which Order is dated September 9, 2013:

HARTSOCK.022156-022366

HARTSOCK.022369-022372

HARTSOCK.022375-022382

By signing below, I am certifying that I have personally reviewed the marked documents and believe, based on that review, that they are properly subject to protection under the terms of Paragraph 3 of the Confidentiality Order.

Check and complete one of the two options below.

- ☐ I am a member of the Bar of the United States District Court for the District of South Carolina. My District Court Bar number is [District Court Bar #].

Exhibit C

x I am not a member of the Bar of the United States District Court for the District of South Carolina but am admitted to the bar of one or more states. The state in which I conduct the majority of my practice is Florida where my Bar number is 0555592. I understand that by completing this certification I am submitting to the jurisdiction of the United States District Court for the District of South Carolina as to any matter relating to this certification.

Date: March 19, 2015

/s/Bianca G. Liston

Signature of Counsel

Bianca G. Liston

Printed Name of Counsel

Exhibit C

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff

v.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and The Goodyear Tire
& Rubber Company, a foreign corporation,

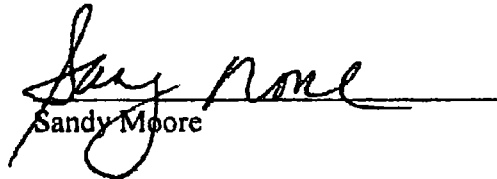
Defendants.

Case No.: 5:13-cv-00419-PMD

CERTIFICATE OF SERVICE

The undersigned employee of Gallivan, White & Boyd, P.A., does hereby certify that I have served all counsel in this action with a copy of the document(s) listed below by e-mail and by depositing same in the United States Mail first class postage prepaid, to the address indicated below.

DOCUMENT(S):	CERTIFICATION BY COUNSEL OF DESIGNATION OF INFORMATION AS CONFIDENTIAL
COUNSEL SERVED:	Mark C. Tanenbaum Mark C. Tanenbaum, P.A. P.O. Box 20757 Charleston, South Carolina 29413 David R. Fountain, Jr. Clark, Fountain, LaVista, Prather, Keen & Littky-Rubin 1919 N. Flagler Drive West Palm Beach, FL 33407


Sandy Moore

Columbia, South Carolina

March 19, 2015

Exhibit D

Page 1

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

~~~~~

THEODORE G. HARTSOCK, JR., AS PERSONAL  
REPRESENTATIVE OF THE ESTATE OF SARAH MILLS  
HARTSOCK,

Plaintiff,

vs. Case No. 2:13-cv-00419-PMD

GOODYEAR DUNLOP TIRES NORTH AMERICA, LTD.,  
etc., et al.

Defendants.

~~~~~

Videotaped deposition of
JAMES KOERNER

June 24, 2014

9:00 a.m.

Taken at:

Hilton Akron/Fairlawn
3180 West Market Street
Akron, Ohio

Ashanti Edwards, RPR

Veritext Florida Reporting Co.

800-726-7007

305-376-8800

Exhibit D

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1 Q. Okay. And was that part of the
2 task force dealing with the U-Haul problem?

3 MR. TOOLE: Objection. Form.

4 A. Yes.

5 Q. Okay. And when did you give that
6 deposition?

7 A. Two months ago.

8 Q. All right. And did that G647 also
9 involve an allegation that the innerliner was
10 deficient in the tire?

11 MR. TOOLE: Objection. Form.

12 A. No, it did not.

13 Q. Okay. What was the allegation in
14 that case? Or defect?

15 A. I don't remember one being
16 specified.

17 Q. Okay. And did you have some
18 involvement in the design of the G647?

19 A. Yes, I did.

20 Q. Okay. What was your role in that
21 tire?

22 A. I was the designer for that tire.

23 Q. Okay. And do you consider yourself
24 to be the designer for the G670 tire, the one
25 in this case?

* * *

Veritext Florida Reporting Co.

800-726-7007

305-376-8800

Exhibit D

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1 A. Yes.

2 Q. Okay. Is there anybody else that
3 would be -- that would consider themselves to
4 be the designer of this tire?

5 A. Well, there was a -- other people
6 involved, people that would do the tread
7 pattern, somebody else that would do the
8 cross-sectional drawing for the tire, someone
9 that would also verify the compounds that would
10 be in the tire.

11 Q. But as far as who is the, quote,
12 designer of the tire, is everybody going to
13 agree that Jim Koerner is the guy?

14 MR. TOOLE: Objection. Form.

15 A. Yes. I would be one of the
16 designers, yes.

17 Q. Okay. Who were the others -- other
18 designers of the tire in this case?

19 A. The other would have been Bruce
20 Rawlings.

21 Q. Okay. Anybody else?

22 A. That would be all.

23 Q. And Mr. Rawlings, is he still
24 employed?

25 A. No, he is not. * * *

Exhibit D

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1 Q. Okay. So as far as the people that
2 were directly involved in the design of the
3 tire, it's you and Mr. Rawlings?

4 A. Yes.

5 Q. Okay. And your direct boss at that
6 time was Mr. Carncross, correct?

7 A. That is correct.

8 Q. Was Mr. Rawlings' direct boss
9 Mr. Carncross, also?

10 A. Yes, it was.

11 Q. Okay. And who was Mr. Carncross'
12 boss?

13 A. That would have been Mr. Parsons.

14 Q. Okay. All right. The calculations
15 that you did on the computer, is that something
16 that you would have printed out and put in a
17 file or kept or maintained somewhere?

18 A. That would have been kept in a
19 file.

20 Q. Okay. And what was the file called
21 for this tire?

22 A. 295/80R 22.5 G670 RV.

23 Q. Was the file called the design file
24 or the design concept file or the genesis file?
25 What was the internal name for it?

Exhibit D

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1 A. It was just the tire line name.
2 Tire size and the tire line name.

3 Q. Okay. And do you still have that
4 file like at your office now?

5 A. It would be in a storage vault
6 right now, yes.

7 Q. Okay. And the storage vault is
8 here in Akron?

9 A. It's in the Akron area.

10 Q. Okay. And during the pendency of
11 this case has anybody asked you to go look for
12 the materials you have on this tire and pull
13 them out?

14 A. They asked me for the testing
15 results for this tire.

16 Q. Okay. And have you given
17 everything that you have on this tire or is
18 there still some things that you haven't turned
19 over yet?

20 MR. TOOLE: Objection. Form.

21 A. I've turned over everything that I
22 did from the testing standpoint of this tire.

23 Q. Okay. See, I don't want to just
24 constrain my question to the testing
25 standpoint.

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1 What I want to know is have you
2 turned over everything about the G670 tire?

3 A. I turned over what I was asked to
4 turn over.

5 Q. Okay. What do you have that you
6 weren't asked to turn over?

7 MR. TOOLE: Objection. Form.

8 A. Well, they didn't ask for any
9 design material or anything like that. They
10 just asked for testing results.

11 Q. So nobody asked you to turn over
12 your design file for this tire?

13 A. No.

14 MR. TOOLE: Objection. Form.

15 Q. Well, I want to make it very clear
16 that we've asked for that on multiple, multiple
17 occasions and I'm asking for it again here
18 today.

19 MR. TOOLE: Objection. Form.

20 Q. Is that something that we can get
21 our hands on today?

22 A. No.

23 Q. Okay. How long would it take to
24 get that?

25 A. Maybe two days.

Exhibit D

Page 73

1 Q. Okay. Is there anything with
2 regard to the G670 tire that has been
3 destroyed, lost, the computer crashed, we had a
4 fire, earthquake, somebody broke in, stole it,
5 it's missing?

6. MR. TOOLE: Objection. Form.

7 A. No. Of my data, not that I'm aware
8 of, no.

9 Q. Okay. And do you maintain like a
10 personal set of files either at your office or
11 at home on the tires that you design?

12 A. No, I do not.

13 Q. Okay. So everything you had on the
14 G670 you've turned over to Goodyear and it's in
15 the vault somewhere?

16 A. It's either on a spreadsheet file
17 on the corporate hard drive or in the -- hard
18 copy in a folder, some storage vault, yes.

19 Q. And when you design a tire is the
20 computer data always kept, the electronic data?

21 | A. Yes.

(b) (7)(C), (b) (7)(D)

(b) (7)(C), (b) (7)(D)

(b) (7)(C), (b) (7)(D)

(b) (7)(C), (b) (7)(D)

* * *

Exhibit E

CLARK • FOUNTAIN • LA VISTA
PRATHER • KEEN & LITTKY-RUBIN
————— TRIAL & APPELLATE ATTORNEYS —————

Direct Dial: (561) 899-2103
E-Mail: dfountain@clarkfountain.com

August 11, 2014

M. Gary Toole, Esquire
McDonald Toole Wiggins, P.A.
111 N. Magnolia Avenue
Suite 1200
Orlando, FL 32801

Re: HARTSOCK (Estate of Sarah Mills) v. Goodyear
Our File No.: 13/0016

Dear Mr. Toole:

At the June 24, 2014 deposition of Jim Koerner it became apparent that there were many documents that are in existence at Goodyear that have not been produced notwithstanding the fact that our comprehensive discovery requests have unquestionably included the additional documents we learned of at the deposition.

I am at this time requesting that you provide these additional documents and make them available prior to the deposition of Jim Stroble.

For your ease of reference I am going to refer to the documents and identify the page numbers of Mr. Koerner's deposition where the documents were discussed.

Please produce the following:

1. **The Global Design Manual**, pages 34 – 36, 42, 190-193, and 416;
2. **The Adjustment Data Reports** known as PMAP, page 49;
3. **The Quarterly Adjustment Reports**, pages 51, 52;
4. **The Cost Determination Reports**, page 55;
5. **The Design File**, pages 70-73;
6. **The Digital CAD (Computer Aided Design) file** for the tire, page 78;
7. **The Historical Buffalo Plant and Adjustment Data**, pages 104, 236, and 416;
8. **The complete Patent File** for patent no. 5435369, page 113;

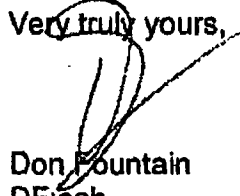
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561.899.2100 • F 561.832.3580 • 866.643.3318 • www.clarkfountain.com

M. Gary Toole, Esq.
August 11, 2014
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Exhibit E

9. The design materials for the Load Range E tire that Mr. Koerner designed with nylon cap plies, page 142;
10. The NHSTA Early Warning System, documents, accidents, meeting notes, design files and documents [including tires with nylon overlays], test documents, spread sheets, root cause determinations, and program efforts, and results of the "Increase the Crown Durability" directive, pages 144-151, 160, 165, and 171;
11. Records of when shearography became available at Buffalo and what the policy was for how many tires were submitted to shearography, pages 201, 202;
12. Goodyear Specification Publications that provided for any tire designed to be utilized at inflation pressures of 100 psi or greater, that the innerliner target specification was .060 inches with a minimum of .040 inches, pages 225 - 227;
13. The Engineering Design Information [EDI] Publication, page 250;
14. The B&T Calculation Program and calculations, page 259-260;
15. Documents indicating that the minimum innerliner thickness permitted was .047 inches, page 275;
16. The manual that provide the innerliner thickness targets and the minimum tolerances for all plants, including plants outside the United States, page 327;
17. Specifications and specification changes for the subject tire dated after 2010, page 336;
18. Tire drawings that have notations contained in revision boxes number 3 & 4, page 383;
19. Documents indicating the membership of the Global Design Manual Committee, and the inner liner section and changes to the inner liner requirements page 413;
20. The design and testing materials for the prototype G670 tire made with full nylon overlays including the design file, pages 447-450;
21. The CTMAS Cut Tire Analysis Program including the TAI, TRI, COI, ranges for the Buffalo plant, pages 451-454; and
22. The head to head trial testing comparison of different G670 inner liner compounds, page 479.

Very truly yours,


Don Fountain
DF:sab

cc: Mark Tanenbaum, Esq.
Mia L. Maness, Esq.

Exhibit F



MCDONALD TOOLE WIGGINS, P.A.
ATTORNEYS AT LAW

October 7, 2014

Via Electronic Mail

Donald R. Fountain, Esq.
Clark, Fountain, LaVista, Prather, Keen & Littky-Rubin
1919 N. Flagler Drive
West Palm Beach, FL 33407

Re: *Hartsock v Goodyear*
Our File No.: G003-10195

Dear Mr. Fountain:

I am in receipt of your letter of August 11, 2014. As has been the case throughout this litigation, your demands go far beyond those necessary to obtain information relevant to this action or to the Tire at Issue.¹ Further, ignoring our requests that you limit your discovery to a reasonable temporal and subject matter scope, you have not attempted to limit any of the document requests we address below. The breadth and duplicative nature of the matters covered in the 22 (twenty-two) demands provide ample evidence that the discovery demands are not designed to obtain information relevant to this matter. Nonetheless, in the order of your specific requests, we provide the following responses:

1. Document identified as a global design manual, pages 34-36, 42, 190-193, and 416;

The design manual that you seek contains highly confidential, core trade secrets of Goodyear. Plaintiff is in possession of various design materials and as such, has no good cause to seek this highly confidential information. Disclosure of these trade secrets would result in substantial prejudice and harm to Goodyear. Goodyear makes reasonable efforts to maintain the secrecy of this information, and the information would be very valuable to Goodyear's competitors. It is essential to Goodyear's operations that its work and confidential information remains confidential.

2. Reports of Adjustment Data for the Subject Tire in PMAP form, page 49;
3. Quarterly Adjustment Reports, pages 51, 52;

¹ G670RV 295/80R22.5 bearing DOT No. DANU2CAW3503 which designation indicates a particular tire manufactured by Goodyear Dunlop Tires North America, LTD ("GDTNA") at its Tonawanda (Buffalo), New York plant during the 35th week of 2003.

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Exhibit F

The request for adjustment data/reports was the subject of prior discovery responses wherein objections were raised and responses provided. See, e.g. Fifth Discovery Request Nos. 56 and 57.

Furthermore, these requests were the subject of your June 13, 2014 meet and confer letter, which we addressed in our responsive correspondence of July 9, 2014. In addition to relying on our objections, we requested that you "...provide a further explanation of the documents you were requesting and the time period." We continued that we would consider the response in good faith. Your request for "adjustment data reports known as PMap" does not resolve previously raised objections, nor does it provide an explanation of that which you are seeking. As Plaintiff's prior requests were not limited to the Tire at Issue, it can only be assumed that your requests here are not so limited. Moreover, Plaintiff is in possession of the Quarterly Adjustment Data for Crown Area Adjustments produced in the Green litigation. See Hartsock.003053, 004804, 006301. Again, we request a further explanation of the documents that you seek and the temporal and subject matter scope of your request. Upon receipt, we will consider your response in good faith.

4. The Cost Determination Reports, page 55;

The request for cost information was the subject of previously propounded discovery responses and the current subject of Plaintiff's Sixth Request to Produce to which a response is forthcoming. This request is also duplicative of prior discovery requests which seek similar manufacturing costs. See, e.g. Fifth Discovery Request Nos. 29, 30, 62, 64, 65, 66, 69, 80 and 97. GDTNA objected to these requests on the grounds that they were contrary to this Court's May 5, 2014 Order seeking documents and other information that were not relevant to the Tire at Issue, and the request was over broad as to time and not limited to substantially similar tires or the claims and defenses asserted in this case. GDTNA further objected on the grounds that the request sought the identification of individual materials in the composition of compounds that constitute the trade secrets of the company.

In your June 13, 2014 meet and confer letter, you identified issues with respect to GDTNA's response to Fifth Discovery Request Nos. 62, 64, 65, 66, and 69, to which GDTNA responded on July 9, 2014. There, among other points, we repeated our objections and addressed the over broad nature of your request seeking information not limited to the Tire at Issue. Your request here for "cost determination reports" does not address the objections raised in those discovery responses and the response to the meet and confer letter. If you will respond further to address these objections, we will consider same in good faith

5. The Design File, pages 70-73;

Pursuant to prior discovery responses and production of materials, Plaintiff is in possession of the Development and Release files for the Tire at Issue. Please refer to the following Bates Label Nos.:

- a) Hartsock.000596-000824;

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- b) Hartsock.000602.1-000607.1;
- c) Hartsock.000829-000850;
- d) Hartsock.003055-003511;
- e) Hartsock.004843-004861;
- f) Hartsock.007403-007618;
- g) Hartsock.007992-008110.

Furthermore, based on Mr. Koerner's reference to information stored in the "vault", a search was conducted. We have prepared a supplemental response to your Fifth Request for Production No. 96, which will be served under separate cover.

6. The Digital CAD (Computer Aided Design) file for the tire, page 78;

Plaintiff's request for dimensional modeling, under Fourth Discovery Requests No. 15 and Fifth Discovery Request No. 72 covers digital computer aided design drawings.

Request No. 72 was also the subject of Plaintiff's June 13, 2014 meet and confer letter. We responded, requesting a further response from you. We did not receive a response from you clarifying the request. However, you are already in possession of the following drawings and depictions applicable to the Tire at Issue:

- (a) Cured Cross Section Drawings concerning the G670RV 295/80R22.5 tire produced under Bates Label Nos.: Hartsock.000858-000864, Hartsock.002903-002904, Hartsock.004759-004760, Hartsock.004762-004763, Hartsock.004842, Hartsock.007214-007215, Hartsock.007727-007730, Hartsock.007991, Hartsock.008268-008272, Hartsock.013952-013954, Hartsock.014314.
- (b) Drawings Template produced under Bates Label Nos. Hartsock.000856-000864.

Additionally, with respect to the deposition of Mr. Koerner, he indicated that except for the cross-sectional drawings and the mold design, he was not aware of any other CAD uses during the design of the Tire at Issue. See 76:25 to 78:14. Given this testimony regarding the use of CAD during the design of the tire and the drawings already provided to you, we do not understand what additional information you seek. Nonetheless, if you elaborate on what specific additional information you seek, we will consider your position in good faith.

7. The Historical Buffalo Plant and Adjustment Data, pages 104, 236, and 416;

I will need clarification from you about what you are seeking. Upon receipt, we will further respond in good faith.

8. The complete Patent File for patent no. 5435369, page 113;

The request for Patent No. 5,435,369 was the subject of Fifth Discovery Request Nos. 47 and 48. Your request in the August 11, 2014 letter for the same document, does not address the objections raised previously to the same request for information. Further, the patent dated July

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25, 1995, involves split overlays that may include those using nylon that were not used in the manufacture of the Tire at Issue. Therefore, the "complete Patent File" has no relevance. Nonetheless, if you elaborate on the relevance of such information, we will consider your position in good faith.

9. The design materials for the Load Range E tire that Mr. Koerner designed with nylon cap plies, page 142;

Among other objections, this request seeks information that is neither relevant, nor substantially similar to, the Tire at Issue which is a Load Range H tire. This request is similar to information requested in Fourth Discovery Request No. 4 and Fifth Discovery Request Nos. 43, 45, 46, 47, 49, 50, and 52. As you seek information concerning tires other than the Tire at Issue, Goodyear and GDTNA stand on their objections that information concerning other tires without a showing of substantial similarity is not relevant.

10. The NHSTA Early Warning System, documents, accidents, meeting notes, design files and documents [including tires with nylon overlays], test documents, spread sheets, root cause determinations, and program efforts, and results of the "Increase the Crown Durability" directive, pages 144-151, 160, 165, and 171;

This request is the subject of Plaintiff's Fifth Discovery Request Nos. 9 and 107. This information was also the subject of your meet and confer letter of June 13, 2014, wherein Defendants stood on their objections (including the objection regarding the confidential treatment accorded information submitted to NHTSA as part of Early Warning Reporting), response and offer. Goodyear and GDTNA further asked Plaintiff to clarify what was meant by the phrase "government or quasi governmental agency or entity," and offered to respond with responsive information. We did not receive a response from you clarifying the request and responding to the offer. Your request here for "The NHSTA Early Warning System, documents, accidents, meeting notes, design files and documents [including tires with nylon overlays], test documents, spread sheets, root cause determinations, and program efforts" does not address the objections raised in the responses to the discovery requests and response to the meet and confer letter. If you will respond further to address these objections, we will consider same in good faith.

11. Records of when shearography became available at Buffalo and what the policy was for how many tires were submitted to shearography, pages 201, 202;

We have not been able to determine a formal discovery request that complies with the Federal Rules of Civil Procedure and covers this subject. In the interest of cooperative discovery, if you disagree, please advise us of the request you believe covers this subject, or provide a complying request. In either case, GDTNA will identify the date when shearography became available at the Buffalo plant and search for the policy concerning the number of tires to be submitted to shearography at this plant.

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12. Goodyear Specification Publications that provided for any tire designed to be utilized at inflation pressures of 100 psi or greater, that the innerliner target specification was .060 inches with a minimum of .040 inches, pages 225- 227;

16. The manual that provide the innerliner thickness targets and the minimum tolerances for all plants, including plants outside the United States, page 327;

This request was the subject of Fourth Discovery Request Nos. 10 and 13 and Fifth Discovery Request No. 68.

The subject of this Request was also discussed in Plaintiff's June 13, 2014 meet and confer letter. In their response, Goodyear and GDTNA asked for more specific information about the document Plaintiff was seeking. We also offered that "Goodyear will agree to provide the visual standard referenced and if you still contend that the document is not what you seek, please advise and we will consider in good faith." Defendants continue to stand on their objections to producing targets and tolerances applicable to tires other than the Subject Tire. However, GDTNA has supplemented its response to Fifth Discovery Request Nos. 68 and 98, and serves same under separate cover. Given the tolerance information and measurements for the Subject Tire already provided to you, we are not clear what additional information you seek. Nonetheless, if you elaborate on what specific additional information you seek, we will consider your position in good faith.

13. The Engineering Design Information [EDI] Publication, page 250;

The Engineering Design Information referred to by Messrs. Koerner and Stroble is a Tire and Rim Association publication. This publication is subject to copyright laws and equally available to Plaintiff.

14. The B&T Calculation Program and calculations, page 259-260;

I will need clarification on what you are seeking, as you are in possession of the calculations contained in the development file which were produced to Plaintiff under the following Bates Label Nos.: Hartsock.000596-000828, Hartsock.000602.1-000607.1, Hartsock.000829-000850, Hartsock.003055-003511, Hartsock.004843-004861, Hartsock.007403-007618, Hartsock.007992-008010. Upon receipt, we will respond in good faith.

15. Documents indicating that the minimum innerliner thickness permitted was .047 inches, page 275;

Plaintiff is already in possession of a document, Bates Label No. Hartsock.000862, that identifies the .047 minimum liner/barrier gauge applicable to the Subject Tire.

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Exhibit F

17. Specifications and specification changes for the subject tire dated after 2010, page 336;

Specifications have been produced to Plaintiff in the Hartsock and Green litigation bearing Bates Label Nos. Hartsock.000425-000595; Hartsock.002376-002902; Hartsock.004650-004755; Hartsock.004806-004841; Hartsock.005011-005021; Hartsock.006385-006446; Hartsock.006692-007213; Hartsock.007619-007724; Hartsock.007801-007812; Hartsock.007900-007916; Hartsock.007940-007990; Hartsock.008018-008025; Hartsock.008081-008142; Hartsock.012821-013761; Hartsock.020789-020790. As you recall, in the Hartsock litigation, specifications were produced to you for the period beginning one year prior to the date of manufacture of the Tire at Issue to one year after the date of manufacture, to-wit: August 31, 2002 to August 31, 2004 (HARTSOCK.000425 to HARTSOCK.000595). In the Green litigation, specifications were produced to you from May 2003 to May 2009 (GY-KENGREEN-222-743) and through December 31, 2010 (GY-KENGREEN-1969-2074).

As you are in receipt of specifications through December 31, 2010, which is after the date of Plaintiff's accident, Defendants production is sufficient in light of Branham v. Ford Motor Company, 390 S.C. 203, 227 (2010), which holds that "post-distribution evidence is evidence of facts neither known nor available at the time of distribution. When assessing liability in a design defect claim against a manufacturer, the judgment and ultimate decision of the manufacturer must be evaluated based on what was known or reasonably attainable" *at the time* of manufacture.

18. Tire drawings that have notations contained in revision boxes number 3 & 4, page 383;

You are already in possession of all drawings that reflect revisions 1 through 3 previously produced to you under Bates Label Nos. Hartsock.000858-000864. As illustrated on Hartsock.000862, there are no entries in boxes 3 through 8. Please advise if this satisfies your inquiry.

19. Documents indicating the membership of the Global Design Manual Committee, and the inner liner section and changes to the inner liner requirements page 413;

I will need clarification from you on what you are seeking and the relevance of such information. Upon receipt of your response, we will consider your position in good faith.

20. The design and testing materials for the prototype G670 tire made with full nylon overlays including the design file, pages 447-450;

This request seeks information previously requested in Fifth Discovery Request No. 43, which was discussed at length in response to Request No. 9 above. GDTNA and Goodyear objected to this request for information because it included tires other than the Subject Tire, information not relevant to the Tire at Issue, or claims and defenses asserted in the litigation. They also objected as the request covered trade secret information related to Goodyear and

Donald R. Fountain, Esquire
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Exhibit F

GDTNA's research, development and experimental work on prototype products. In the interest of cooperative discovery, we will agree to search for the specifications for the builds of the nylon cap ply tires referenced in Bates Label Nos. Hartsock.021625-021931, and if found, supplement a response to a Request for Production. To the extent your request seeks more than the specifications identified in Bates Label Nos. Hartsock.021625-021931, Goodyear and GDTNA stands on its objections.

21. The CTMAS Cut Tire Analysis Program including the TAI, TRI, COI, ranges for the Buffalo plant, pages 451-454;

I will need clarification from you on what you are seeking and the relevance of such information. Given the cut tire sheets already provided to you, we are not clear what additional information you seek. Nonetheless, if you elaborate on the specific additional information you seek, we will consider your position in good faith.

22. The head to head trial testing comparison of different G670 inner liner compounds, page 479.

The request for testing is the subject of Fourth Discovery Request No. 24 and Fifth Discovery Request Nos. 35, 36, 38, 46, 88, and 104. It is also the subject of Plaintiff's June 13, 2014 meet and confer letter.

Defendants stand on their objection. Such discovery is also not supported by Gibson v. Ford Motor Co., 510 F. Supp. 2d 1116, 1120 (N.D. Ga. 2007). As stated in Gibson, a demonstration is required that models share "pertinent characteristics" *before permitting discovery* into those other models. Id. (Emphasis added). In fact, the Gibson case holds that conclusory statements do not justify such discovery, id. at 1121, rather the Plaintiff **must** make a showing of substantial similarity:

Courts generally undertake a "fact specific determination of the extent of the similarities and dissimilarities" of claimed similar vehicle models to determine if discovery of a model other than that involved in an accident in litigation should be allowed under Rule 26. "[D]ifferent models of a product will be relevant if they share with the accident-causing model those characteristics pertinent to the legal issues raised in the litigation." The models must share "pertinent characteristics" as they relate to the accident at issue. **What is required is a specific factual showing of substantial similarity.** Conclusory statements of alleged similarity are not enough.

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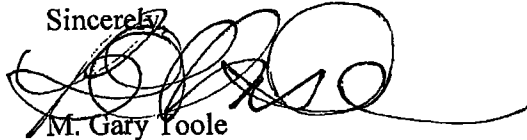
Exhibit F

Id. at 1120 (citations omitted).² (Emphasis added). You have not demonstrated that these tires are substantially similar. Furthermore, the time period you demand is also inconsistent with the case of Branham v. Ford Motor Company, 390 S.C. 203, 227 (2010) which states that "post-distribution evidence is evidence of facts neither known nor available at the time of distribution. When assessing liability in a design defect claim against a manufacturer, the judgment and ultimate decision of the manufacturer must be evaluated based on what was known or reasonably attainable" *at the time of manufacture*.

Further, to the extent you seek information pertaining to the compound formulas, Goodyear/GDTNA objects to same. Courts uniformly preclude the production of information pertaining to compounds and formulas. This information constitutes extremely confidential trade secrets and is not subject to discovery. See In re Bridgestone/Firestone, Inc., 106 S.W.3d 730 (2003); In re Continental General Tire, 979 S.W.2d 609 (1998); Sears v. Nissan Motor Co., 932 F.2d 975 (10th Cir. 1991); American Standard Inc. v. Pfizer, 828 F.2d 734 (Fed. Cir. 1987); Heller v. Shaw Industries, 1997 WL 786542 (E.D.Pa. 1997); Bridgestone Americas Holding, Inc. v. Mayberry, 878 N.E.2d 189, 196 (Ind. 2007) (holding plaintiffs who proved the skim stock formula was relevant, but failed to show how the formula itself was necessary for their case, were not entitled to discover the formula); Crum v. Bridgestone/Firestone North American Tire, LLC, 907 A.2d 578, 588 (Pa. Super. 2006) (reversing the trial court and finding a tire manufacturer's trade secret rubber compound formulas were not subject to discovery because the formulas themselves do not indicate whether a tire was defectively manufactured; knowledge of the formulas does not aid in determining the physical properties of a tire after the rubber has been cured or vulcanized). See also, In re Continental Gen. Tire, 979 S.W.2d 609 (Tex.1998); Bridgestone/Firestone, Inc. v. Superior Court, 7 Cal. App. 4th 1384, 9 Cal. Rptr. 2d 709 (1st Dist. 1992).

Should you have any questions or comments, please do not hesitate to contact our office.

Sincerely,



M. Gary Toole
 Bianca G. Liston

BGL/

cc: Mia Maness, Esquire
 Mark Tanenbaum, Esquire
 Curtis Ott, Esquire

² See generally Johnson v. Hankook Tire Mfg. Co., 2011 U.S. Dist. LEXIS 2783 (N.D. Miss. Jan. 5, 2011) ("As such the plaintiffs discovery requests should be limited to the subject model and size tire and any tire that shares a common green internal specification as opposed to any tire that might share a generic component. After considering both positions, the court finds the defendant's position the more compelling one."). (Emphasis added).

Exhibit G



MCDONALD TOOLE WIGGINS, P.A.
ATTORNEYS AT LAW

December 22, 2014

Via Electronic Mail

Donald R. Fountain, Esq.
Clark, Fountain, LaVista, Prather, Keen & Littky-Rubin
1919 N. Flagler Drive
West Palm Beach, FL 33407

Re: *Hartsock v Goodyear*
Our File No.: G003-10195

Dear Mr. Fountain:

This follows up on our telephone conversation of November 17, 2014, concerning your letter of August 11, 2014 and Defendants, The Goodyear Tire & Rubber Company ("Goodyear") and Goodyear Dunlop Tires North America, Ltd.'s ("GDTNA") letter of October 7, 2014. Although Defendants expanded the scope of the production, your demands continue to go far beyond those necessary to obtain information relevant to this action or to the Tire at Issue.¹ We respond as follows:

- 1. Document identified as a global design manual, pages 34-36, 42, 190-193, and 416;**

The design manual referenced by Mr. Koerner in his deposition contains highly confidential, core trade secrets of Goodyear. The global design manual described sets forth the general tenets, approaches, and techniques, details and technical information that Goodyear has invested, researched and developed over time for the design of their tires. This information would be very valuable to Goodyear's competitors. Disclosure of these trade secrets would result in substantial prejudice and harm to Goodyear, and it makes reasonable efforts to maintain the secrecy of this information.

Further, at this point in the litigation, you have not articulated with particularity the theories you are pursuing in this litigation, as well as specific facts supporting same. Plaintiff is already in possession of various design materials specific to the design and development of the Tire at Issue, including the specifications, drawings, and the development file; and Plaintiff has taken the testimony of the design engineer involved in the design of the Tire at Issue.

¹ G670RV 295/80R22.5 bearing DOT No. DANU2CAW3503 which designation indicates a particular tire manufactured by Goodyear Dunlop Tires North America, LTD ("GDTNA") at its Tonawanda (Buffalo), New York plant during the 35th week of 2003.

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Exhibit G

Defendants do not agree that the global design manual is relevant to Plaintiff's claims, and stand on their objections.

- 2. Reports of Adjustment Data for the Subject Tire in PMAP form, page 49;**
- 3. Quarterly Adjustment Reports, pages 51, 52;**

During our call of November 17, 2014, and ignoring our continued objections, you indicated that your request for adjustment data is not limited to time and would include the entire G670 line of tires. You are also seeking adjustment data, trends and targets for **all tires** in the G670 line **without any limitation** to time even though none of the other G670 tires are substantially similar to the Tire at Issue. We note again that you have not articulated with particularity the theories you are pursuing in this litigation.

In the interest of cooperative discovery, and although Plaintiff is in possession of the Quarterly Adjustment Data for Crown Area Adjustments produced in the Green litigation concerning the Tire at Issue [HARTSOCK.003053, 004804, 006301], Goodyear will agree to search for and produce, if available, non-privileged reports of crown area adjustment data of the Subject Tire in existence from the date of manufacture of the Tire at Issue to the date of Plaintiff's accident, July 6, 2010.

- 4. The Cost Determination Reports, page 55;**
 - **Sixth Discovery Request Nos. 1 and 2**

The request for cost information was the subject of previously propounded discovery responses and objections in response to Plaintiff's Fifth Discovery Request Nos. 29, 30, 62, 64, 65, 66, 69, 80 and 97 and Sixth Discovery Request No. 1. GDTNA objected to these requests on the grounds that they were contrary to this Court's May 5, 2014 Order because they were overbroad in time and scope, sought irrelevant information, and requested the identification of individual materials in the composition of compounds - core trade secrets of the company. Because you expanded the scope during the November 17 call to **all tires** in the G670 tire line **without any limitation** to time for the alleged purpose of reviewing the costs of each tire in the line, we incorporate our comments to the expanded scope at 2 and 3 above. Further, you have testimony that Goodyear did not consider cost when designing the Tire at Issue. Plaintiffs have not indicated with particularity how costs for materials and the manufacturing of components are at all relevant to their claims, and as such Goodyear stands on their objections.

Plaintiff also seeks records of sales without limitation to scope or time pertaining to the tire at issue. Although Plaintiff has not limited its scope, as provided in Fifth Discovery Request No. 29, Goodyear, will search for documents reflecting the number of G670RV 295/80R22.5 tires sold to manufacturers that manufactured substantially similar RVs from the date of manufacture of the Tire at Issue (35th week of 2003) to the date of Plaintiff's accident, July 6, 2010, and will supplement this Response if any records are located. This is consistent with the rulings of Judge Duffy during the April 15, 2014 hearing, where he limited discovery pertaining to Rule 30(b)(6) depositions to substantially similar RVs.

Donald R. Fountain, Esquire
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Exhibit G

5. The Design File, pages 70-73;

In response to your August 11, 2014 letter, we conducted a further search and located the documents Mr. Koerner referenced. As you are aware, we produced those documents on October 7, 2014. See Bates Label HARTSOCK.021960-022007. Our production on this issue is complete.

6. The Digital CAD (Computer Aided Design) file for the tire, page 78;

During our meet and confer call, you clarified your request, indicating that you are seeking two/three dimensional drawings of the Tire at Issue. In the interest of cooperative discovery, we will agree to search for and produce, to the extent available, a two or three dimensional drawing pertaining to the Tire at Issue.

7. The Historical Buffalo Plant and Adjustment Data, pages 104, 236, and 416;

During our call, you explained that Plaintiff is seeking the Buffalo data that Mr. Koerner and his team relied upon in the development of the Tire at Issue. You are in possession of the development file, release packages and initial specifications concerning the design of the Tire at Issue. As testified by Mr. Koerner, he did not rely on any written documents concerning the design of the Tire at Issue pertaining to the inner liner thickness. Without waiving these objections, in the interest of cooperative discovery, GDTNA will agree to search for and produce a document, to the extent located, that identifies the thickness of the inner liner as referred to by Mr. Koerner in said deposition testimony.

8. The complete Patent File for patent no. 5435369, page 113;

You have requested the complete Patent File for Patent No. 5435369 issued on July 25, 1995, which is Exhibit No. 72 to Mr. Koerner's deposition. During our meet and confer call, you indicated that the patent file is relevant as Goodyear should have used the technology on the design of the Tire at Issue. Although you have not articulated your defect theories with specificity, Goodyear will agree to search for and produce to the extent it exists non-proprietary documents submitted with Patent File No. 5435369.

9. The design materials for the Load Range E tire that Mr. Koerner designed with nylon cap plies, page 142;

You indicated that the Load Range E tires had a problem with separations which was resolved using Patent File No. 5435369. We do not agree that the design materials for a Load Range E tire are relevant to or even substantially similar to the Tire at Issue. As this request is similar to information requested in Fourth Discovery Request No. 4 and Fifth Discovery Request Nos. 43, 45, 46, 47, 49, 50, and 52 and because you seek information concerning tires other than

Donald R. Fountain, Esquire
December 22, 2014
Page 4 of 8

Exhibit G

the Tire at Issue, your request is overly broad and unduly burdensome. Goodyear and GDTNA stand on their objections.

- 10. The NHSTA Early Warning System, documents, accidents, meeting notes, design files and documents [including tires with nylon overlays], test documents, spread sheets, root cause determinations, and program efforts, and results of the "Increase the Crown Durability" directive, pages 144-151, 160, 165, and 171;**

This request is the subject of Plaintiff's Fifth Discovery Request Nos. 9 and 107. This information was also the subject of your meet and confer letter of June 13, 2014, wherein Defendants stood on their objections (including the objection regarding the confidential treatment accorded information submitted to NHTSA as part of Early Warning Reporting), response and offer.

During the meet and confer conference, you indicated that you are seeking information pertaining to any early warning system provided to NHTSA. However, as you are aware, the Early Warning Reporting is available to you on NHTSA's website. As to any meetings held with respect to the early warning report, we are unable to locate any notes pertaining to these meetings in those areas where such records are ordinarily maintained.

As to the G670 RV Bead Improvement Test Plan referenced by Mr. Koerner, I refer you to Bates Label HARTSOCK.021625-021931 produced on June 23, 2014, along with Defendants' Supplemental Rule 26(a)(1) Disclosures.

- 11. Records of when shearography became available at Buffalo and what the policy was for how many tires were submitted to shearography, pages 201, 202;**

The shearography equipment was installed in the Buffalo plant between 2005 and 2007. GDTNA has not been able to locate documents which provide the specific date of installation. Information related to the procedure for shearographic testing was previously produced to you at HARTSOCK.014331-014335. Currently, there is no policy concerning the number of tires to be submitted to shearography, applicable at the Buffalo plant, as it relates to the Tire at Issue.

- 12. Goodyear Specification Publications that provided for any tire designed to be utilized at inflation pressures of 100 psi or greater, that the innerliner target specification was .060 inches with a minimum of .040 inches, pages 225- 227;**

- 16. The manual that provide the innerliner thickness targets and the minimum tolerances for all plants, including plants outside the United States, page 327;**

As you indicated that this request is similar to Request No. 1 above, I would refer you to that response. Further, GDTNA has supplemented its response to Fifth Discovery Request Nos. 68 and 98, providing visual standards.

Donald R. Fountain, Esquire
 December 22, 2014
 Page 5 of 8

Exhibit G

13. The Engineering Design Information [EDI] Publication, page 250;

In prior correspondence, we indicated that the Engineering Design Information referred to by Messrs. Koerner and Stroble is a Tire and Rim Association publication. This publication is subject to copyright laws and publically available. You indicated nevertheless that you would like Goodyear to provide a copy. We will agree to search for the publication and if available, we will identify the date of the publication so that you can acquire a copy.

14. The B&T Calculation Program and calculations, page 259-260;

During our call, I indicated that you are in possession of the calculations contained in the development file and that were produced to Plaintiff under the following Bates Label Nos.: HARTSOCK.000596-000828, HARTSOCK.000602.1-000607.1, HARTSOCK.000829-000850, HARTSOCK.003055-003511, HARTSOCK.004843-004861, and, HARTSOCK.007403-007618, HARTSOCK.007992-008010. You are also in receipt of the calculations referred to by Mr. Koerner in his deposition. See Bates Label HARTSOCK.021960-022007.

15. Documents indicating that the minimum innerliner thickness permitted was .047 inches, page 275;

Plaintiff is already in possession of a document, Bates Label No. HARTSOCK.000862, that identifies the .047 minimum liner/barrier gauge applicable to the Subject Tire. During our meet and confer call you indicated you wanted the design manual referenced in Request No. 1 above. I therefore refer you to our response at 1.

17. Specifications and specification changes for the subject tire dated after 2010, page 336;

Specifications have been produced to Plaintiff in the Hartsock and Green litigation bearing Bates Label Nos. HARTSOCK.000425-000595; HARTSOCK.002376-002902; HARTSOCK.004650-004755; HARTSOCK.004806-004841; HARTSOCK.005011-005021; HARTSOCK.006385-006446; HARTSOCK.006692-007213; HARTSOCK.007619-007724; HARTSOCK.007801-007812; HARTSOCK.007900-007916; HARTSOCK.007940-007990; HARTSOCK.008018-008025; HARTSOCK.008081-008142; HARTSOCK.012821-013761; HARTSOCK.020789-020790. Specifications were produced to you for the period beginning one year prior to the date of manufacture of the Tire at Issue to one year after the date of manufacture, to-wit: August 31, 2002 to August 31, 2004 (HARTSOCK.000425 to HARTSOCK.000595). In the Green litigation, specifications were produced to you from May 2003 to May 2009 (GY-KENGREEN-222-743) and through December 31, 2010 (GY-KENGREEN-1969-2074).

During our call, you indicated you wanted all specifications to the present date to see if there were any changes made to the Tire at Issue after December 31, 2010. Defendants' production is sufficient in light of Branham v. Ford Motor Company, 390 S.C. 203, 227 (2010),

Donald R. Fountain, Esquire
December 22, 2014
Page 6 of 8

Exhibit G

which holds that "post-distribution evidence is evidence of facts neither known nor available at the time of distribution. When assessing liability in a design defect claim against a manufacturer, the judgment and ultimate decision of the manufacturer must be evaluated based on what was known or reasonably attainable" *at the time* of manufacture.

18. Tire drawings that have notations contained in revision boxes number 3 & 4, page 383;

Although you are already in possession of all drawings that reflect revisions 1 through 3 previously produced to you under Bates Label Nos. HARTSOCK.000858-000864, you wanted confirmation that you are in receipt of all design drawings. In the interest of cooperative discovery, we have produced the following drawings to you which cover the period of time from the development of the Tire at Issue to May 24, 2011:

- HARTSOCK.000858-9 – Initial Drawing;
- HARTSOCK.000860-1 – Revision 1;
- HARTSOCK.000862 – Revision No. 2;
- HARTSOCK.000863-4 – Revisions Nos. 1 through 3 (dated 5/24/2011).

As this tire is still being manufactured, additional drawings exist. Nonetheless, Defendants' production is sufficient in light of Branham v. Ford Motor Company, 390 S.C. 203, 227 (2010).

19. Documents indicating the membership of the Global Design Manual Committee, and the inner liner section and changes to the inner liner requirements, page 413;

During the meet and confer call, you clarified your request and wanted to know, without any time limitation, those who are involved in the committee which drafts the design manual. As this request seeks those involved in the design of the proprietary manual, you are referred to our Response to No. 1 above.

20. The design and testing materials for the prototype G670 tire made with full nylon overlays including the design file, pages 447-450;

During our meet and confer call, you clarified your request in that you are seeking information concerning the G670 RV Bead Improvement Test Plan referenced by Mr. Koerner. I refer you to Bates Label documents [HARTSOCK.021625-021931].

21. The CTMAS Cut Tire Analysis Program including the TAI, TRI, COI, ranges for the Buffalo plant, pages 451-454;

During our meet and confer call you indicated that you are seeking Cut Tire sheets in an excel format similar to that produced to you with respect to other tires in the G670 Tire line. We have already produced the following cut tire sheets:

Donald R. Fountain, Esquire
 December 22, 2014
 Page 7 of 8

Exhibit G

HARTSOCK.007535, HARTSOCK.007545, HARTSOCK.007592,
HARTSOCK.007782, HARTSOCK.007785, HARTSOCK.007788,
HARTSOCK.007791, HARTSOCK.007794, HARTSOCK.007797,
HARTSOCK.007800, HARTSOCK.008008, HARTSOCK.008281,
HARTSOCK.008283, HARTSOCK.008285, HARTSOCK.008287,
HARTSOCK.008289, HARTSOCK.008291, HARTSOCK.008293,
HARTSOCK.008475, HARTSOCK.008477, HARTSOCK.008479,
HARTSOCK.008481, HARTSOCK.008483, HARTSOCK.008485,
HARTSOCK.008487, HARTSOCK.008488-008496,
HARTSOCK.014013, HARTSOCK.014015, HARTSOCK.014017,
HARTSOCK.014019, HARTSOCK.014021, HARTSOCK.014023,
HARTSOCK.014025, HARTSOCK.014026-014034,
HARTSOCK.020787-020788. See also Cut Tire Sheets included
 within development and release files produced under Bates Labels:
HARTSOCK.000596-000828, HARTSOCK.003055-003511,
HARTSOCK.004843-004861, HARTSOCK.007403-007618,
HARTSOCK.007992-008010.

22. The head to head trial testing comparison of different G670 inner liner compounds, page 479.

The request for testing is the subject of Fourth Discovery Request No. 24 and Fifth Discovery Request Nos. 35, 36, 38, 46, 88, and 104. It is also the subject of Plaintiff's June 13, 2014 meet and confer letter.

Such discovery is also not supported by Gibson v. Ford Motor Co., 510 F. Supp. 2d 1116, 1120 (N.D. Ga. 2007). As stated in Gibson, a demonstration is required that models share "pertinent characteristics" *before permitting discovery* into those other models. *Id.* (Emphasis added). In fact, the Gibson case holds that conclusory statements do not justify such discovery, *id.* at 1121, rather the Plaintiff **must** make a showing of substantial similarity.:

You have not demonstrated that these tires are substantially similar. Furthermore, the time period you demand is also inconsistent with the case of Branham v. Ford Motor Company, 390 S.C. 203, 227 (2010).

Further, to the extent you seek information pertaining to the compound formulas, Goodyear/GDTNA objects to same. Courts uniformly preclude the production of information pertaining to compounds and formulas. This information constitutes extremely confidential trade secrets and is not subject to discovery. See In re Bridgestone/Firestone, Inc., 106 S.W.3d 730 (2003); In re Continental General Tire, 979 S.W.2d 609 (1998); Sears v. Nissan Motor Co., 932 F.2d 975 (10th Cir. 1991); American Standard Inc. v. Pfizer, 828 F.2d 734 (Fed. Cir. 1987); Heller v. Shaw Industries, 1997 WL 786542 (E.D.Pa. 1997); Bridgestone Americas Holding, Inc.

Donald R. Fountain, Esquire
December 22, 2014
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Exhibit G

v. Mayberry, 878 N.E.2d 189, 196 (Ind. 2007); Crum v. Bridgestone/Firestone North American Tire, LLC, 907 A.2d 578, 588 (Pa. Super. 2006).

Should you have any questions or comments, please do not hesitate to contact our office.

Sincerely,

s/ Bianca G. Liston, Esq.

Bianca G. Liston
(electronically signed in absense to expedite delivery)

BGL/

cc: Mia Maness, Esquire
Mark Tanenbaum, Esquire
Curtis Ott, Esquire

Exhibit H

Mia Maness

From: Bianca Liston [BListon@mtwlegal.com]
Sent: Tuesday, January 27, 2015 1:16 PM
To: 'Don Fountain'
Cc: Mark Tanenbaum; Mia Maness; cott@gwblawfirm.com; Gary Toole
Subject: RE: 13/0016 HARTSOCK (Estate of Sarah Mills) v. Goodyear:

I am in receipt of your email and will respond to your inquiry this week. Additionally, per our discussions with Judge Duffy's clerk, we are also going to be drafting a proposed Fifth Scheduling Order.

Bianca

Bianca Graziela Liston 
Attorney at Law | McDonald Toole Wiggins, P.A.

111 N. Magnolia Ave., Suite 1200 | Orlando, FL 32801
Ph: (407) 246-1800 / Fax: (407) 246-1895 / DD: (407) 838-4057
bliston@mtwlegal.com

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From: Don Fountain [<mailto:DFountain@clarkfountain.com>]
Sent: Monday, January 26, 2015 1:46 PM
To: Bianca Liston
Cc: Mark Tanenbaum (mark@tanenbaumlaw.com); Mia Maness (mia@tanenbaumlaw.com)
Subject: 13/0016 HARTSOCK (Estate of Sarah Mills) v. Goodyear:

Bianca, on 12-22-14 you wrote to me and indicated that you would be supplementing your discovery responses on various items that we discussed during our meet and confer conference on 11-17-14 during which we told you that we were contemplating filing a motion to compel. However, I have never received your supplemental response.

I have been waiting to file the MTC until I reviewed your supplemental responses. I would very much appreciate you providing your responses asap in light of the court's order setting the trial of this case in April.

Additionally, I would like to go ahead and set the following depositions. I would appreciate you providing dates to do so.

- 1] Dan Badzinski
- 2] Corp Rep – Denise Seiler
- 3] Corp Rep - Terry Parsons
- 4] Robert Carncross

Thanks

Don Fountain, Esq.

CLARK • FOUNTAIN • LA VISTA
PRATHER • KEEN & LITTKY-RUBIN

TRIAL & APPELLATE ATTORNEYS

1919 North Flagler Drive

West Palm Beach, FL 33407
DFountain@ClarkFountain.com

Exhibit H

View my profile on  **LinkedIn**

PH: 561-899-2103 (Direct Line)
PH: 561-899-2100
FAX: 561-832-3580
PH: 866-643-3318 (Toll Free)
Website: www.clarkfountain.com

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From: bliston@mtwlegal.com

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Exhibit I



MCDONALD TOOLE WIGGINS, P.A.
ATTORNEYS AT LAW

January 30, 2015

Via Electronic Mail

Donald R. Fountain, Esq.
Clark, Fountain, LaVista, Prather, Keen &
Littky-Rubin
1919 N. Flagler Drive
West Palm Beach, FL 33407

Re: *Hartsock v Goodyear*
Our File No.: G003-10195

Dear Mr. Fountain:

This is in response to your email of Monday, January 26, 2015, directed to Attorney Bianca G. Liston of my office. Please include me in all of your email communication in the future.

Attached to this correspondence is our proposed Fifth Scheduling Order which has been redlined for ease of reference. Please advise if these dates are agreeable and we will submit same to Judge Duffy in order to reset the April trial date.

We are also in receipt of your correspondence of January 29, 2015, seeking clarification on the authentication of records produced by Goodyear/GDTNA in this litigation. We are working on a response but believe this issue will be worked out and will moot Topic 14 of your Rule 30(b)(6) notices.

As to the supplementation of documents agreed to in our correspondence of December 22, 2014, we expect to receive the identified documents in the next ten (10) business days. We will supplement thereafter.

Finally, as to the depositions of Dan Badzinski, Denise Seiler, Terry Parsons and Robert Carncross, please note the following:

- (1) **Dan Badzinski** – He is available for deposition on March 12th at 9:00 a.m. in Buffalo, New York.
- (2) **Denise Seiler** – Corporate Representative for Topics 1, 2, 4, 5, 6 and 7, as limited by Judge Duffy. Ms. Seiler is available for deposition on March 12th at 1:00 p.m. in Buffalo, New York.

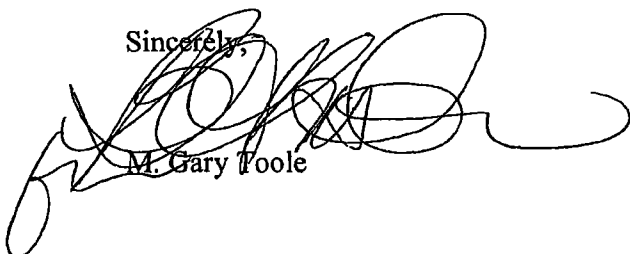
Donald R. Fountain, Esq.
January 30, 2015
Page 2 of 2

Exhibit I

- (3) **Terry Parsons** – Corporate Representative for Topics 3, 8 and 13, as limited by Judge Duffy. Mr. Parsons is available on March 4th at 9:00 a.m. in Akron, Ohio.
- (4) **Robert Carncross** – As indicated in my correspondence to you of May 30, 2014, he will need to be subpoenaed for his deposition. I am available on March 4th in the afternoon for his deposition.

Should you have any questions regarding the matter discussed above, please contact our office.

Sincerely,


M. Gary Toole

BGL/mp
Enclosure: Proposed Order
cc: Mark C. Tanenbaum, Esq.
Curtis Ott, Esq.

Exhibit I

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal Representative of the
Estate of Sarah Mills Hartsock,

Plaintiff,

v.

Goodyear Dunlop Tires North America, LTD, a foreign
corporation; and The Goodyear Tire & Rubber Company, a
foreign corporation,

Defendants.

Case No.: 2:13-cv-00419-PMD

**CONSENT ~~FOURTH~~FIFTH
AMENDED
SCHEDULING ORDER**

Judge Patrick Michael Duffy

Pursuant to the Federal Rules of Civil Procedure and the Local Civil Rules of this Court, the following schedule is established for this case. This order is entered to administer the trial of cases in a manner consistent with the ends of justice, in the shortest possible time, and at the least possible cost to litigants. Discovery may begin upon receipt of this order.

1. **Rule 26(f) Conference:** A conference of the parties pursuant to Fed. R. Civ. P. 26(f) shall be held no later than **May 20, 2013**.¹
2. **Rule 26(a)(1) Initial Disclosures:** No later than **June 3, 2013**, the required initial disclosures under Fed. R. Civ. P. 26(a)(1) shall be made.²
3. **Rule 26(f) Report:** No later than **June 3, 2013**, the parties shall file a Fed. R. Civ. P. 26(f) Report in the form attached to this order.³
4. **Amendment of Pleadings:** Motions to join other parties and amend the pleadings shall be filed no later than **September 24, 2013**.

¹ Plaintiff's counsel shall initiate the scheduling of the Rule 26(f) conference with all counsel known to plaintiff regardless of whether they have filed appearances. At conference, the parties shall confer concerning all matters set forth in Rule 26(f) and whether the schedule set forth in this order is appropriate and, if not, what modifications are necessary. See attached form - RULE 26(F) REPORT. The parties shall also consider whether they wish to consent to trial before a United States Magistrate Judge (form available on web site).

² Pursuant to Fed. R. Civ. P. 26(a)(1), the parties may, by stipulation, agree not to make some or all of the Rule 26(a)(1) initial disclosures. If such a stipulation is made, it shall be confirmed in writing between the parties. See Fed. R. Civ. P. 29 and Local Civil Rule 29.01. Unless contained in the Rule 26(f) Report, the written confirmation of stipulation should not be filed unless and until a dispute arises.

³ Parties are hereby notified that Local Civil Rule 26.03 lists additional queries to be answered in the Rule 26(f) Report. See also Local Civil Rule 26.02 (rules for answering court interrogatories).

Exhibit I

5. **Expert Witnesses:** Parties shall file and serve a document identifying by full name, address, and telephone number each person whom they expect to call as an expert at trial by the following dates:⁴

Plaintiff: Thirty (30) days from the completion of the 30(b)(6)/employee depositions which are the subject of the notices served on January 8, 2014 and the Motion for Protective Order filed on February 5, 2014 (DE 67). May 6, 2015

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Defendants: Sixty (60) days from the completion of the 30(b)(6)/employee depositions which are the subject of the notices served on January 8, 2014 and the Motion for Protective Order filed on February 5, 2014 (DE 67). June 5, 2015.

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6. **Records Custodian Witnesses:** Counsel shall file and serve no later than Sixty (60) days from the completion of the 30(b)(6)/employee depositions which are the subject of the notices served on January 8, 2014 and the Motion for Protective Order filed on February 5, 2014 (DE 67). June 5, 2015; affidavits of records custodian witnesses proposed to be presented by affidavit at trial. Objections to such affidavits must be made within fourteen (14) after the service of the disclosure.

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7. **Discovery:** Discovery shall be completed no later than One Hundred Twenty (120) days from the completion of the 30(b)(6)/employee depositions which are the subject of the notices served on January 8, 2014 and the Motion for Protective Order filed on February 5, 2014 (DE 67). August 4, 2015; All discovery requests shall be served in time for the responses thereto to be served by this deadline.

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8. **Motions in Limine:** Motions in limine must be filed at least three weeks prior to One Hundred Seventy (170) days from the completion of the 30(b)(6)/employee depositions which are the subject of the notices served on January 8, 2014 and the Motion for Protective Order filed on February 5, 2014 (DE 67). September 23, 2015.

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9. **Dispositive Motions:** All dispositive motions shall be filed on or before One Hundred Forty (140) days from the completion of the 30(b)(6)/employee depositions which are the subject of the notices served on January 8, 2014 and the Motion for Protective Order filed on February 5, 2014 (DE 67). August 24, 2015.

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10. **Mediation:** Mediation, pursuant to Local Civil Rules 16.04 – 16.12, shall be completed in this case on or before One Hundred Sixty (160) days from the completion of the 30(b)(6)/employee depositions which are the subject of the notices served on January 8, 2014 and the Motion for Protective Order filed on February 5, 2014 (DE 67). September 11, 2015.

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⁴ See Fed. R. Civ. P. 26(a)(2) and (a)(2)(B). Note that while Fed. R. Civ. P. 26(a)(2) does not require filing any portion of the written report or disclosure, Judge Duffy requires filing of a document which identifies the expert and certifies compliance with this rule.

Exhibit I

11. Rule 26(a)(3) Pretrial Disclosures: No later than ~~One Hundred Eighty (180) days from the completion of the 30(b)(6)/employee depositions which are the subject of the notices served on January 8, 2014 and the Motion for Protective Order filed on February 5, 2014 (DE 67)~~October 2, 2015.
12. Pretrial Briefs: Parties shall provide the Court with pretrial briefs no later than ~~Two Hundred (200) days from the completion of the 30(b)(6)/employee depositions which are the subject of the notices served on January 8, 2014 and the Motion for Protective Order filed on February 5, 2014 (DE 67)~~October 23, 2015.⁵
13. Trial: This case will go to trial during the term of court beginning ~~Two Hundred Ten (210) days from the completion of the 30(b)(6)/employee depositions which are the subject of the notices served on January 8, 2014 and the Motion for Protective Order filed on February 5, 2014 (DE 67)~~November 2, 2015.

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Patrick Michael Duffy
United States District Judge

Dated: _____
Charleston, South Carolina

⁵ Pretrial briefs are to be provided to the Judge's Chambers only. They are not filed with the court.

Exhibit J

From: Bianca Liston
To: "Don Fountain"; Mark Tanenbaum; Mia Maness
Cc: Gary Toole; Suzan Bates; Doris Flathmann; Karen Sandoval; "cott@gwblawfirm.com"; Melissa Urch <murch@gwblawfirm.com> (murch@gwblawfirm.com)
Subject: RE: 13/0016 HARTSOCK (Estate of Sarah Mills) v. Goodyear: Hartsock v Goodyear: Correspondence dated 1/30/15 (Proposed Fifth Amended Scheduling Order)
Date: Tuesday, February 24, 2015 2:25:41 PM

You will receive our response letter regarding authentication of documents today. I also anticipate serving discovery supplements starting this week.

Bianca

Bianca Graziela Liston 
Attorney at Law | McDonald Toole Wiggins, P.A.

111 N. Magnolia Ave., Suite 1200 | Orlando, FL 32801
Ph: (407) 246-1800 / Fax: (407) 246-1895 / DD: (407) 838-4057
bliston@mtwlegal.com

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From: Don Fountain [mailto:DFountain@clarkfountain.com]
Sent: Tuesday, February 24, 2015 12:33 PM
To: Bianca Liston; 'mark@tanenbaumlaw.com'; 'mia@tanenbaumlaw.com'
Cc: Gary Toole; Suzan Bates; 'Doris@tanenbaumlaw.com'; 'Karen@tanenbaumlaw.com'; 'cott@gwblawfirm.com'; Melissa Urch <murch@gwblawfirm.com> (murch@gwblawfirm.com)
Subject: RE: 13/0016 HARTSOCK (Estate of Sarah Mills) v. Goodyear: Hartsock v Goodyear: Correspondence dated 1/30/15 (Proposed Fifth Amended Scheduling Order)

Gary, your 1-30-15 letter said that you were going to propose a resolution of the authenticity issue that has been pending for some time and also supplement the discovery we have been questioning. I never received either. Has it been sent and done? Thx

From: Bianca Liston [mailto:BListon@mtwlegal.com]
Sent: Tuesday, February 03, 2015 11:06 AM
To: Don Fountain; 'mark@tanenbaumlaw.com'; 'mia@tanenbaumlaw.com'
Cc: Gary Toole; Suzan Bates; 'Doris@tanenbaumlaw.com'; 'Karen@tanenbaumlaw.com'; 'cott@gwblawfirm.com'; Melissa Urch <murch@gwblawfirm.com> (murch@gwblawfirm.com)
Subject: RE: Hartsock v Goodyear: Correspondence dated 1/30/15 (Proposed Fifth Amended Scheduling Order)

All,

Please let me know if you will agree to the proposed Fifth Amended Scheduling Order, which was attached to our email of Friday, January 31st. I would like to get it filed no later than Thursday, February 5, 2015.

Regards,

Bianca Graziela Liston 

Exhibit J

Attorney at Law | McDonald Toole Wiggins, P.A.

111 N. Magnolia Ave., Suite 1200 | Orlando, FL 32801
Ph: (407) 246-1800 / Fax: (407) 246-1895 / DD: (407) 838-4057
bliston@mtwlegal.com

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From: Michelle Preiser
Sent: Friday, January 30, 2015 3:14 PM
To: 'dfountain@clarkfountain.com'; 'SBates@ClarkFountain.com'; 'mark@tanenbaumlaw.com'; 'mia@tanenbaumlaw.com'; 'Doris@tanenbaumlaw.com'; 'Karen@tanenbaumlaw.com'; 'cott@gwblawfirm.com'
Cc: Bianca Liston; Gary Toole
Subject: Hartsock v Goodyear: Correspondence dated 1/30/15

Mr. Fountain,

Pursuant to Mr. Toole's request, attached hereto please find correspondence of even date, with the referenced attachment

Sincerely,

Michelle Preiser 

Legal Secretary to Gary Toole and Bianca G. Liston | McDonald Toole Wiggins, P.A.

111 N. Magnolia Ave., Suite 1200 | Orlando, FL 32801
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Exhibit K

G670 TIRE LINE - MATERIALS PRODUCED RE OTHER SIZES

Tire Size	Inner Liner Thickness	Inner Liner Design Data	Drawing	Specifications	Cut Tire Sheets
295/80R 22.5 subject tire	✓	✓	✓	✓	✓
225/70R 19.5	✓	✓	✓	✓	✓
245/70R 19.5	✓	✓	✓	✓	✓
255/70R 22.5	✓	✓	✓	✓	✓
275/70R 22.5	✓	X	✓	X	✓
245/75R 22.5	✓	X	X	X	✓
265/75R 22.5	✓	X	X	X	✓
275/80R 22.5	✓	✓	✓	✓	✓
315/80R 22.5	✓	✓	✓	✓	✓

EXHIBITS FN3, FN4, FN5, 8-10 & FN6

SUBMITTED FOR INCAMERA REVIEW

DOCKET 100

**FN3: G670 RV DEVELOPMENT SCHEDULE (HARTSOCK.021976)
SEE JOINT APPENDIX VOL. IV, PP. 982**

**FN4: 295/80R22.5 GOODYEAR G670RV (HARTSOCK.021977)
SEE JOINT APPENDIX VOL. IV, PP. 983**

**FN5, 8-10: DEPOSITION EXCERPTS OF JAMES KOERNER,
6/24/2014
SEE JOINT APPENDIX VOL. IV, PP. 985 - 1004**

**FN6: TERRENCE PARSONS DEPOSITION EXCERPT, 5/10/12
SEE JOINT APPENDIX VOL. IV, PP. 1005 - 1006**

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

CIVIL ACTION NO. 2:13-cv-00419-PMD

THEODORE G. HARTSOCK, JR., AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF
SARAH MILLS HARTSOCK,

Plaintiff,

-versus-

GOODYEAR DUNLOP TIRES NORTH AMERICA, LTC., a foreign corporation; and THE GOODYEAR TIRE & RUBBER COMPANY, a foreign corporation,

Defendants.

**PLAINTIFF'S NOTICE OF
MOTION AND MOTION
FOR SUMMARY JUDGMENT**

YOU WILL PLEASE TAKE NOTICE THAT the Plaintiff above named, by and through his undersigned counsel, will move before the Honorable P. Michael Duffy, United States District Judge, for the District of South Carolina, Charleston Division, at such time and place as the Court may appoint, for an order pursuant to Rule 56(a), Fed.R.Civ.P., granting summary judgment as to all causes of action.

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By s/Mia Lauren Maness

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ATTORNEYS FOR PLAINTIFF

April 23, 2015

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

CIVIL ACTION NO. 2:13-cv-00419-PMD

THEODORE G. HARTSOCK, JR., AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
SARAH MILLS HARTSOCK,)
)
Plaintiff,)
)
-versus-)
)
GOODYEAR DUNLOP TIRES NORTH AMERICA,)
LTC., a foreign corporation; and THE GOODYEAR)
TIRE & RUBBER COMPANY, a foreign corporation,)
)
Defendants.)
_____)

PLAINTIFF'S MEMORANDUM IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT

A. NATURE OF THE CASE

On July 6, 2010, a recreational vehicle (RV) traveling east on Interstate 26 in Calhoun County, South Carolina, experienced a tread and belt separation (Exhibit A) that caused the driver to lose control, crash through the median cable barrier, and collide with an oncoming vehicle driven by Sarah Mills Hartsock, Plaintiff's wife, in the westbound lanes. (Exhibit B, Rodriguez 80:8-20; Exhibit C; Exhibit D; Exhibit E). Mrs. Hartsock survived the initial impact and was able to speak to a bystander at the scene. (Exhibit F, McGaha Deposition 30:2-24). However, she died at the scene before she could be extricated from the vehicle. (Exhibit G, Manly Deposition 29:24-31:8).

The RV that collided with Mrs. Hartsock's vehicle was equipped with tires manufactured by Defendant Goodyear Dunlop Tires North America, LTD (Defendant

Dunlop), and designed, marketed and sold by Defendant Goodyear Tire & Rubber Company (Defendant Goodyear). (DE 24; DE 25). The tires came as original equipment on the RV when it was sold new (Exhibit B, 142:1-144:4), and are Goodyear G670RV 295/80R22.5, load range H, manufactured in Buffalo, New York. The left front steering tire, manufactured during the 35th week of 2003 (Exhibit H), experienced the tread-belt separation. At the time of separation and blowout the tire had only 46,437 miles of use and considerable remaining available tread wear. (Exhibit B, 120:1-6; Exhibit I). Plaintiff brings suit under South Carolina's wrongful death and survival statutes, asserting that the RV's tire was defective and seeking recovery under product liability theories.

B. STATEMENT OF FACTS PERTAINING TO THE MOTION

The G670RV 295/80R22.5 was developed beginning in 2002 and into 2003. Production began in May 2003.¹ James Koerner is the Goodyear design engineer who designed the G670RV 295/80R22.5, including its inner liner. (Exhibit J, Koerner Deposition 39:23-40:1)². He also designed another tire in the G670 product line (Exhibit J, 39:17-22).

¹ Exhibit J, 256:4-25, designated confidential by Defendants. In accordance with Confidentiality Order ¶6(2), Plaintiff has not attached the deposition excerpt hereto as an exhibit but has provided it to the Court for *in camera* review pending the outcome of Plaintiff's pending Motion to Seal (DE 101). All deposition excerpts and materials which have been designated confidential by Defendants are footnoted and have been provided for *in camera* review in association with Plaintiff's Motion to Seal.

² Exhibit K, Parsons Deposition, May 10, 2012, 417:12-21, designated confidential. This deposition was taken over the course of three days in the companion cases of Kenneth J. Green, Nicole Ammons as Personal Representative of the Estate of William Y. Green, deceased, and Katherine Youngblood, as Personal Representative for the Estate of Jean M. Hodgin, deceased, v. Goodyear et al. (Palm Beach County Circuit Court, Case Nos. 50-2010 CA 003001 XXXX MB; 50-2010 CA 003026 XXXX MB; and 50-2010 CA 016336 XXXX MB), filed in Florida. The tire at issue in those actions was

Koerner is well versed in the processes and procedures that should be followed in designing a new tire for Defendant Goodyear. There is a Goodyear Global Design Manual which contains a section devoted to the appropriate dimensions and materials for inner liners, as well as sections for each component of a tire. Koerner [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Buffalo manufacturing plant, a.k.a. Tonawanda plant (Exhibit L, Parsons Deposition, March 8, 2012, 23:16-23), a Dunlop facility, [REDACTED].³

All ten tires in the G670 line were manufactured in Goodyear plants except the G670 295/80R22.5 subject tire, which was manufactured in a Dunlop plant. Koerner, a career Goodyear employee, confirmed that the Buffalo plant where this tire was manufactured was acquired by Goodyear when it purchased Dunlop in late 1999, and his knowledge of that plant is restricted to the period since the 1999 acquisition. (Exhibit J, 30:15-24). [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

also a G670RV 295/80R22.5, load range H, manufactured in Buffalo, New York. Terrance Parsons was Defendant Goodyear's Rule 30(b)(6) corporate designee in those cases.

³ Exhibit J, 29:13-31:16, 34:10-37:3, 42:2-21 and 415:15-417:20, designated confidential.

[REDACTED]

[REDACTED]

[REDACTED]^{6, 7}

The actual gauge of an inner liner has significant repercussions. A tire that has an inner liner gauge below the minimum design specification of [REDACTED]

⁴ Exhibit J, 29:13-31:16, 235:17-237:21 and 415:15-417:20, designated confidential.

⁵ A cut tire sheet reflects the results of a cut tire analysis, a process in which a tire is pulled off the production line, sectioned and measured to determine whether its component parts are within the specified design thickness limits. Exhibit J, 271:8-17 and 472:21-25, designated confidential.

⁶ Exhibit J, 234:19-235:23, 272:9-275:16, 278:5-279:4, 279:18-280:11 and 280:24-286:10, designated confidential.

⁷ Exhibit M, Hartsock.007562, 007575, 007589, 007545, 007480, 007485, 007505, 007502, 007520, 007523, 008008, 007535, 007538, 020787, 007782, 007785, 007788, 007791, 020788 and 007794, designated confidential.

[REDACTED] 8, 9 Further, the Goodyear Global Master Specification [REDACTED]

¹⁰ A thin inner liner gauge may allow seepage of inflation pressurized air from the tire cavity into the structure of the tire, compromising the structural integrity of the tire. (Exhibit J, 217:13-218:2 and 323:9-20). When the structural integrity of a tire is compromised a tread and belt separation may occur. (Exhibit L, 185:23-186:11; Exhibit K, 436:24-437:3 and 437:10-13; Exhibit O, Parsons Deposition, May 11, 2012, 224:7-19).^{11, 12} Koerner acknowledges both the potential for life threatening injuries as the result of a tread and belt separation on an RV traveling at highway speeds and that he was aware of such a possibility when he designed the tire. (Exhibit J, 172:14-173:19).

The G670RV 295/80R22.5 at issue in this case experienced a tread and belt separation and blow out which resulted in the collision that killed Mrs. Hartsock. The inner liner of the subject tire has been measured at numerous points by Plaintiff's expert Richard McSwain. (Exhibit P, McSwain Affidavit). Photos of those points and the measurements are attached to McSwain's affidavit. (Exhibit P, exhibits 5.1-5.31). McSwain documents 79 points on the inner liner that have a measured gauge of 0.033" - 0.039". Whether the minimum inner liner gauge for the subject tire was specified as [REDACTED], Goodyear policy required [REDACTED].

⁸ Exhibit J, 216:3-217:2, 242:18-243:16 and 388:14-389:6, designated confidential.

⁹ Exhibit K, 426:13-427:1, 428:6-20 and 434:21-435:3, designated confidential.

¹⁰ Exhibit N, Hartsock.021936 and 021940, designated confidential.

¹¹ Exhibit J, 202:22-204:24 and 324:16-23, designated confidential.

¹² Exhibit K, 436:13-22, designated confidential.

Once a tire is manufactured, usage and the passage of time do not cause changes in an inner liner's gauge. (Exhibit J, 432:8-14 and 433:2-6).

C. LEGAL STANDARD

Rule 56, Fed.R.Civ.P., provides: "A party may move for summary judgment, identifying each claim or defense . . . on which summary judgment is sought."

To grant a motion for summary judgment, the court must find that "there is no genuine dispute as to any material fact." Fed.R.Civ.P. 56(a). The judge is not to weigh the evidence but rather must determine if there is a genuine issue for trial. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986). All evidence should be viewed in the light most favorable to the nonmoving party. Perini Corp. v. Perini Constr., Inc., 915 F.2d 121, 124 (4th Cir. 1990). "[W]here the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, disposition by summary judgment is appropriate." Teamsters Joint Council No. 83 v. Centra, Inc., 947 F.2d 115, 119 (4th Cir. 1991). Summary judgment is not "a disfavored procedural shortcut," but an important mechanism for weeding out "claims and defenses [that] have no factual basis." Celotex Corp. v. Catrett, 477 U.S. 317, 327, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986). Indeed, "the plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Id. at 322; see also Hughes v. Bedsole, 48 F.3d 1376, 1381 (4th Cir. 1995) ("[T]his obligation of the nonmoving party is 'particularly strong when the nonmoving party bears the burden of proof.'" (quoting Pachaly v. City of Lynchburg, 897 F.2d 723, 725 (4th Cir. 1990))).

Estate of Ravenell v. Pugmill Sys., 2014 U.S. Dist. LEXIS 172778, *8-9 (D.S.C. 2014).

Plaintiff seeks recovery from Defendants under theories of negligence, strict liability, and breach of express and implied warranties based on their design and manufacture of the G670RV 295/80R22.5. (DE 22, pp. 5-7). South Carolina law requires a plaintiff to prove three elements in a products liability case, under any theory of recovery: "(1) that he was injured by the product; (2) that the product, at the time of

the accident, was in essentially the same condition as when it left the hands of the defendant; and (3) that the injury occurred because the product was in a defective condition unreasonably dangerous to the user." Madden v. Cox, 328 S.E.2d 108, 112 (S.C. Ct. App. 1985) (citations omitted). "Unreasonably dangerous" is "dangerous to an extent beyond that which would be contemplated by the ordinary consumer who purchases it, with the ordinary knowledge common to the community as to its characteristics." Restatement (Second) of Torts, § 402A, cmt. i (1965). S.C. Code Ann. § 15-78-30. Additionally, under a negligence cause of action plaintiff must also prove "the defendant (seller or manufacturer) failed to exercise due care in some respect, and, unlike strict liability, the focus is on the conduct of the seller or manufacturer, and liability is determined according to fault." Bragg v. Hi-Ranger, Inc., 462 S.E.2d 321, 326 (S.C. Ct. App. 1995).

D. ARGUMENT

Application of the facts to the applicable law requires entry of summary judgment in Plaintiff's favor. There are no genuine issues of material fact when the facts are viewed in the light most favorable to Defendants. The facts establish all elements of the causes of action, including Defendants' failure to exercise due care in the design of the G670RV 295/80R22.5.

1. Plaintiff was injured by the G670RV 295/80R22.5.

Plaintiff's wife died due to injuries sustained when her vehicle was hit head on by an RV. The RV, equipped with G670RV 295/80R22.5 tires, experienced a tread and belt separation and blow out on the left front steering tire. The RV was travelling eastbound when the event occurred and the driver lost control of the vehicle. The RV

crossed the median, broke through the median cable barrier, and collided head on with Mrs. Hartsock's vehicle as she travelled in the westbound lanes. But for the tread and belt separation Mrs. Hartsock would not have been injured and died on July 6, 2010.

2. The G670RV 295/80R22.5 was, at the time of the collision, in essentially the same condition as when it left Defendants' hands.

The inner liner gauge on the left front steering tire was the same thickness at the time of the tread and belt separation as it was when the tire was manufactured. Koerner affirmed that the passage of time and usage do not change the gauge.

3. The death of Plaintiff's decedent occurred because the G670RV 295/80R22.5 tire was in a defective condition unreasonably dangerous to the user.

The tire that experienced the tread and belt separation contained a manufacturing defect. Goodyear specifications for the G670RV 295/80R22.5 require the inner liner gauge to be [REDACTED]. The inner liner gauge did not meet the required specification at 79 points across the tire. The range of measurements included:

	6 points	0.033"
	4 points	0.034"
	14 points	0.035"
	10 points	0.036"
	10 points	0.037"
	21 points	0.038"
	14 points	0.039"
TOTAL	79 points	0.033" - 0.039"

(Exhibit P, exhibit 6).

The failure of the subject tire to meet the design specification for the inner liner gauge, as well as the Goodyear minimum specification as set out in the Global Master Specification, dictated that [REDACTED]. It

should not have reached a consumer. Instead, it did reach a consumer; it was placed in use; it failed in a way that was foreseeable to its designer and Defendant Goodyear. The ordinary consumer would not expect to be sold a product which could be safely used that the manufacturer [REDACTED].

4. Defendants failed to exercise due care.

Koerner designed the G670RV 295/80R22.5 tire with full knowledge of the design process and methodology of Defendant Goodyear, but did not employ his knowledge in all aspects of the subject tire's design. As to the inner liner gauge he failed [REDACTED]

[REDACTED]. He instead chose a gauge [REDACTED]. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

E. CONCLUSION

Based on the facts and law set forth above, Plaintiff requests that the Court grant summary judgment as to all causes of action, reserving for trial only the issue of the amount of damages.

[SIGNATURE ON FOLLOWING PAGE]

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

April 23, 2015

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Exhibit A



Hartsock-SCDPS-PHT-0214

Exhibit J

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION

~~~~~

THEODORE G. HARTSOCK, JR., AS PERSONAL  
REPRESENTATIVE OF THE ESTATE OF SARAH MILLS  
HARTSOCK,  
Plaintiff,

vs. Case No. 2:13-cv-00419-PMD

GOODYEAR DUNLOP TIRES NORTH AMERICA, LTD.,  
etc., et al.  
Defendants.

~~~~~

Videotaped deposition of

JAMES KOERNER

June 24, 2014
9:00 a.m.

Taken at:
Hilton Akron/Fairlawn
3180 West Market Street
Akron, Ohio

Ashanti Edwards, RPR

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Exhibit J

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* * *

1 A. No way to tell.

2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 Q. Okay. The Tonawanda plant was
16 originally, years ago, a Dunlop plant, right?

17 A. It still is a Dunlop plant.

18 Q. Okay. All right. Dunlop was owned
19 by Sumitomo Rubber Industries Limited out of
20 Japan, right?

21 A. That is correct.

22 Q. September 1st, 1999, Sumitomo sold
23 Dunlop to Goodyear, right?

24 A. It was a joint venture, yes.

[REDACTED]

* * *

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Exhibit J

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1 Q. Okay. And was that part of the
2 task force dealing with the U-Haul problem?

3 MR. TOOLE: Objection. Form.

4 A. Yes.

5 Q. Okay. And when did you give that
6 deposition?

7 A. Two months ago.

8 Q. All right. And did that G647 also
9 involve an allegation that the innerliner was
10 deficient in the tire?

11 MR. TOOLE: Objection. Form.

12 A. No, it did not.

13 Q. Okay. What was the allegation in
14 that case? Or defect?

15 A. I don't remember one being
16 specified.

17 Q. Okay. And did you have some
18 involvement in the design of the G647?

19 A. Yes, I did.

20 Q. Okay. What was your role in that
21 tire?

22 A. I was the designer for that tire.

23 Q. Okay. And do you consider yourself
24 to be the designer for the G670 tire, the one
25 in this case?

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Exhibit J

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1 A. Yes.

2 Q. Okay. Is there anybody else that
3 would be -- that would consider themselves to
4 be the designer of this tire?

5 A. Well, there was a -- other people
6 involved, people that would do the tread
7 pattern, somebody else that would do the
8 cross-sectional drawing for the tire, someone
9 that would also verify the compounds that would
10 be in the tire.

11 Q. But as far as who is the, quote,
12 designer of the tire, is everybody going to
13 agree that Jim Koerner is the guy?

14 MR. TOOLE: Objection. Form.

15 A. Yes. I would be one of the
16 designers, yes.

17 Q. Okay. Who were the others -- other
18 designers of the tire in this case?

19 A. The other would have been Bruce
20 Rawlings.

21 Q. Okay. Anybody else?

22 A. That would be all.

23 Q. And Mr. Rawlings, is he still
24 employed?

25 A. No, he is not.

* * *

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Exhibit J

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[illegible]

14 Q. Okay. Now, do you agree that if
15 somebody is driving a large RV like the one in
16 this case, a class A RV, 45-feet long and
17 they're driving along at highway speeds and
18 they suffer a tread and belt separation and a
19 blowout of a steer axle tire, that that is a
20 safety concern?

21 MR. TOOLE: Objection. Form.

22 A. If the tires were maintained
23 properly, it could be a problem. A failure,
24 yes.

25 Q. All right. In other words, you

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Exhibit J

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1 have a tire blowout and separation on the steer
2 axle at highway speeds, that's an emergency
3 situation, right?

4 MR. TOOLE: Object to form.

5 A. What do you mean by emergency?

6 Q. It's something that could result in
7 injury or death.

8 A. Yes, it could.

9 Q. Okay.

10 A. A possibility.

11 Q. Okay. And as a tire designer, when
12 you were making the tire in this case you knew
13 that, that if one of these tires that I'm
14 designing is on the front steer axle of a large
15 RV that has a tread separation and a blowout at
16 highway speeds, there's a likelihood of
17 somebody being injured or killed, true?

18 MR. TOOLE: Objection. Form.

19 A. There would be a possibility, yes.

20 Q. Okay. And that's something, as a
21 designer, you know when you're making -- you're
22 designing these tires, right?

23 A. That's why we do our testing of the
24 tire to release it.

25

* * *

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Exhibit J

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[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

13 Q. Okay. But as a tire designer and
14 an engineer, you know that if the innerliner is
15 perfect thickness over 99.9 percent of the
16 circumference, but is only thin, too thin, in
17 one square inch, that that one square inch area
18 is the path of least resistance where the
19 inflation pressurized air can enter into the
20 structure of the tire and cause a separation,
21 true?

22 MR. TOOLE: Objection. Form.

23 A. It could be possible, yes.

24 Q. Okay. All right. And the point is
25 that you agree that inflation pressurized air

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Exhibit J

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1 follows the path of least resistance, true?

2 A. Yes, it does.

3 Q. Okay. So on the inside of the tire
4 in this case, the G670 295/80R 22.5 tire, if
5 the innerliner is too thin and out of spec over
6 the size of a quarter, a U.S. quarter, that
7 little area can allow inflation pressurized air
8 to enter the structure of the tire and cause a
9 separation, true?

10 MR. TOOLE: Objection. Form.

11 You can answer.

12 A. It also would depend on the barrier
13 gauge at that location.

[REDACTED]

* * *

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Exhibit J

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1 Do you remember that?

2 A. Yes, I do.

3 Q. And, in your experience, is that
4 phenomenon a phenomenon that takes time? In
5 other words, it takes time, cycles, it's a
6 fatigue-related failure of the tire?

7 A. I really don't know.

8 Q. Okay. When the -- strike that.

9 When air from the air chamber
10 permeates through the innerliner into the
11 structure of the tire and creates intercarcass
12 pressurization, is the air able to migrate
13 within the belt structure around the
14 circumference of the tire?

15 MR. TOOLE: Can you read that back,
16 please?

17 (Record read.)

18 A. The air will migrate up the ply
19 wire toward the belt package and go underneath
20 it.

[REDACTED]

* * *

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Exhibit K

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

- - -

KENNETH J. GREEN, NICOLE)
AMMONS as Personal)
Representative of the)
Estate of WILLIAM Y. GREEN,)
deceased, and KATHERINE)
YOUNGBLOOD, as Personal)
Representative of the Estate)
Of JEAN M. DODGIN, Deceased,)

Plaintiffs,)

vs.)

GOODYEAR DUNLOP TIRES NORTH)
AMERICA, LTD., a foreign)
corporation; GOODYEAR TIRE &)
RUBBER COMPANY, a foreign)
corporation and EXCELL FLEET)
SERVICE, INC., a Florida)
corporation,)

Defendants.)

CASE NO.: CONSOLIDATED
50-2010 CA 003001 XXXX MB
DIV. AJ
50-2010 CA 003026 XXXX MB
DIV. AJ
502010CA016336XXXMB
DIV. AA

- - -

Continued Videotape Deposition of TERRENCE LEE
PARSONS, Corporate Representative of Goodyear Tire &
Rubber Company and Goodyear Dunlop Tires North America,
Ltd., called by the Plaintiffs for cross-examination,
pursuant to the Rules of Civil Procedure, taken before me,
the undersigned, Susan M. Petro, a Stenographic Reporter
and Notary Public in and for the State of Ohio, at the
Akron/Fairlawn Hilton, 3180 West Market Street, Akron,
Ohio, on Thursday, the 10th day of May, 2012 at
8:56 o'clock, a.m.

Exhibit K

Page 436

[illegible]

23 By Mr. Fountain:

24 Q And pressurization of the carcass is something
25 that's well-known to Goodyear, often called

Exhibit K Page 437

1 intra-carcass pressurization, right?

2 A It's known to Goodyear and the tire industry as
3 that, yes.

4 Q And Goodyear has known for a long time that if an
5 inner-liner is too thin and allows intra-carcass
6 pressurization to occur that a tire like Mr. Green's
7 can suffer a separation and a blowout, true?

8 A If that's a allowed to occur, premature disablement
9 can occur, also.

10 Q And it's well-known to Goodyear and has been for a
11 long time that intra-carcass pressurization can lead
12 to a tread belt separation, fair?

13 A That's a component of that mechanism.

14 Q Okay. Now, one of the manufacturing defects that
15 Goodyear is aware of and keeps an eye out for in the
16 plant is something called cord shadowing. You're
17 familiar with that?

18 A Yes.

19 Q Okay. And cord shadowing is when somebody inspects
20 the inner-liner of the tire and they're able to see
21 an impression of the carcass ply cords through the
22 inner-liner, right?

23 A I agree that cord shadowing is the ability to be
24 able to see the individual cord.

● ● [REDACTED]

Exhibit L

Page 1

IN THE CIRCUIT COURT
OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

KENNETH J. GREEN, NICOLE)
AMMONS, as Personal)
Representative of the)
Estate of WILLIAM Y.)
GREEN, deceased, and)
KATHERINE YOUNGBLOOD, as)
Personal Representative)
for the Estate of JEAN J.)
HODGIN, deceased,)

Plaintiffs,)

vs.)

GOODYEAR DUNLOP TIRES)
NORTH AMERICA, LTD., a)
foreign corporation;)
GOODYEAR TIRE & RUBBER)
COMPANY, a foreign)
corporation, and EXCEL)
FLEET SERVICE, INC., a)
Florida corporation,)

Defendants.)

No. CONSOLIDATED 50-2010
CA 003001 XXXX MB
DIV. AJ
50-2010 CA 003026XXXX MB
DIV. AJ
502010CA016336XXXXMB
DIV. AA

Videotaped deposition of TERRENCE LEE PARSONS, an
Employee of The Goodyear Tire & Rubber Company, called
by the Plaintiffs for cross-examination, pursuant to the
Rules of Civil Procedure, taken before Joyce L. Shannon,
a Registered Professional Reporter and Notary Public in
and for the State of Ohio, at the Hilton Inn, 3180 West
Market Street, Akron, Ohio, on Thursday, the 8th day of
March, 2012, at 9:17 o'clock, a.m.

Exhibit L

Page 23

1 yourself?

2 A Then the other person would be Mr. Badzinski.

3 Q Could you spell that, please?

4 A B-a-d-z-i-n-s-k-i, I believe.

5 Q Does Mr. Badzinski still work for Goodyear?

6 A Yes.

7 Q Here in Akron?

8 A No. Mr. Badzinski is in Buffalo.

9 Q And what is his job title?

10 A Currently I believe he's a design engineer for
11 motorcycle tires.

12 Q At the time of the Green tire's development, what
13 was his responsibility?

14 A At this time he would have been a design engineer
15 for medium radial truck tires.

16 Q And he was integrally involved in the design of
17 the G670?

18 MR. HORELICK: Form.

19 A Mr. Badzinski was the engineer in Buffalo that
20 worked on the G670 project.

21 BY MR. KEEN:

22 Q Okay. And when you say Buffalo, you mean
23 Tonawanda or the Tonawanda plant?

24 A Yes, I do.

25 Q Okay. Other than those individuals, is there

Exhibit L Page 185

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 Q And the reason that you want to prevent air
11 permeation is because if air permeates into the
12 belt package in other areas of the tire, that can
13 lead to separations in the tire, true?

14 A Too much air permeation can. We don't have any
15 evidence in this case or this tire --

16 MR. HORELICK: Well, we're not going to
17 get into that.

18 BY MR. KEEN:

19 Q Do tell.

20 MR. HORELICK: No, you do not. Not at
21 this time. We can't get into that

22 BY MR. KEEN:

23 Q You would agree, sir, with respect to a G670 Load
24 Range H tire, like the tire in this case, air
25 permeation into the belt package and other areas

Exhibit L Page 186

1 of the tire would be a potentially dangerous
2 thing, true?

3 A If you had that, it could be true.

4 Q And, in fact, air permeation or what's known as
5 inner carcass or intracarcass pressurization of
6 the tire can lead to premature failure of the
7 tire, true?

8 A If you had that, it could.

9 Q And that's why Goodyear specifically denotes a
10 minimum for the innerliner of the G670, true?

11 A That's why we use those as minimums.

[REDACTED]

Exhibit O Page 1

IN THE CIRCUIT COURT
OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

KENNETH J. GREEN, NICOLE)
AMMONS, as Personal)
Representative of the)
Estate of WILLIAM Y.)
GREEN, deceased, and)
KATHERINE YOUNGBLOOD, as)
Personal Representative)
For the Estate of JEAN J.)
HODGIN, deceased,)
Plaintiffs,)
vs.) No. CONSOLIDATED 50-2010
CA 003001 XXXX MB
GOODYEAR DUNLOP TIRES) DIV. AJ
NORTH AMERICA, LTD., a)
Foreign corporation;) 50-2010 CA 003026XXXX MB
GOODYEAR TIRE & RUBBER) DIV. AJ
COMPANY, a foreign)
Corporation, and EXCEL) 502010CA016336XXXXMB
FLEET SERVICE, INC., a) DIV. AA
Florida corporation,)
Defendants.)

Videotaped Deposition of TERRENCE LEE PARSONS,
an Employee of The Goodyear Tire & Rubber Company,
called by the Plaintiffs for cross-examination,
pursuant to the Rules of Civil Procedure, taken before
Heidi Tsimpiris, a Registered Professional Reporter and
Notary Public in and for the State of Ohio, at the
Hilton Inn, 3180 West Market Street, Akron, Ohio, on
Friday, the 11th day of May, 2012, at 8:25 o'clock,
a.m.

Exhibit O Page 224

1 questions I have at this time.

2 - - - - -

3 REDIRECT EXAMINATION

4 BY MR. NIAKAN:

5 Q. Mr. Parsons, I've got to catch a cab in
6 10 minutes, so I'm trying my best to get this done
7 quick. Let me ask you, you were asked some
8 questions about the causes of a tread separation,
9 and you gave us a list of things, including
10 underinflation, overload, a combo of the two, etc.
11 Let me ask you, can a manufacturing defect in a
12 tire also cause a tread belt separation?

13 A. Yes, it's possible.

14 Q. Okay. Intracarcass pressurization due to
15 excessive air permeation through a body of a tire
16 unrelated to the use or maintenance of a tire,
17 that can cause a tread and belt separation, true?

18 A. It's possible for intracarcass pressure to cause a
19 separation.

20 Q. Mr. Parsons, has Goodyear ever produced a
21 defective G670 295/80R22.5 tire that has reached a
22 consumer?

23 A. Not that I could certify.

24 Q. What does that mean, not that you can certify?

25 A. Not that I have personal knowledge of.

EXHIBITS M, N & P

SUBMITTED FOR INCAMERA REVIEW

DOCKET 102

EX. M: CUT TIRE SHEETS

SEE JOINT APPENDIX VOL. IV, PP. 1008-1027

EX. N: HARTSOCK.21936-21940

SEE JOINT APPENDIX VOL. IV, PP. 10281029

**EX. P: AFFIDAVIT OF RICHARD MCSWAIN, 4/2/2015 WITH
EXHIBIT 1 RICHARD H. MCSWAIN, PH.D, P.E.
CURRICULUM Vitae WITH EXHIBITS**

SEE JOINT APPENDIX VOL. IV, PP. 1030-1079

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff,

v.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and The Goodyear Tire
& Rubber Company, a foreign corporation,

Defendants.

Case No. CA: 2:13-cv-00419-PMD

**DEFENDANTS' MOTION FOR PROTECTIVE ORDER PURSUANT
TO LOCAL RULE 30.04(C) AND RULE 26(C)(1) CONCERNING THE DEPOSITION
OF TERRY PARSONS AND SUPPORTING MEMORANDUM OF LAW**

Defendants, GOODYEAR DUNLOP TIRES NORTH AMERICA, LTD. and THE GOODYEAR TIRE & RUBBER COMPANY ("Defendants"), by and through their undersigned counsel, hereby move for a protective order in accordance with Rules 26(c) and 30(d) of the FED.R.CIV.P. and Local Civil Rule 30.04(C), protecting from disclosure certain privileged information addressed during the deposition of Terry Parsons, held on April 17, 2015. Defendants further seek protection pursuant to Rule 26(c)(1), FED.R.CIV.P. from Plaintiff's demand that Goodyear identify its confidential, trade secret compound formula. Plaintiff does not consent to this motion.¹

¹ Plaintiff's counsel previously agreed to the same privileges asserted in the depositions of Jim Stroble, Jim Koerner, Valerie Wellen and John Struhsaker, concerning instructions not to answer based on communications with counsel. **Exhibit A.**

I. Local Civil Rule 30.04(C)

Pursuant to Local Civil Rule 30.04(C), counsel is required to file a Motion for Protective Order to preserve any privileges asserted during the deposition of its client within seven days after the termination of the deposition. Said Rule states:

Counsel shall not direct or request that a witness not answer a question, unless that counsel has objected to the question on the ground that the answer is protected by a privilege or a limitation on evidence directed by the Court or unless that counsel intends to present a motion under Fed. R. Civ. P. 30(d)(1). In addition, counsel shall have an affirmative duty to inform their clients that unless such an objection is made, the question must be answered. Counsel directing that a witness not answer a question on those grounds or allowing their clients to refuse to answer a question on those grounds shall move the Court for a protective order under Local Civil Rule 26(c) or 30(d)(3) within seven (7) days of the suspension or termination of the deposition. Failure to timely file such a motion will constitute waiver of the objection, and the deposition may be reconvened.

II. Rule 26(c)(1), FED.R.CIV.P.

Rule 26(c)(1), Federal Rules of Civil Procedure provides in pertinent part:

...

The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

- (A) forbidding the disclosure or discovery;
- (B) specifying terms, including time and place, for the disclosure or discovery;
- (C) prescribing a discovery method other than the one selected by the party seeking discovery;
- (D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;
- ...
- (G) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way.

III. Deposition of Terry Parsons – Goodyear’s 30(b)(6), Fed.R.Civ.P. Witness

Terry Parsons is an employee of the Defendant, The Goodyear Tire & Rubber Company (“Goodyear”). He was identified as a Rule 30(b)(6) deponent to testify concerning the areas of claims, on vehicle/on roadway testing, and the collection of documents in discovery. The

deposition of Mr. Parsons was noticed by Plaintiff for April 17, 2015. **Exhibit B.** This deposition was also the subject of this Court's Order of May 5, 2014 (DE 83) and its Reconsideration Order of June 16, 2014 (DE 92). At the heart of this Court's Reconsideration Order was whether the May 5, 2014 Order permitting Plaintiff to take the deposition of an in-house engineer allowed Plaintiff to inquire into privileged materials. In its Order dated June 16, 2014 (DE 92), this Court denied Goodyear's Motion for Reconsideration, but specifically clarified its earlier Order indicating that "nothing in the May 5 Order prevents Defendants from properly asserting the protections of the attorney-client privilege or the work-product doctrine with respect to certain testimony or documents specifically related to this litigation." See June 16, 2014 Order at p. 6, DE 92.

During his deposition, Mr. Parsons was asked certain questions which required answers protected by the attorney-client privilege and the work-product doctrine, in addition to seeking trade secrets directed to the halobutyl content of the Tire at Issue. See also Affidavits of Terry Parsons and James Stroble – **Exhibit C1; C2 ¶15; C3¶4-11; C4 ¶7-11.** Counsel for Goodyear objected and instructed the witness not to answer such questions. In order to preserve the objections to those questions, Defendants file this motion.

The final transcripts have not been received²; however, based on excerpts from the rough drafts, the following questions were posed, instructions given and responses provided:

**A. TIRE INSPECTION QUESTIONS – PROTECTED BY ATTORNEY
CLIENT/WORK PRODUCT PRIVILEGES**

- Q. And there is no real dispute that one of your main job duties is to examine claim tires that come to Goodyear where somebody says I bought a Goodyear tire, I had a problem that either caused property damage to my vehicle, it is in excess of 15 thousand, it caused an injury or caused a death, true?

² Upon receipt of the final transcript, Defendants will supplement this Motion with the respective transcript pages.

MR. TOOLE: Objection. Form

A. We examine claim tires as you described. If it is a property damage claim in excess of 15 thousand, if it's bodily injury or a death, we'll examine those. We'll also examine tires that are involved in a litigation of some kind.

Q. And you did that for this case. You examined the tire that was the subject of this case, the Hartsock case, right?

A. Yes, I did.

MR. TOOLE: I'm instructing you not to answer.

MR. FOUNTAIN: On what basis?

MR. TOOLE: He was asked to inspect the tire based on my request or my law firm's request or the request of the legal department at Goodyear Tire.

...

Q. Did you attempt to measure the inner liner thickness for the Hartsock tire?

MR. TOOLE: Don't answer.

Q. Did you reach a conclusion about the cause of the failure of the Hartsock tire?

MR. TOOLE: Don't answer.

B. TRADE SECRET QUESTIONS – PROTECTED UNDER RULE 26(c)(1)(G), FED.R.CIV.P. AND CASE LAW

Q. Do you know the butyl content of the inner liner of the Hartsock case, Hartsock tire?

MR. TOOLE: I'm going to instruct you not to answer that question.

MR. FOUNTAIN: Why?

MR. TOOLE: Based on trade secret.

...

Q. Okay. Do you know the halobutyl content or the butyl rubber content of the inner line for the tire in this case?

A. I have an idea.

Q. Okay. Can you tell me what your idea is.

MR. TOOLE: I'm instructing him not to answer. You can ask the same question again and again I'm not going to allow it.

C. QUESTIONS REGARDING DOCUMENTS SHOWN AND DISCUSSED WITH COUNSEL – PROTECTED BY ATTORNEY CLIENT/WORK PRODUCT PRIVILEGES

Q. You did see the early warning document?

A. No. I saw an early warning standard document that discussed what an early warning was or is.

MR. TOOLE: If it's something shown to you by counsel, I'm instructing you not to answer. If you saw it other than with me you can answer.

Q. What did you see, I'm curious?

MR. TOOLE: If you saw whatever you are referring to, if you saw it with me being counsel of record, don't answer the question. If you saw it outside of with me you can answer.

A. I saw it with counsel.

As is shown above, the requested testimony involves questions concerning the inspection of the Tire at Issue at the request of counsel and during the litigation of this matter; highly confidential trade secret information; and, a document reviewed and discussed between Mr. Parsons and Goodyear's counsel.

IV. Mr. Parsons' Inspection of the Tire at Issue is Governed by the Work Product Doctrine and the Attorney Client Privilege (Questions A)

On February 15, 2013, Plaintiff filed the above-captioned lawsuit against Defendants. (DE 1). Plaintiff's counsel had possession of the disabled tire, but because the companion tires were still located on the RV involved in the accident, on April 25, 2013, the parties jointly filed their Motion to Modify Protective Order to Preserve Certain Physical Evidence to permit the removal of the companion tires from the RV. See DE 28, 29. After the filing of this lawsuit, counsel for Defendants specially retained Jim Stroble and Terrence Parsons to inspect the disabled and companion tires in this case and to consult with Defendants and their counsel. (DE 67-3). It was not until the execution of the Tire Inspection Agreement by Plaintiff's counsel on July 8, 2013 that Plaintiff's counsel agreed to ship the disabled and companion tires to Defendants so that a physical inspection of the tires could take place. See Exhibit D (The companion tires were to be shipped no later than July 1, 2013 and the disabled tire no later than August 1, 2013). Pursuant to this agreement, Defendants were required to return said tires to Plaintiff's counsel. Further, Defendants' consultants were required to follow certain conditions in the inspection of said tires as outlined therein in paragraphs D, E and F. Id. Therefore, as the

facts show, the inspection of the Tire at Issue was done at the request of counsel, in preparation for litigation and should be protected under Rule 26(b)(4)(D), FED.R.CIV.P., the work-product doctrine and attorney-client privilege.

V. Communications with Counsel and Documents Discussed are Governed by the Work-Product Doctrine and the Attorney-Client Privilege (Question C)

Mr. Parsons is an employee of Goodyear. Because of this relationship, any communications held in preparation for his deposition as a witness is governed by the attorney-client and work-product doctrine as more fully brief below. Further, any documents selected and discussed by counsel with the witness are subject to the work-product doctrine. It is axiomatic that the attorney work-product doctrine "can protect an attorney's selection and arrangement of documents in certain narrow circumstances, despite the fact that the documents themselves are not privileged." SEC v. Morelli, 143 F.R.D. 42, 47 (S.D.N.Y. 1992). See also Sporck v. Peil, 759 F.2d 312, 316 (3d Cir. 1985) ("Proper application of Rule 612 should never implicate an attorney's selection, in preparation for a witness' deposition, of a group of documents that he believes critical to a case. Instead, identification of such documents under Rule 612 should only result from opposing counsel's own selection of relevant areas of questioning, and from the witness' subsequent admission that his answers to those specific areas of questioning were informed by documents he had reviewed."); Gould, Inc. v. Mitsui Mining & Smelting Co., 825 F.2d 676, 680 (2d Cir. 1987); Schwarzkopf Technologies Corp. v. Ingersoll Cutting Tool Co., 142 F.R.D. 420, 422-23 (D. Del. 1992). Such opinion work-product is necessary for an attorney to properly prepare a client's case. Hickman v. Taylor, 329 U.S. 495, 510-511, 91 L. Ed. 451, 67 S. Ct. 385 (1947)). The document, which is the subject of Question C, was selected by counsel and shown to the witness in preparation for his deposition, warranting protection from further inquiry by Plaintiff's counsel.

VI. The Attorney-Client Privilege and Work-Product Doctrine (Questions A and C)

The attorney-client privilege is "the oldest of the privileges for confidential communications known to the common law." United States v. Aramony, 88 F.3d 1369, 1389 (4th Cir. 1996) quoting Upjohn Co. v. United States, 449 U.S. 383, 389, 66 L. Ed. 2d 584, 101 S. Ct. 677 (1981). The attorney-client privilege protects "[c]onfidential disclosures by a client to an attorney made in order to obtain legal assistance." CresCom Bank v. Terry, 2013 U.S. Dist. Lexis 106994 at *8 (D.S.C. 2013) citing Fisher v. United States, 425 U.S. 391, 403 (1976). Further, the privilege protects "not only the giving of professional advice to those who can act on it but also the giving of information to the lawyer to enable him to give sound and informed advice." Aramony at 1389; AVX Corp. v. Horry Land Co., Inc., 2010 U.S. Dist. LEXIS 125169 at *4 (D.S.C. 2010). The purpose of the privilege is "to encourage full and frank communication between attorneys and their clients and thereby promote broader public interests in the observance of law and administration of justice." Id.; CresCom Bank at *8 quoting Upjohn Co. at 389. Furthermore, the privilege attaches where the client is a corporation, and where the attorney is in-house counsel. See Upjohn Co. at 390. "What is vital to the privilege is that the communication be made in confidence for the purpose of obtaining legal advice from the lawyer." CresCom Bank at *9 quoting United States v. Kovel, 296 F.2d 918, 922 (2d Cir. 1961).

The privilege derived from the attorney-client privilege is closely related to the work-product doctrine. Wells v. Liddy, 37 Fed. Appx. 53, 65 (4th Cir. 2001). Federal law governs the work-product doctrine in diversity cases. United Coal Cos. v. Powell Constr. Co., 839 F.2d 958, 966 (3d Cir. 1988). Under Rule 26(b)(3), FED.R.CIV.P., things prepared "in anticipation of litigation" are generally protected from discovery, whether a party's attorney, consultant, or

other agent prepared them. The privilege is premised on the idea that "not even the most liberal of discovery theories **can justify** unwarranted inquiries into the files and the mental impressions of an attorney." Hickman v. Taylor, 329 U.S. 495, 510 (1947). (Emphasis added). The party claiming work-product protection has the burden of establishing entitlement to it. Sandberg v. Va. Bankshares, Inc., 979 F.2d 332, 355 (4th Cir. 1992). In evaluating a claim of work-product protection, the first and central inquiry is whether the thing the party seeks to protect was prepared "in anticipation of litigation." See Nat'l Union Fire Ins. Co. v. Murray Metal Sheet Co., 967 F.2d 980, 984 (4th Cir. 1992). "The document must be prepared [as is the case here] because of the prospect of litigation when the preparer faces an actual claim or a potential claim following an actual event or series of events that reasonably could result in litigation." Id.

The privilege encompasses both "fact" work-product and "opinion" work-product. United States v. Under Seal (In re Grand Jury Proceedings #5), 401 F.3d 247, 250 (4th Cir. 2004). Fact work-product, which consists of documents prepared by an attorney, that do not contain the attorney's mental impressions, can be discovered but only "upon a showing of both a substantial need and an inability to secure the substantial equivalent of the materials by alternate means without undue hardship." Id. quoting In re Grand Jury Proceedings, Thurs. Special Grand Jury Session Sept. Term, 1991, 33 F.3d 342, 348 (4th Cir. 1994); see Fed. R. Civ. P. 26(b)(3). Opinion work-product, which does contain the attorney's mental processes, is "more scrupulously protected as it represents the actual thoughts and impressions of the attorney." Id. Because the work product privilege protects not just the attorney-client relationship but the interests of attorneys to their own work-product, both the attorney and the client hold the privilege. Id. Here, Plaintiff is precluded from discovering facts, information, work-product

developed by Defendants' counsel, and the witness, as well as information discussed in the preparation of the witness' deposition.

VII. Core Trade Secret Inner Liner Compound Formula (Question B)

The information sought by Plaintiff is indisputably confidential trade secret information. Compound and formula data of the type sought by Plaintiff are the lifeblood of every tire manufacturer, developed at great expense, and maintained in strictest confidence. As recognized by courts across the country, the harm from disclosure would be significant, substantial, and potentially irreparable – greatly outweighing any relevance or necessity to Plaintiff in this litigation. No protective order can adequately safeguard compound formula information.

Goodyear has produced approximately 1,356 pages of confidential and proprietary documents, including schematic drawings, the development file, GMS and cured tire specifications, as well as testing information concerning the Tire at Issue. Plaintiff now demands highly confidential and proprietary trade secret information regarding the halobutyl content of the inner liner of the Tire at Issue, even though this information is not relevant to Plaintiff's defect claim and lacks the requisite showing of necessity. As detailed below, the law is well-settled that trade secret material such as this is so commercially significant that its disclosure must not be permitted or compelled.

It is well-established that trade secrets are protected throughout the litigation process, from all phases of discovery through trial. Federal Rule of Civil Procedure 26(c)(1)(G) provides a protective order may be granted "requiring that a trade secret or other confidential research, development or commercial information not be revealed or be revealed only in a specified way." The reason for this protection is clear. The value of confidential information is destroyed if it is disclosed. As explained by the United States Supreme Court, "[c]onfidential business

information has long been recognized as property.” Carpenter v. United States, 484 U.S. 19, 26 (1987). The nature of a trade secret is that it derives its value from not being known to others. “[T]rade secrets partake of the nature of property, the value of which is completely destroyed by disclosure.” In re Iowa Freedom of Information Council, 724 F.2d 658, 664 (8th Cir. 1984); In re Remington Arms Co., Inc., 952 F.2d 1029, 1032 (8th Cir. 1991) (“Public disclosure of trade secrets extinguishes the owner’s property rights”) (citing Ruckelshaus v. Monsanto Co., 467 U.S. 986, 1002 (1984)).

A. Trade Secret Status of Tire Companies’ Formulas and Compounds is Well-Established and the Need to Protect that Data from Disclosure is Not Novel

The halobutyl content of the Tire at Issue’s inner liner is indisputably a trade secret. Federal and state courts across the United States have afforded trade secret protection to tire compounds and formulas – including halobutyl content – finding that the value of preserving such information as trade secret justified excluding such data from the discovery process. Hajek v. Kumho Tire Co., 4:08CV3157, 2010 WL 503044, at 10* (D. Neb. Feb. 8, 2010) objections overruled, 4:08CV3157, 2010 WL 1292447 (D. Neb. Mar. 30, 2010) (denying motion to compel production of rubber compound formulas, including halobutyl percentages); see also, In re Continental Gen. Tire, 979 S.W.2d 609 (Tex.1998); In re Bridgestone/Firestone, Inc., 106 S.W.3d 730, 733 (Tex.2003); and Bridgestone/Firestone, Inc. v. Superior Court, 7 Cal.App.4th 1384, 9 Cal.Rptr.2d 709 (1st Dist.1992); In re Continental General Tire, 979 S.W.2d 609 (1998); American Standard Inc. v. Pfizer, 828 F.2d 734 (Fed. Cir. 1987); Heller v. Shaw Indus., 1997 U.S. Dist. LEXIS 18521 (E.D. Pa. 1997).

B. The Potential Harm to Goodyear Substantially Outweighs the Necessity of Disclosing this Trade Secret Information

Mr. Parsons’ affidavit establishes the trade secret nature of the information sought and

the potential harm that its release would cause. Compelling disclosure of compound formulas puts them at risk for exploitation, irrespective of the assurances of the parties, counsel, or their retained consultants. The tire industry is global, and efforts by overseas companies to obtain trade secrets are well known. Even inadvertent disclosures of trade secrets present a clear and present commercial danger. If Goodyear is forced to disclose such data, and it falls into a competitor's hands, a sanction order could not make Goodyear whole, and the harm could well be irreparable.

VIII. Conclusion

WHEREFORE, Defendants, GOODYEAR DUNLOP TIRES NORTH AMERICA, LTD. and THE GOODYEAR TIRE & RUBBER COMPANY, respectfully request that this Court enter an Order granting its Motion for Protective Order Pursuant to Local Rule 30.04(C), preserving its privileged objections and sustaining counsel's instructions to the witness, Terry Parsons, not to answer questions protected by the attorney-client privilege and/or work-product doctrine; and, pursuant to Rule 26(c)(1), Fed.R.Civ.P, to prevent disclosure of highly confidential trade secrets.

s/ Curtis L. Ott

Curtis L. Ott (Fed. I.D. No. 5939)
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Attorneys for Defendants

April 24, 2015

Columbia, South Carolina

From: Don Fountain
To: Curtis Ott
Cc: Mja Maness (mja@tanenbaumlaw.com); Mark Tanenbaum (mark@tanenbaumlaw.com); Gary Toole; Bianca Histon; Suzan Bates
Subject: Re: Deposition of Jim Stroble
Date: Friday, August 15, 2014 9:45:24 AM
Attachments: image002.jpg

No need. Thanks. Have a good weekend.

Don Fountain, Esq.
Clark, Fountain, La Vista, Prather, Keen & Littky-Rubin, LLP
1919 North Flagler Drive
West Palm Beach, FL 33407
Dfountain@ClarkFountain.com

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Handling Cases in All Areas of Personal Injury, Wrongful Death, Products Liability, Medical Malpractice and Appellate Law

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On Aug 15, 2014, at 9:18 AM, "Curtis Ott" <cott@gwblawfirm.com> wrote:

Good morning,

I write to address the necessity of filing a motion for protective order pursuant to Local Civil Rule 30.04(c), DSC, regarding the objections on the basis of privilege that were asserted in Mr. Stroble's deposition. Regarding this issue in previous depositions (Koerner, Witt, Wellen, Struhsaker and Carroll), we reached an agreement where Plaintiff agreed not to oppose the assertion of the privileges to avoid involving the Court unnecessarily. Please advise whether you will agree to that same procedure for the deposition of Mr. Stroble or whether we need to file the motion for protective order.

Thank you,

Curtis

Curtis L. Ott
Partner
cott@GWBlawfirm.com

<image002.jpg> **Gallivan, White & Boyd P.A.**
Office 1201 Main Street | Suite 1200 | Columbia SC 29201
803 724 1713 Direct | 803 779 1833 Main | 803 779 1767 Fax

Mailing Post Office Box 7368 | Columbia SC 29202

vCard | **BioURL** | **Website**

This message is from the law firm Gallivan, White & Boyd, PA and may be a confidential and privileged legal communication to the named recipient(s). If you receive this message in error or are not the named recipient(s), please notify the sender and delete this email. Thank you.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

CIVIL ACTION NO.: 2:13-cv-00419-PMD

THEODORE G. HARTSOCK, JR., AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
SARAH MILLS HARTSOCK,)

Plaintiff,)

-versus-)

GOODYEAR DUNLOP TIRES NORTH AMERICA,)
LTD., a foreign corporation; and THE GOODYEAR)
TIRE & RUBBER COMPANY, a foreign corporation,)

Defendants.)

NOTICE OF VIDEO
DEPOSITIONS DUCES
TECUM

TO: CURTIS L. OTT, ESQUIRE, GALLIVAN WHITE & BOYD, P.A., AND M. GARY
TOOLE, ESQUIRE, McDONALD TOOLE WIGGINS, P.A., ATTORNEYS FOR
DEFENDANTS:

YOU WILL PLEASE TAKE NOTICE that the undersigned counsel for the Plaintiff
will take the following video depositions, pursuant to the Federal Rules of Civil Procedure,
before a Notary Public in and for the State of Ohio, or some other officer authorized by law
to administer oaths and take depositions and thereafter, from day to day as the taking of
the deposition may be adjourned, at **Akron-Canton Airport, Second Floor – conference
room, 5400 Lauby Road NW #9, North Akron, OH:**

DEPONENT

DATE/TIME

Terry Parsons

April 17, 2015 at 9:00 a.m.

Robert R. Carncross

May 20, 2015 at 9:00 a.m.

Deponents shall bring to the deposition all handwritten, recorded or otherwise
prepared documents related in any way to the subject matter of the litigation in the

deponent's possession. This shall include any statement given to anyone related to the incident in question. In accordance with the Court's order of May 5, 2014 (DE 83,p.5) the production of documents by the deponents requested herein is limited to those "documents or files that the employees have in their personal possession and that Defendants would not have been able to produce in response to previous requests for production."

PLEASE BE PRESENT if so minded.

MARK C. TANENBAUM, P.A.



By: _____

MARK C. TANENBAUM (Fed. I.D. #4017)
mark@tanenbaumlaw.com
MIA LAUREN MANESS (Fed. I.D. #5457)
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241-243 East Bay Street
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and

DONALD R. FOUNTAIN, JR. (Admitted *pro hac vice*)
dfountain@clarkfountain.com
**CLARK, FOUNTAIN, La VISTA, PRATHER, KEEN &
LITTKY-RUBIN**
1919 N. Flagler Drive, Suite 200
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Telephone: (561) 899-2100

ATTORNEYS FOR PLAINTIFF

April 2, 2015

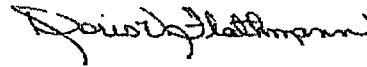
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of **NOTICE OF DEPOSITIONS DUCES TECUM** has been served upon counsel of record by electronic mail only on April 2, 2015:

Curtis L. Ott, Esquire
cott@gwblawfirm.com
Gallivan White & Boyd, P.A.
P.O. Box 1368
Columbia, SC 29202

M. Gary Toole, Esquire
gtoole@mtwlegal.com
Bianca G. Liston, Esquire
bliston@mtwlegal.com
McDonald Toole Wiggins, P.A.
111N. Magnolia Ave., Suite 1200
Orlando, FL 32801

ATTORNEYS FOR DEFENDANTS



By: _____
Doris V. Flathmann
Assistant to Mia Lauren Maness

CA: 2:13-cv-00419-PMD

things, designing, building, and testing radial passenger, light truck, medium truck, and agricultural tires, and developing tires for specialty markets. I received a Bachelor of Science in Mechanical Engineering degree from West Virginia University.

4. From my work with Goodyear, I am knowledgeable about the design specifications for Goodyear tires. I am also familiar with the efforts that Goodyear makes to protect its proprietary and trade secrets.

5. During vulcanization when a tire is cured, chemical reactions and material movement occur. It is not possible to fully "reverse engineer" a tire from its cured to pre-cured state. Therefore, compound formulas as well as tire designs and production methods are closely guarded trade secrets.

6. The tire business is highly competitive. Competitors are always seeking to gain any advantage, whether it is more lead time for the introduction of new products, or an understanding of the competition's methods, thinking, goals and strategy. The only access a competitor could get to these trade secrets would be through the discovery process in a lawsuit.

7. Compound formulas, information about formulas such as the halobutyl content of a tire's inner liner is not known outside of Goodyear's business. Goodyear takes important steps to ensure that its trade secrets and competitively sensitive information remain strictly confidential, even within the company. Goodyear takes great measures to ensure that its commercially sensitive trade secrets, trade secrets and competitively sensitive information remain strictly confidential, even within the company. Goodyear preserves the secrecy of its trade secret information by limiting the availability of the information within Goodyear to those who truly "need to know" and by securing from those employees with access to the secrets a

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written promise to preserve Goodyear's trade secrets. For example, even tire designers know rubber compounds by code numbers, as opposed to their chemical formulas.

8. Goodyear's compound formulas, designs and engineering findings and procedures have been developed at great expense, are not made available to the public, and are maintained as confidential documents under Goodyear's security system. Goodyear's policies with regard to dissemination of confidential information are given to all new employees when they are hired at Goodyear. Access to company buildings is restricted via key card and guards. Goodyear employees who are given access to computer systems have a user identification number and password and must agree not to disclose their passwords to others. Employees with computer access also must agree not to attempt intentionally to access computer programs or data files that they have not been authorized to access. Employees must return all company records containing any confidential or trade secret information when their employment with Goodyear ends.

9. Access to Goodyear's tire manufacturing plants is restricted. Any person who is not a Goodyear employee assigned to work in the plant must obtain approval in writing to enter the plant. This includes management-level Goodyear employees who do not work inside the plant itself. All of the security precautions outlined in this and the preceding paragraphs are maintained at significant cost to Goodyear for the purpose of safeguarding its trade secrets and confidential information. Goodyear makes a significant investment each year on all of its combined security measures.

10. A competitor could use trade secret information to copy all or part of Goodyear's rubber compounds, tire designs, manufacturing processes, and quality control policies and procedures to obtain a technical advantage. The competitor could do so without compensating Goodyear for its expenses incurred in developing these ideas. Just as significantly, the competitor's

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development time and cost would be greatly reduced if it can obtain trade secrets produced in discovery.

11. I understand that design, testing and inspection documents and other material regarding the tire at issue have already been produced to Plaintiffs under the existing Protective Order in this case. I am informed that Plaintiffs are seeking to compel from Goodyear the percentage of halogenated butyl in the inner liner of the subject tire. Rubber compound formulas are part of Goodyear's core trade secret material. Disclosure of that highly confidential information would likely severely injury Goodyear in the marketplace.

12. Information about the amounts and types of chemicals and rubber used in the manufacture of Goodyear's tires is highly confidential and proprietary. Thousands of man-hours and millions of dollars are devoted to develop, evaluate, produce and test new rubber compounds for Goodyear's products. This information is maintained under conditions of strictest confidentiality. Even within Goodyear, access to these formulas is very limited and restricted to a group of people on a "need-to-know" basis, as described above.

13. Rubber compound formulas have actual independent economic value as a result of the tremendous resources expended in developing them and as a result of the fact that they are not known to or ascertainable by other tire companies. The rubber compound formulas are at the heart of Goodyear's business and give Goodyear an advantage over its competitors, who do not know the formulas. The economic value of the rubber formulas is due in great measure to the fact that competitors cannot determine them by "reverse engineering." Once a tire is cured, the chemical compositions in the tire change, such that the precise compound formula cannot be reverse engineered. A competitor would gain tremendous advantage if it could obtain Goodyear's rubber formulas.

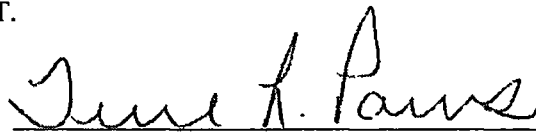
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14. Competitors in the tire industry do not disclose information about their tire compounds. Goodyear does not have access to its competitors' formulas. It would be devastating to Goodyear's competitive position in the marketplace if its compound formulas become public. If the compounds were disclosed to Plaintiffs' counsel, consultants, and/or experts, even if they were not given a copy of the formula to retain, the formula for the compound would remain in their memory. The confidential and trade secret nature of the formulas would be breached and forever lost. Further, the risk that the information would be revealed, directly or indirectly, to Goodyear's competitors is a real and substantial concern.

15. Compound formulas do not reveal whether a tire containing those compounds will have satisfactory or unsatisfactory physical properties after it is vulcanized. The only way to make that determination is to examine and test the finished tire. Because so many compound formulas have proven successful in different tire products over the years, there is no accepted standard -- no "correct" formula or set of formulas. Knowing the ingredients used in rubber compounds will not indicate whether use of the compound was proper or improper.

16. Disclosure of Goodyear's rubber compound formulas is also not necessary to make a determination regarding whether a particular tire was improperly manufactured. There is no methodology via "reverse engineering" or otherwise to determine if the rubber in the tire at issue conforms to the rubber formulas after curing. A forensic tire expert should be able to determine the cause of tire failure from examination of the tire itself.

FURTHER AFFIANT SAYETH NOT.


TERRENCE L. PARSONS

CA: 2:13-cv-00419-PMD

SWORN TO AND SUBSCRIBED BEFORE ME, Notary Public, in the State of Ohio,
County of Summit, on this 24th day of April, 2015.

Elaine M. Horst
NOTARY PUBLIC, STATE OF OHIO



Elaine M. Horst
Resident Summit County
Notary Public, State of Ohio
My Commission Expires: 07/29/2019

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3. I have been employed by Goodyear and Kelly-Springfield since 1972 in various capacities involving tire technology. My work at Goodyear has involved, among other things, designing, building, and testing radial passenger, light truck, medium truck, and agricultural tires, and developing tires for specialty markets. I received a Bachelor of Science in Mechanical Engineering degree from West Virginia University.

4. As part of my duties with Goodyear, I maintain a continuing and active role in the following professional and technical associations: the Society of Automotive Engineers, the American Society for Testing and Materials, and the Tire Society.

5. From my work with Goodyear, I am generally knowledgeable about the design and manufacture of Goodyear tires.

6. I have reviewed the Rule 30(b)(6) deposition notices ("deposition notices") served by Plaintiff in this lawsuit. There, Plaintiff identifies topics, without limitation, that seek information which includes the development, design, manufacturing process, testing, and claims, pertaining to all G670 line of tires, as well as communications between the Defendants and any vehicle, manufacture, supplier or distributor regarding the appropriateness of the G670 line of tires on any vehicle or line of vehicles.

7. The deposition notices also seek production of documents based on those topics, as well as "*any and all documents related thereto.*"

8. The Defendants have already produced various documents that include those related to the design, development, and testing for the G670 RV 295/80R22.5, Load Range H tire manufactured by GDTNA and designed by Goodyear for the period of time of one year prior to

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the date of manufacture of the Tire at Issue to one year after ("Subject Tire Scope"). Based on the Court's recent ruling, the Defendants have also produced documents concerning the inner liner for the tire lines referred to as G670 in its moniker during the Subject Tire Scope. The collection of the inner liner materials took approximately six and a half days to collect. It is estimated that the collection of documents concerning the inner liners for the G670 tire lines without a limitation to time could easily take at least 5 times that amount.

9. The collection of documents in addition to those described at Paragraph 8 above and as requested by Plaintiff in the deposition notices would take considerable more time, and would greatly increase my earlier time estimate, as Plaintiff's topics are neither limited to a specific time period, nor are they limited to a specific set of documents due to the inclusion of the language seeking production of "*any and all documents related thereto.*" The collection of these documents would need to take place in multiple locations such as Defendants' headquarters and three separate manufacturing facilities.

10. Plaintiff's request for documents is unduly burdensome. For example, the request for development, design, manufacturing process, and testing documents, among others, would require the assistance of numerous employees at both the Defendants' headquarters and the manufacturing facilities where these tires are made. Defendants' development, design, manufacturing, testing records for its tires are stored using different methods. In order to attempt a document search for the broad categories of documents requested by Plaintiff in his topics pertaining to all G670 tire lines, the employees at these various locations will be diverted from their regular job responsibilities (during such an undertaking to locate review and compile such

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documents) imposing financial costs to Defendants and adversely affecting their operations. Regardless, based on the request for documents as described by Plaintiff without any limitation, it is impossible to predict the exact amount of time that a collection of this nature would take and whether, in the end, such a collection would satisfy Plaintiff's request for "*any and all documents related thereto*." In fact, a conservative estimate is that the effort would require more than a month and involve many employees.

11. Plaintiff is also seeking information relevant to all vehicles; however, based on the differences addressed herein concerning the length, weight and tire size of each RV, I do not consider all vehicles to be similar or even comparable to RVs.

12. The process and equipment used to manufacture the inner liner for the Tire at Issue in the Buffalo plant is different from the process and equipment used to manufacture the inner liners at the other plants.

13. Within the G670 tire line, there are additional load ranges: F, G and L. The inner liners vary based on the load range and maximum air pressure for the other G670 tires.

14. I report directly to Jim Stroble. Mr. Stroble is employed as the Manager of the Product Analysis Department for The Goodyear Tire & Rubber Company.

15. Mr. Stroble and I examined the Tire at Issue¹, as well as the companion tires. This examination was completed at the request of legal counsel and in anticipation of and/or preparation for litigation.

¹ The tire at issue in this case is a 295/80R22.5 Goodyear G670 RV load range H tire bearing DOT No. DANU2CAW3503.

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16. Mr. Stroble was not involved in the development, design or manufacture of the Tire at Issue.

17. I am also aware that at the time of the release of the Tire at Issue, Mike Wilps was the manager of the testing department. He was the head of the department but did not personally conduct the testing of the Tire at Issue.

18. I am also aware that Hugh Thompson assisted in the collection of documents in the Estate of Green v. Goodyear, et al. case. He had no involvement with the design, development, manufacture, testing, marketing or sale of the Tire at Issue.

19. As part of my employment and work at Goodyear, I have become generally knowledgeable concerning the types of RVs, their sizes and weights.

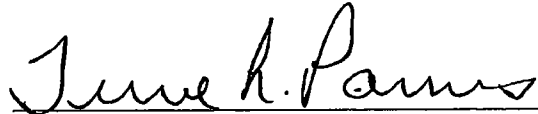
20. RVs are described in the industry by select types. These types range from Class A, B, C, Conventional Travel Trailer, Fifth-Wheel Travel Trailer, and the Folding Camping Trailer. The Class A RV is the largest of the RVs and could weigh in excess of 40,000 lbs and exceed an overall length of 35 feet. The smallest is the folding camping trailer that also has varying weights and lengths within the category. These types of RV also may be equipped with different tire sizes.

21. The manufacturer of each RV would indicate on the vehicle's placard, the recommended pressure (psi) and Gross Axle Weight Rating (GAWR) for the axles. The GAWR is the maximum weight that an axle can support. It is common that RVs in the same type have different psi tire recommendations and overall weights depending on the size and content of the RV affecting its loads.

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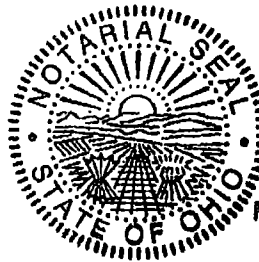
22. Based on my experience, due to the differences in the length, weight and tire size for each RV, I do not consider them collectively to be similar as is the position taken by Plaintiff's counsel in his discovery requests. Nor are RVs similar to passenger automobiles.

Further, Affiant sayeth not.


TERRENCE L. PARSONS

SWORN TO AND SUBSCRIBED BEFORE ME, Notary Public, in the State of Ohio,
County of Summit, on this 5th day of February, 2014.


NOTARY PUBLIC, STATE OF OHIO



BARBARA JOCHUM
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Stark County
My Comm. Exp. 10/21/18

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

CASE NO.: CA: 2:13-cv-00419-PMD

Plaintiff,

vs.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and Goodyear Tire &
Rubber Company, a foreign corporation,

Defendants.

_____ /

AFFIDAVIT OF TERRENCE L. PARSONS

STATE OF OHIO)
) SS:
COUNTY OF SUMMIT)

BEFORE ME, the undersigned Notary Public in and for the aforementioned State and County, personally came and appeared Terrence L. Parsons, who, upon being duly sworn, did depose and state as follows:

1. My name is Terrence L. Parsons. I understand the nature of this oath, and I am otherwise competent to testify to the matters stated in this Affidavit. This testimony is based on my own personal knowledge and the facts stated herein are true and correct.

2. I am employed as a Chief Tire Analysis Engineer for The Goodyear Tire & Rubber Company ("Goodyear").

3. I have been employed by Kelly-Springfield and then Goodyear since 1972 in various capacities involving tire technology. My work at Goodyear has involved, among other

CA: 2:13-cv-00419-PMD

things, designing, building, and testing radial passenger, light truck, medium truck, and agricultural tires, and developing tires for specialty markets. I received a Bachelor of Science in Mechanical Engineering degree from West Virginia University.

4. At the request of legal counsel at Goodyear and in anticipation of litigation, from time to time, I am asked to inspect certain tires which are the subject of a claim or lawsuit.

5. Likewise, I, as well as other members of the Product Analysis team, including Jim Stroble, am requested by counsel to inspect disabled tires, render opinions, consult on litigation, and assist in the defense of litigation or claims arising from the alleged disabled tires. In some matters, one member of the team may be identified by counsel as a testifying expert to render opinions based on the tire examination.

6. I was designated as a testifying expert for Goodyear and Goodyear Dunlop Tires North America, LTD. ("GDTNA") in matters brought by Plaintiffs, Kenneth J. Green, Nicole Ammons as Personal Representative of the Estate of William Y. Green, deceased, and Catherine Youngblood, as Personal Representative for the Estate of Jean M. Hodgin, deceased. Those matters were filed in the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida, under consolidated case number 50-2010 CA 003001, 50-2010 CA 003026 and 50-2010 CA 16336 hereinafter referred to as "the Green litigation."

7. Other than the Green matter, and as of this time, I have not been designated as an expert to testify at trial in any other matter concerning a tire in the G670 tire line.

8. Upon information and belief, and as of this time, none of the other members of the Product Analysis Department has been identified as a testifying expert in a matter concerning a tire in the G670 tire line.

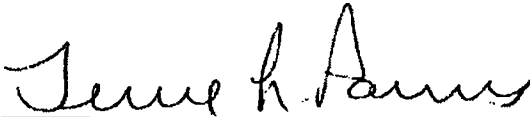
CA: 2:13-cv-00419-PMD

9. I am also familiar with the manner in which records are stored in the Product Analysis Department. Any data collected or created from the tire inspection examination are confidential and kept in a secured location not accessible by other employees outside of the Product Analysis Department. Upon completion of the inspection, its opinions are communicated to Goodyear's Legal Department.

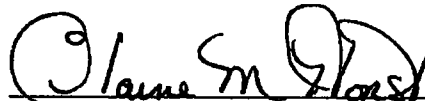
10. With respect to the Hartsock litigation, the firm of McDonald Toole Wiggins, P.A. and Goodyear's legal department requested that I and other members of the Product Analysis Department inspect the disabled tire, two wheels and the companion tires, to consult in the litigation, and to assist with the defense of claims made by Plaintiff.

11. Upon completion of the inspection of the Hartsock tire, the Product Analysis team provided its preliminary opinion to (and is consulting with) the firm of McDonald Toole Wiggins, P.A. and Goodyear's legal department. The inspection of the Hartsock tires commenced in July of 2013.

Further, Affiant sayeth not.


TERRENCE L. PARSONS

SWORN TO AND SUBSCRIBED BEFORE ME, Notary Public, in the State of Ohio,
County of Summit, on this 21st day of April, 2014.


NOTARY PUBLIC, STATE OF OHIO

Page 3 of 3



Elaine M. Harsd
Resident Summit County
Notary Public, State of Ohio
My Commission Expires: 07/29/2014

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

CIVIL ACTION NO.: 2:13-cv-00419-PMD

THEODORE G. HARTSOCK, JR., AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
SARAH MILLS HARTSOCK,)

Plaintiff,)

-versus-)

GOODYEAR DUNLOP TIRES NORTH AMERICA,)
LTD., a foreign corporation; and THE GOODYEAR)
TIRE & RUBBER COMPANY, a foreign corporation,)

Defendants.)

TIRE INSPECTION AGREEMENT

The Plaintiff, Theodore G. Hartsock, Jr., as Personal Representative of the Estate of Sarah Mills Hartsock, by and through his counsel, has agreed to make the subject tire, which he has control of, available for inspection by Defendants. Defendants and Plaintiff together have joint ownership of the rims and other seven tires from the Recreational Vehicle ("RV") that collided with the Plaintiff's decedent. The parties have agreed to make those available for inspection, first by the Plaintiff and then by the Defendants. The following conditions shall apply to all:

A. Plaintiff will ship the failed tire, any tread fragments and rim, and the companion tires/rims to any location requested by Defendants, pursuant to the Defendants' Tire Shipping Instructions. The party requesting shipping shall pay shipping costs..

B. Defendants shall pay any other reasonable costs associated with their

inspection of same.

C. During either party's inspections of the subject tire, any tread fragments and rim, and companion tires/rims, neither the Plaintiff/Defendants, nor their experts or representatives shall permanently alter the condition or appearance of the subject tire, any tread fragments and rim, and companion tires/rims in any way, which includes, but is not limited to, applying permanent marks or paint (this paragraph is not meant to prevent any party from applying stickers, erasable chalk marks to the tire for purposes of documenting it inspection, or paint pen marks at the 12, 3, 6 and 9 clock positions with numbers and other clock positions with tic marks) or performing or attempting to perform any testing or inspection which permanently alters the subject tire, tread fragments and rim, and companion tires/rims in any way or consumes or destroys any part of the subject tire, tread fragments and rim, and companion tires/rims. The parties do acknowledge that during the inspection process and based on the condition of the tire, incidental changes may result to the tire and tread fragments.

D. Plaintiff shall ship to the Defendants the failed tire, and tread fragments and rim, and companion front tires/rims no later than August 1, 2013 and all other companion tires/rims no later than July 1, 2013. Defendants shall return the failed tire, and tread fragments and rim, and companion tires/rims within ninety (90) days of the date shipped by Plaintiff's counsel to Defendants. To the extent that additional time is needed to complete either inspection, the parties will agree to a reasonable extension of time to accomplish said inspection and return/transfer of the tire. Further, upon reasonable notice, the Defendants may request Plaintiff to ship the failed tire, and tread fragments and rim, and

companion tires/rims for an additional inspection at the expense of the Defendants.

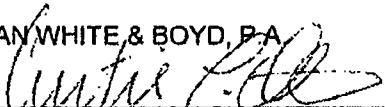
E. When Plaintiff/Defendants and any of their experts, consultants, investigators, or agents inspect the subject tire, tread fragments, rim, and/or companion tires and rims, Plaintiff/Defendants and their experts shall do so in accordance with paragraph "C" of this agreement.

F. If any party wishes to permanently alter the condition or appearance of the subject tire, any tread fragments and rim, and companion tires/rims in any way, other than what is permitted under paragraph "C" of this agreement, that party shall give written notice to the other parties' attorneys identified below of what it specifically wants to do and obtain the written consent before undertaking same, as well as an amendment to this Court's Preservation Order. Should the parties be unable to agree, the party wishing to undertake the prohibited acts shall, after notice to the other party, move the court in which this action is pending for an Order allowing same before taking further action.

[signatures on following page]

GALLIVAN WHITE & BOYD, P.A.

By:


Curtis L. Ott (Fed. I.D. #5939)
cott@gwblawfirm.com
1201 Main Street, Suite 1200
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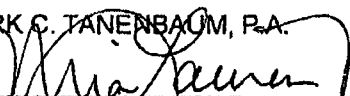
M. Gary Toole (Admitted *pro hac vice*)
GToole@mtwlegal.com
McDonald Toole Wiggins, P.A.
111 N. Magnolia Avenue, Suite 1200
Orlando, Florida 32801
Telephone: (407) 246-1800
Facsimile: (407) 246-1895

ATTORNEYS FOR DEFENDANTS

Date: June 28, 2013

MARK C. TANENBAUM, P.A.

By:


Mark C. Tanenbaum (Fed. I.D. #4017)
mark@tanenbaumlaw.com
Mia Lauren Maness (Fed. I.D. #5457)
mia@tanenbaumlaw.com
MARK C. TANENBAUM, P.A.
Post Office Box 20757
Charleston, SC 29413
Telephone: (843) 577-5100
Facsimile: (843) 722-4688

Don Fountain (Admitted *pro hac vice*)
Clark Fountain La Vista Prather Keen
& Littky-Rubin
1919 North Flagler Drive
West Palm Beach, FL 33407
Telephone: (561) 899-2100
Facsimile: (561) 832-3580

ATTORNEYS FOR PLAINTIFF

Date:

July 8, 2013

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff,

v.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and The Goodyear Tire
& Rubber Company, a foreign corporation,

Defendants.

Case No. CA: 2:13-cv-00419-PMD

**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF'S NOTICE OF
MOTION AND MOTION TO COMPEL (DE 100)**

Defendants, Goodyear Dunlop Tires North America, Ltd. and The Goodyear Tire & Rubber Company (referred to herein in their individual capacity as "GDTNA" or "Goodyear" or collectively as Defendants), file this Response in Opposition to Plaintiff's Notice of Motion and Motion to Compel (DE 100) ("Motion") and state as follows:

Plaintiff's Motion stems from discovery propounded in his Fifth Discovery Request, dated April 1, 2014. In support of the Motion, however, Plaintiff refers to meet and confer letters related to his Motion pertaining to non-formal requests for documents provided after the June 24, 2014 deposition of Jim Koerner, the designer of the Tire at Issue. As a background, the Fifth Discovery Request was served just fourteen (14) days prior to the April 15, 2014 hearing on three motions: Defendants' Motion for Protective Order (DE 67); Plaintiff's Motion to Modify the Confidentiality Order (DE 72); and, Plaintiff's Second Motion to Compel and for Sanctions (DE 73). At the hearing, this Court stated that Plaintiff's Rule 30(b)(6), FED.R.CIV.P.

deposition topics seeking discovery into “all proposed and actually implemented changes to the design and manufacturing for nine other tires” in the G670RV line was a fishing expedition. DE 79 41:20-24. After the hearing and based on the Court’s ruling, Defendants contacted Plaintiff’s counsel in an attempt to reach an agreement on the scope of the Fifth Discovery Request which sought, among other areas, discovery of tires manufactured by Goodyear and Goodyear foreign entities, and other tires in the G670RV line. Based on a telephone conversation which took place on April 23, 2014, a letter was forwarded to Plaintiff’s counsel requesting that he withdraw or limit certain discovery requests. **Exhibit A.** On May 15, 2014, Plaintiff’s counsel indicated that she would not withdraw or limit any of the Requests. **Exhibit B.** On May 23, 2014, Defendants served their Response to the Fifth Discovery Request.

Plaintiff now takes the position in his Motion that he has not received discovery relative to his defect theory concerning the “Tire at Issue”, a G670RV 295/80R22.5 tire manufactured during the 35th week of 2003 in the Tonawanda (Buffalo), New York plant. In fact, Plaintiff’s asserted defect theory relates to the relative thickness of the inner liner of the Tire at Issue compared to other tires in the same line. Goodyear previously produced to Plaintiff numerous documents pertaining to the design and development of the Tire at Issue and its inner liner, including:

1. *Release/Development file for the Tire at Issue* – Bates Labels HARTSOCK.000596-000828, HARTSOCK.000602.1-000607.1, HARTSOCK.000829-000850, HARTSOCK.003055-003511, HARTSOCK.004843-004861, HARTSOCK.007403-007618, HARTSOCK.007992-008010;
2. *Specifications for the Tire at Issue from May 2003 to December 31, 2010* – Bates Labels HARTSOCK.000425-000595, HARTSOCK.002376-002902, HARTSOCK.004650-004755, HARTSOCK.004806-004841, HARTSOCK.005011-005021, HARTSOCK.006385-006446, HARTSOCK.006692-007213, HARTSOCK.007619-007724,

HARTSOCK.007956-007990, HARTSOCK.013955-013987,
HARTSOCK.014050-014051;

3. *Various cut tire sheets for the Tire at Issue* – Bates Labels HARTSOCK.007535,
HARTSOCK.007545, HARTSOCK.007592, HARTSOCK.007782,
HARTSOCK.007785, HARTSOCK.007788, HARTSOCK.007791,
HARTSOCK.007794, HARTSOCK.007797, HARTSOCK.007800,
HARTSOCK.008008, HARTSOCK.008281, HARTSOCK.008283,
HARTSOCK.008285, HARTSOCK.008287, HARTSOCK.008289,
HARTSOCK.008291, HARTSOCK.008293, HARTSOCK.008475,
HARTSOCK.008477, HARTSOCK.008479, HARTSOCK.008481,
HARTSOCK.008483, HARTSOCK.008485, HARTSOCK.008487,
HARTSOCK.008488-008496, HARTSOCK.014013, HARTSOCK.014015,
HARTSOCK.014017, HARTSOCK.014019, HARTSOCK.014021,
HARTSOCK.014023, HARTSOCK.014025, HARTSOCK.014026-014034. *See*
also Cut Tire Sheets included within development and release files produced
under Bates Labels: HARTSOCK.000596-000828, HARTSOCK.003055-003511,
HARTSOCK.004843-004861, HARTSOCK.007403-007618,
HARTSOCK.007992-008010;
4. *Visual standard application to the inner liner for the Tire at Issue in effect during*
the date of manufacture – Bates Label HARTSOCK.021932-021943; and,
5. *Global Master Specification for Cut Tire Limits that contain information utilized*
by the Buffalo plant for medium radial truck tires manufactured in 2003 – Bates
Label HARTSOCK.021944-021959.

These documents show the weight, length, width, weights and targets/minimums for the inner liner and barrier gauge components.

With respect to the other G670RV tires in the line, Defendants have produced specifications which provide the same information: the weight, length and width of the inner liner and barrier gauge components (Bates Label HARTSOCK.012821-013761); cured cross section drawings which provide the thickness of the inner liner and barrier gauge components (Bates Label HARTSOCK.014315-014330); and, cut tire sheets which provide an analysis of cut

sections of the tire, as well as inner liner and gauge targets and results (Bates Label HARTSOCK.020791-020974)¹.

Ignoring this production, Plaintiff now seeks additional documents pertaining to the other tires in the G670RV line. Plaintiff asserts, without any support or justification for this methodology or its relevancy, that he is unable to compare the Tire at Issue to other tires and therefore is unable to determine if they are more “robust” in some undefined manner or that the inner liner for the Tire at Issue is comparatively thin. Plaintiff also ignores the testimony of Jim Koerner [REDACTED]

[REDACTED] (Confidential Exhibit C 468:7-469:9) This Court should preclude Plaintiff’s attempt to broaden the scope of discovery to additional documents related to other tires and without any limitation or showing of substantial similarity because it is contrary to the law.

A. Discovery is Limited to Subject Model or Substantially Similar Models

In his Motion, Plaintiff argues that discovery of other tires in the G670RV tire line manufactured at other plants, as well as records pertaining to other “RV tires” are discoverable and should be compelled with respect to Discovery Request Nos. 9, 57, 68, 96 and 107. The reality is that this product liability case involves **one tire** made pursuant to **one design** manufactured at **one plant** that was involved in **one accident**. This case also involves **one decision** made by **one recreational vehicle (“RV”) manufacturer** at **one point in time** to place this particular tire and tire size on certain RVs it manufactured. **One RV owner** then decided to

¹ The specifications and cured cross section drawings were produced for the time period of one year prior to and one year after the manufacture of the Tire at Issue. Based on this Court’s request to produce cut tire sheets in existence, the cut tire sheets as to the other G670RV tires in the line were located and produced. DE 79 (91:17-92-23).

drive his RV on July 6, 2010, while towing a Lincoln 4-door pick-up truck with a 4-seater golf cart in the bed of the truck, and after the drive axle was broken, detached from the frame, and improperly repaired.

Ignoring these facts, Plaintiff continues to seek documents concerning **other dissimilar tires** without any showing of substantial similarity. The uncontradicted evidence presented before the Court is that the nine other G670RV tires are not substantially similar to the Tire at Issue and that there are no other “common green” tires (which means that there are no tires that were built pursuant to the same plant specifications but cured in different molds). See **Exhibit D**.

Federal courts consistently rule that discovery in a products liability case is limited to the subject model product or substantially similar models. See e.g. Orleman v. Jumpking, Inc., 2000 U.S. Dist. LEXIS 11081 (D. Kan. 2000) (holding that only discovery regarding the subject model trampoline or substantially similar models was permitted); Piacenti v. General Motors Corp., 173 F.R.D. 221 (N.D. Ill. 1997) (discovery concerning motor vehicle which was not substantially similar to subject vehicle not permitted); see also Hofer v. Mack Trucks, Inc., 981 F.2d 377 (8th Cir. 1992) (trial court correctly refused discovery of documents related to truck models different from the models at issue).

Plaintiff's Motion fails because it neither provides a **specific factual showing of substantial similarity nor demonstrates** that the other tires in the G670RV line (or even other “RV tires”) share “**pertinent characteristics**” as is required by Gibson v. Ford Motor Co., 510 F. Supp. 2d 1116, 1120 (N.D. Ga. 2007) (DE 56) **before** permitting discovery.² See also Fine v.

² See also Bradley v. Cooper Tire & Rubber Co., 2006 U.S. Dist. LEXIS 84450 (S.D. Miss. 2006) (court refused overbroad discovery for all tires of the same brand name because even though tires had same name, plaintiffs failed to show they were substantially similar to subject tire); Hajek v. Kumho Tire Co., 2010 U.S. Dist. LEXIS 10551 (D. Neb. 2010) (sustaining objections to overbroad discovery requests where plaintiff failed to show how tires for which

Facet Aerospace Products Co., 133 F.R.D. 439, 442 (S.D.N.Y. 1990). In fact, the Gibson case holds that conclusory statements do not justify such discovery, id. at 1121, rather the Plaintiff must make a showing of substantial similarity:

Courts generally undertake a “fact specific determination of the extent of the similarities and dissimilarities” of claimed similar vehicle models to determine if discovery of a model other than that involved in an accident in litigation should be allowed under Rule 26. “[D]ifferent models of a product will be relevant if they share with the accident-causing model those characteristics pertinent to the legal issues raised in the litigation.” The models must share “pertinent characteristics” as they relate to the accident at issue. **What is required is a specific factual showing of substantial similarity.** Conclusory statements of alleged similarity are not enough.

Id. at 1120 (citations omitted).³ (Emphasis added). This burden equally applies to discovery pertaining to other incidents.⁴ As Plaintiff has failed to make a showing of substantial similarity, Plaintiff’s Motion should be denied.

information was requested were similar to subject tire); Murphy v. Cooper Tire & Rubber Co., 2008 WL 5273548 (N.D. Fla. 2008) (objection to plaintiff’s request for discovery into any other tire manufactured by defendant was sustained as plaintiff failed to establish substantial similarity to the tire in question); Keene-McPeters v. Cooper Tire & Rubber Co., No. 8:05-cv-2102-T-26TGW (M.D. Fla. 2007), aff’d 303 Fed. Appx. 743 (11th Cir. 2008) (limiting discovery to tires made from the same green tire specification, at the same plant, and within one year of the subject tire); Jones v. Goodyear Tire & Rubber Co., No. 16-2006-CA-9400 (4th Cir. 2006) (sustaining objection to plaintiff’s request for discovery concerning light truck tires as plaintiff failed to provide sufficient information to establish the light truck tires were substantially similar to the passenger subject tire) (**Exhibit E**); Gonzales v. Goodyear Tire & Rubber Co., No. 05cv00941 (D.N.M. 2006) (limiting discovery to tires with the same green specification as the subject tire); Barcnas v. Ford Motor Co., 2004 U.S. Dist. LEXIS 25279 (N.D. Cal. 2004) (denying motion to compel production of documents relating to tires not substantially similar to the subject tire).

³ See generally Johnson v. Hankook Tire Mfg. Co., 2011 U.S. Dist. LEXIS 2783 (N.D. Miss. Jan. 5, 2011) (“As such the plaintiff’s discovery requests should be limited to the subject model and size tire and any tire that shares a common green internal specification **as opposed to any tire that might share a generic component.** After considering both positions, the court finds the defendant’s position the more compelling one.”). (Emphasis added).

⁴ See Graves v. CAS Med. Sys., 401 S.C. 63, 77 (S.C. 2012) (“A plaintiff bears the burden of **demonstrating** the other accidents are ‘substantially similar to the accident at issue’ by demonstrating that the products are similar, the alleged defect is similar, the defect caused the other accidents, and there are no other reasonable secondary explanations.”) (emphasis added); Buckman v. Bombardier Corp., 893 F. Supp. 547, 552 (E.D.N.C. 1995) (“An offer of evidence

B. Evidence of a Defect Cannot be Proven with Post-Manufacture Records

Plaintiff argues that the documents requested are required in order to prove his defect theory. South Carolina law is clear that evidence of a defect cannot be shown through post-manufacture documents. Branham v. Ford Motor Co., 390 S.C. 203, 231 (S.C. 2010). The Supreme Court of South Carolina in Branham v. Ford Motor Co. determined that post-distribution evidence is not relevant to the issue of liability:

Simply defined, **post-distribution evidence is evidence of facts neither known nor available at the time of distribution.** When assessing liability in a design defect claim against a manufacturer, the judgment and ultimate decision of the manufacturer must be evaluated based on what was known or "reasonably attainable" at the time of manufacture. n17 See RESTATEMENT (THIRD) OF TORTS: PRODUCTS LIABILITY § 2, cmt. a. (1998). **The use of post-distribution evidence to evaluate a product's design through the lens of hindsight is improper.**

(Emphasis added). Therefore, Plaintiff's improper and untimely attempt to broaden the production to include post-manufacture documents fails. Moreover, Defendants did provide design and manufacturing documents for the other tires in the G670RV line. Plaintiff has not made any showing that justifies a determination that the documents received are not sufficient.

C. Plaintiff Has Failed to Meet and Confer Regarding his Request to Reopen the Deposition of James Koerner

The deposition of James Koerner was taken by Plaintiff's counsel on June 24, 2014. The deposition commenced at 9:00 a.m. and ended at 8:08 p.m. when Plaintiff's counsel concluded his questioning. At no time prior to the filing of this Motion did Plaintiff's counsel consult with Defendants' counsel pursuant to Local Civil Rule 7.02 regarding the request to re-depose Mr.

of other incidents, to support a claim that the present accident was caused by a defect that also caused the other incidents, requires that the plaintiff establish the following factors: (1) the products are similar; (2) the alleged defect is similar; (3) causation related to the defect in the other incidents; and (4) exclusion of all reasonable secondary explanations for the cause of the other incidents").

Koerner or, pursuant to Local Rule 30.04(I), by seeking to contact this Court to resolve issues prior to the conclusion of Mr. Koerner's deposition. Regardless, Plaintiff had ample time to depose Mr. Koerner and covered an assortment of topics during the deposition, including the design and development of the Tire at Issue, and the inner liner and barrier gauge components used in the Tire at Issue.

Further, Plaintiff's argument that Goodyear never indicated whether the "design file stored in the storage vault was being produced" is just plain wrong. DE 100 at p. 6. On October 7, 2014, Plaintiff was provided with additional development documents under Bates Label HARTSOCK.021960-022007. With this production, Defendants provided Plaintiff with a letter indicating that a search for "information stored in the 'vault'" was conducted and that the response to Discovery Request No. 96 would be supplemented. DE 100-9. On December 22, 2014, Goodyear again advised Plaintiff that it had conducted the search for the documents referenced by Mr. Koerner and had produced same on October 7, 2014. DE 100-10.

D. Plaintiff Has Failed to Meet and Confer Regarding Request Nos. 96 and 107 or, as to Design/Development Documents Specific to Other Tires in the G670RV Line

On June 13, 2014, pursuant to Rule 7.02 DSC, Plaintiff served a meet and confer letter pertaining to Defendants' Responses to the Fifth Discovery Request. **Exhibit F.** Unlike the letters attached to Plaintiff's Motion, this letter specifically pertains to the discovery requests at issue in Plaintiff's Motion. Although Plaintiff's June 2014 meet and confer letter seeks to meet and confer about Request Nos. 9, 57, and 68, it is silent as to Request Nos. 96 and 107. On July 9, 2014, Defendants responded to the meet and confer letter. **Exhibit G.** Moreover, although Plaintiff attaches meet and confer letters to his Motion, other than Plaintiff's Request for design materials for Load Range E tires designed by Mr. Koerner, the categories of documents

addressed do not pertain to the design or development files for the other tires in the G670RV line or early warning communications concerning these other tires with NHTSA.

E. No Records were Located as to Communications with NHTSA (Req. Nos. 9, 57 and 107)

Citing Discovery Request Nos. 9, 57 and 107, Plaintiff seeks an Order from the Court compelling Defendants to produce all documents associated with any “early warning” notification to NHTSA. Among other objections, Defendants objected to these Requests based on time and scope as the Request seeks information concerning the G670RV tires, “RV tires” and RV tire issues without any limitation. As expressed above, Plaintiff has failed to prove substantial similarity or even why this information is relevant to the Tire at Issue.

In its Response to Plaintiff’s Fifth Discovery Request No. 9, Goodyear provided that it would search for “non-protected documents submitted to NHTSA concerning the fitment of G670RV 295/80R22.5 tires, on substantially similar RVs, from the date of manufacture of the Tire at Issue to the date of Plaintiff’s accident, July 6, 2010. DE 100-1, p.6. On March 19, 2015, Goodyear supplemented its response by indicating that it has been unable to locate responsive documents. DE 100-6, p.3. Despite this response, Plaintiff still seeks to compel additional information by claiming, without justification, it will be an admission against Defendants that will likely validate Plaintiff’s claimed defect. However, this is not supported by South Carolina case law. See Branham, 390 S.C. 203, 231 (S.C. 2010).

Lastly, although Plaintiff takes the position that he has been unable to locate any information regarding any early warning reporting (“EWR”) regarding the Tire at Issue, NHTSA provides a search tool for the general public which provides select information concerning any such reporting. See <http://www-odi.nhtsa.dot.gov/ewr/qb/>. Even though such information is available to the public, federal regulation 49 CFR Part 512 (NHTSA Confidential Business

Information Rule) provides that certain classes of EWR information are accorded confidential treatment. **Exhibit H.** Nonetheless, as provided in its Response, Goodyear “agreed to ‘search for non-protected documents submitted to NHTSA concerning the fitment of G670RV 295/80R22.5 tires on substantially similar RVs from the date of manufacture of the Tire at Issue to the date of Plaintiff’s accident, July 6, 2010’ and it has been unable to locate responsive documents.” Goodyear’s response is sufficient and Plaintiff’s Motion should be denied.

F. Request No. 68 Does Not Seek the Global Design Manual but Seeks the Global Master Specifications Regarding Inner Liners

Request No. 68 neither seeks information concerning the Global Design Manual, nor does it seek information concerning all aspects of tire design. As written, it seeks information from the “GMS Computer... **regarding inner liners in tires.**” (Emphasis added). Subject to Defendants’ objections to time and scope, Goodyear agreed to produce the visual standard in effect during the manufacture of the Tire at Issue. On October 7, 2014, the visual standards, as well as the Global Master Specification concerning the design of the inner liner applicable to the Tire at Issue, were produced. See Bates Label HARTSOCK.021932-021943 and HARTSOCK.021944-021959. Those documents provide the targets for the inner liner and gauge components. Plaintiff is also in possession of cut tire sheets and the cured cross section drawings for the Tire at Issue, which provide the target for the inner liner and the gauge components. As to other G670RV tires in the line, Plaintiff is in possession of documents which provide the thickness, length, width and height of the inner liner and barrier gauge components. Supra. Plaintiff is in possession of the documents from the source he expressly identified in his request for production and has failed to prove substantial similarity related to his additional requests. As such, Plaintiff’s Motion should be denied.

Plaintiff did forward a letter requesting certain documents discussed in the deposition, after the deposition of Mr. Koerner. This included the "The Global Design Manual." DE 100-8. Goodyear responded on October 7, 2014, indicating that the Global Design Manual contained highly confidential, core trade secrets of Goodyear and that since Plaintiff is in possession of various design materials, he had no good cause, or substantial need, to seek this information.⁵ His Motion should be denied.

G. Plaintiff's Requests are Burdensome

The collection of design and development documents pertaining to all tires in the G670RV line is unduly burdensome. To date, Defendants have produced a total of 22,941 pages. The production made pursuant to this Court's November 22, 2013 Order, consisted of approximately 11,618 pages and consumed approximately 175 hours to locate, review and produce. Since then Goodyear and GDTNA have spent considerable time searching for and gathering additional documents responsive to Plaintiff's subsequent discovery requests and follow up requests for additional documents. Assuming that a collection as requested in Plaintiff's Motion is possible,

⁵ Rule 26(c) of the Federal Rules of Civil Procedure limits the terms and conditions of discovery in certain cases, and allows a court to "forbid[] the disclosure or discovery" or "forbid[] inquiry into certain matters." Fed.R.Civ.P. 26(c)(1)(A) and (D). The Rule further recognizes that certain discovery is so sensitive to a party that the Court can "designat[e] the persons who may be present while the discovery is conducted" and rule "that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a designated way." Fed.R.Civ.P. 26(c)(1)(E) and (G). See also Heller v. Shaw Industries, 1997 WL 786542 (E.D.Pa. 1997); Bridgestone Americas Holding, Inc. v. Mayberry, 878 N.E.2d 189, 196 (Ind. 2007) (holding plaintiffs who proved the skim stock formula was relevant, but failed to show how the formula itself was necessary for their case, were not entitled to discover the formula); Crum v. Bridgestone/Firestone North American Tire, LLC, 907 A.2d 578, 588 (Pa. Super. 2006)(reversing the trial court and finding a tire manufacturer's trade secret rubber compound formulas were not subject to discovery because the formulas themselves do not indicate whether a tire was defectively manufactured; knowledge of the formulas does not aid in determining the physical properties of a tire after the rubber has been cured or vulcanized). See also, In re Continental Gen. Tire, 979 S.W.2d 609 (Tex.1998); Bridgestone/Firestone, Inc. v. Superior Court, 7 Cal. App. 4th 1384, 9 Cal. Rptr. 2d 709 (1st Dist. 1992).

the undersigned estimates that such a production would consist of many multiples of the number of documents previously produced and cause an incalculable increase in the hours associated with searching, collecting and producing same. Therefore, relief is requested from the Court. See Exhibit I.

Rule 26(b) limits the scope of discovery to those materials that are relevant to any party's claim or defense." "Designated documents are those which can be identified with some reasonable degree of particularity so as to be able to pick them out from a promiscuous mass of documents in the possession of the other party." United Mercantile Agencies v. Silver Fleet Motor Express, Inc., 1 F.R.D. 709, 712 (D. Ky. 1941). Similarly, courts have held that such a request is unduly burdensome, over broad and supports the grant of a protective order. See e.g. Hendricks v. Total Quality Logistics, LLC, 275 F.R.D. 251 (S.D. Ohio 2011) (motion to quash granted as duces tecum are too broad seeking "any and all personnel document"; "any and all documents"); Williams v. City of Dallas, 178 F.R.D. 103, 110 (N.D. Tex. 1998) (request for "any and all documents" without reasonable restriction on time or document description is overbroad on its face); Regan-Touhy v. Walgreen Co., 526 F.3d 641, 649 (10th Cir. Okla. 2008) ("all documents . . . that refer to, mention or relate in any way to Plaintiff, Whitlock, or the litigation or the allegations, facts and circumstances concerning the litigation," is overly broad."); Frank v. Tinicum Metal Co., 11 F.R.D. 83 (E.D. Pa. 1950) (blanket request for production of all books and records relating to subject matter is too general); Mercantile Metal & Ore Corp. v. Am., 12 F.R.D. 345, 346 (S.D.N.Y. 1952) (request for all documents "which may be material to the issues" is not sufficiently specific). Defendants are entitled to protection from such broad and intrusive demands for information as they are unduly burdensome and improperly seek production of "[a]ny and all documents."

H. Conclusion

For all of the reasons set forth above, Defendants, Goodyear Dunlop Tires North America, Ltd. and The Goodyear Tire & Rubber Company, respectfully request that this Honorable Court deny Plaintiff's Motion to Compel (DE 100) and for any other relief that this Court deems appropriate.

s/ Curtis L. Ott

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Attorneys for Defendants

April 24, 2015

Columbia, South Carolina



MCDONALD TOOLE WIGGINS, P.A.
ATTORNEYS AT LAW

May 12, 2014

Via Electronic Mail

Mia L. Maness, Esquire
Mark C. Tanenbaum, P.A.
P.O. Box 20757
Charleston, SC 29413-0757

Re: *Hartsock v Goodyear*
Our File No.: G003-10195

Dear Ms. Maness:

This letter is in follow up to our telephone conference on Wednesday, April 23, 2014 concerning my attempt to meet and confer with you concerning the scope of, and number of, discovery requests on your Fifth Discovery Request that totals 144 requests for documents, including sub-parts. This conference stemmed from my initial conversation with you on April 17, 2014. There, I suggested that you withdraw Plaintiff's Fifth Discovery Request and revise or limit same in accordance with Judge Duffy's instructions provided during the April 15, 2014 hearing with respect to his rulings on Defendants' Motion for Protective Order on discovery generally and with respect to the Rule 30(a)(1) and Rule 30(b)(6) depositions. You, however, indicated that you do not find Judge Duffy's rulings to be clear and requested that I identify those discovery requests that I find to be outside of the Court's scope. You also did not agree to limit the number of Plaintiff's discovery requests; however, you provided an initial extension of two weeks to respond. Our responses are therefore due on May 20, 2014.

First, upon review of the hearing transcript and recent order, Judge Duffy ruled that proposed and actual changes to the design and manufacturing of the nine other G670 tires is a fishing expedition (Transcript at 41:20-24); that discovery is restricted to the Tire at Issue¹ (*Id.* at 42:10-15); and that discovery concerning all RVs and vehicles is not fair game – discovery is limited to substantially similar RVs. (*Id.* at 47:13-21).

This correspondence discusses the limitation of Plaintiff's discovery based on the parameters provided by Judge Duffy during the April 15, 2014 hearing and his Order. It does

¹ The G670RV 295/80R22.5 bearing DOT No. DANU2CAW3503, which designation indicates a particular tire manufactured by Goodyear Dunlop Tires North America, LTD ("GDTNA") at its Tonawanda (Buffalo), New York plant during the 35th week of 2003.

Mia Maness, Esquire
 May 12, 2014
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not raise (and Defendants' preserve) all objections to the requests including, but not limited to the attorney client privilege and work product doctrine. Within the parameters provided by Judge Duffy, the following discovery requests should be withdrawn or limited as they involve tires other than the Tire at Issue and vehicles, other than substantially similar RVs:

Withdraw/Limit	Request Nos.
To Be Withdrawn - Not limited to Tire at Issue	12, 13, 14, 24, 34, 39, 46, 47, 48, 49, 55, 83, 100
Not Limited to Tire at Issue	19, 21, 23, 32, 35, 36, 37, 38, 41, 42, 50, 55, 59, 62, 63, 64, 66, 67, 68, 69, 70, 72, 74, 75, 76, 77, 78, 79, 80, 81, 85, 86, 88, 89, 96, 97, 98, 99, 104, 105, 108
- Not limited to Tire at Issue - Not limited to Substantially Similar RVs	1, 2, 4, 5, 8, 9, 16, 17, 18, 20, 28, 29, 30, 31, 33, 40, 43, 44, 45, 51, 52, 56, 57, 58, 60, 61, 82, 84, 87, 90, 91, 92, 93, 101, 103, 106, 107
- Court limited to Cut Tire Sheets - Not Limited to Tire at Issue	22
- Not limited to Tire at Issue Relevance: Please indicate the relevance of this information	26, 27, 94, 95, 105 (or Substantially Similar RVs)

Please advise if you will agree to withdraw the discovery requests or limit them as provided above.

Furthermore, with respect to other concerns regarding Plaintiff's discovery requests, I would request that you provide a response to the following:

Quasi Government Agency

Please define what you mean by the term "quasi government agency" in Request No. 9 and identify those agencies.

Mia Maness, Esquire
May 12, 2014
Page 3 of 3

Personnel File of Employees under Request Nos. 10 and 11

You seek the personnel files of various employees identified under Request Nos. 10 and 11. Please provide case law why such information is relevant and discoverable in a product liability action where Plaintiff's cause of action is limited to an alleged defect in the design and manufacture of the Tire at Issue.

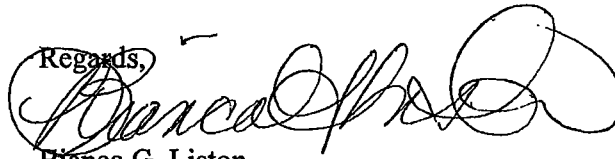
Proprietary Compounds

Plaintiff has yet to identify a specific design or manufacturing defect in this litigation. Yet, Plaintiff seeks proprietary compound formulas in a number of discovery requests. See e.g. Request Nos. 64, 65, 66. As you are aware, compound formulas are highly proprietary and confidential. Please explain how this information is discoverable under South Carolina's Trade Secret Act and pursuant to Laffitte v. Bridgestone Corp., 674 S.E.2d 154 (S.C. 2009).

Time limitation

Plaintiff's Fifth Discovery Request does not limit the request to a specific time period. Please provide a reasonable time period for the documents requested.

Should you have any questions or comments, please do not hesitate to contact the undersigned.

Regards,

Bianca G. Liston

BGL/

cc: Don Fountain, Esq.
Curtis Ott, Esq.

EXHIBIT C

PRESENTED FOR IN CAMERA REVIEW

DOCKET 104

EX. C: DEPOSITION EXCERPTS OF JAMES KOERNER, 6/24/2014

SEE JOINT APPENDIX VOL. IV, PP. 1080-1083

CA: 2:13-cv-00419-PMD

3. I have been employed by Goodyear and Kelly-Springfield since 1972 in various capacities involving tire technology. My work at Goodyear has involved, but is not limited to, designing, building, and testing radial passenger, light truck, medium truck, and agricultural tires, and developing tires for specialty markets. I received a Bachelor of Science in Mechanical Engineering degree from West Virginia University.

4. As part of my professional duties with Goodyear, I maintain a continuing and active role in the following professional and technical associations: the Society of Automotive Engineers, the American Society for Testing and Materials, and the Tire Society.

5. From my work with Goodyear, I am knowledgeable about the design and manufacture of Goodyear tires. I am also familiar with the efforts that Goodyear makes to protect its confidential and proprietary information and trade secrets.

6. I am authorized by Goodyear to make this Affidavit on its behalf.

The Tire at Issue

7. The tire at issue in this case is a 295/80R22.5 Goodyear G670 RV load range H tire bearing DOT No. DANU2CAW3503 (hereinafter referred to as the "Tire at Issue"). The Tire at Issue was manufactured for Goodyear at the Goodyear Dunlop Tire North America, Ltd. ("GDTNA") plant in Tonawanda (Buffalo), New York during the 35th week of 2003. I will refer herein to all tires that were manufactured pursuant to the same plant specifications¹ and cured in the same mold with an identical cured tread pattern as the Tire at Issue as the "Subject Tire."

¹ The tire material and construction specifications would contain, among other things, the dimensions, extruder die specifications, weights, and numeric codes for the compounds and treatments. The specification does not include the formula for the compounds.

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There are no tires that are "common green" to the Subject Tire, which means that there were no tires that were built pursuant to the same plant specifications but cured in different molds.

The Design and Components of Radial Medium Truck Tires

8. A radial tire is a complex, highly engineered, composite structure which serves as a flexible air pressure container. The multiple interactions among many compounds and reinforcements within a certain design structure dictate the performance of a tire. Additionally, tires respond differently to varying service conditions, which include combinations of inflations, steering forces, loads, road conditions, and vehicle dynamics.

9. A radial tire consists of six major components. Each of these primary components is engineered to serve specific functions in the tire. The first component is the inner liner, which is a unique rubber compound that acts as the tire's inner tube and, in conjunction with other components, retains the air in the tire. The second component is comprised of the tire beads, which consist of steel wires and a unique rubber compound coating. The tire beads secure the tire to the rim once the tire has been inflated. The body plies comprise the third component, which gives the tire the strength and structure necessary to retain the air pressure necessary to carry the specified loads. In radial medium truck tires, these consist of steel ply cables that are coated with rubber of a unique formula, and serve to give the tire its strength and structure for the specified loads. The fourth component is the steel belts. The steel belts are a composite of steel cords and a rubber compound that provide additional strength and stability in the tread area. The fifth component is the tread, which consists of specially formulated rubber compound(s) and specially designed tread element geometry that provide wet and dry traction, treadwear, rolling resistance, and ride and handling characteristics. Tread geometry, including rib, lug and groove location,

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depth, size, shape, density, and proximity to one another, can alter the location and degree of forces/stresses on the tire casing and affect use and ride characteristics. The sixth major component consists of the rubber sidewalls, which protect the internal structure against minor cuts and abrasions and provide aesthetic appearance to the tire.

10. In building a tire, the various components which will comprise the finished product are carefully assembled on a tire building machine specific to each plant.² The uncured or "green" tire is placed in a mold where specified heat and pressure are applied over a specified time to "cure" or "vulcanize" the tire. During this curing process, chemical and physical changes take place so that the physical dimensions, properties, and chemical composition of a finished tire are different from those of a "green," or uncured, tire.

The Occurrence of a Tire Disablement Is Not Evidence of a Defect

11. While I understand that the Plaintiff has alleged that a tire disablement occurred that resulted from an alleged defect in the Tire at Issue, it is incorrect to assume the tire was defective simply because a disablement occurred. There are a variety of reasons as to why a tire disablement may occur, and a defect is rarely such a cause. A major cause of tire disablement is overdeflection from under-inflation, over-loading, or a combination of both. A puncture or cut in the tire also may result in an eventual tire disablement. Road hazards, impact damage, and other abuse during the service life can also lead to a tire disablement.

The Similarity or Dissimilarity of Tires Is Determined by the Design of Those Tires

² Tires manufactured at different plants could be dissimilar based on the differences in the manufacturing process at each plant.

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12. I understand that Plaintiff is seeking in discovery information concerning tires other than the Tire at Issue.

13. Goodyear's specifications for tire building, manufacturing, design, and other documents pertaining to the design and manufacture of tires provide the detail necessary to design and manufacture its products. Only if provided through a vehicle such as this litigation can a competitor gain access to this information.

14. The method for making a tire at Goodyear is called a "tire specification." Goodyear's tire specifications are among Goodyear's most valuable assets and are carefully guarded. Even fragments of tire specifications can offer insight into Goodyear's experience. Goodyear's tire designs are an integrated compilation of several unique elements, and the exact combination of those elements is unique. This offers Goodyear a competitive advantage over other tire companies that do not possess this valuable knowledge.

15. There are currently well over 100 tire manufacturers in the world. Goodyear manufactures tires for a variety of applications and uses. The range of tires that Goodyear manufactures includes passenger tires, light truck tires, off-the-road tires, race tires, medium truck tires, aircraft tires, and numerous other types of tires. By way of example, in February of 2004, for the approximately 70 tire lines in North America, there were over 1500 different "active" specification codes. Moreover, each specification would typically have been revised multiple times during its history. These figures do not include past specifications and revisions, which would number in the tens of thousands, or more.

16. The tread geometry is characterized by overall contact area, depth, shape, size and proximity of ribs, grooves, individual elements and blading within an element. This geometry

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acts to transmit stresses and forces from the road through the casing to the vehicle and back to the road. This transmission of forces produces the ride and handling characteristics of the tire and ultimately, its overall performance. Identical green tires cured in different molds to yield different tread geometry may have substantially different performance characteristics. These differences may be apparent in footprint shape, dry and wet traction, tread wear, noise, and other characteristics.

17. A relationship of similarity between tires cannot be correctly shown by selecting single compounds or components or even groupings of components. Compounds and reinforcements, such as wire coat stock (sometimes referred to by others as "skim stock" or "coat stock") and belt wire constructions, may be used across vastly differing types of tires ranging from passenger to light truck to radial medium truck tires. Only tires made from the same green tire specification with the same tread design have the same dimensions, load carrying capacity, and components as the Tire at Issue.

18. I am familiar with the design specifications for the Tire at Issue. I am aware that Goodyear did not manufacture any other tires pursuant to the same green tire specifications and that were cured in the same mold with same tread geometry.

19. Most other tires sold by Goodyear are significantly different from the Tire at Issue in one or more respects: many other tires have a different aspect ratio; many have higher or lower load ratings, speed ratings, maximum carrying capacities, and inflation pressures; the tread patterns and weights are different; rubber compounds vary from one tire to the next; the dimensions are different; and many of the other tires are used for different applications for which the Tire at Issue is suited. Any attempt to group various sizes and models of tires as

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"substantially similar" ignores the crucial differences among the different dimensions and type of tires.

20. In addition to overall size differences among the broad range of tires designed and manufactured by Goodyear, the type and dimensions of many individual components vary significantly, including different thickness of centerline, tread and shoulder tread areas, tread widths, different belt widths, belt gauges, tread compounds, belt and ply material, other rubber formulas, and many other items.

21. Different molds are used to cure other tires which differ from the specification utilized in the Tire at Issue. As a result, all other radial medium truck tires produced from different specifications would differ from the Tire at Issue in parameters such as section height, section width, molded base width, tread pattern, tread geometry, and tread radius. In addition, different rubber compounds - with different formulations, different ingredients, and different performance characteristics - are used for various components. This includes compounds for tire liners, ply coats, belt coats, tread caps, tread bases, and sidewalls. Likewise, the width and gauge, or thickness, of many of these tire components used in the Tire at Issue are different from those used in other, different radial medium truck tires. Therefore, information relating to tires other than the Tire at Issue and tires that built to the same plant specifications would not be truly comparable.

22. I understand that Plaintiffs are seeking information concerning all G670 RV tires. It is important to note that the fact that tires share a marketing name does not mean that they are necessarily similar to one another. In fact, the G670 RV moniker does not give any hint as to the designs of tires that are designated with that name. The "G" indicates that the tire was designed

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by Goodyear. The "670" is a marketing name for tires, which includes different sizes, load ranges, and rim diameters. In the case of the Tire at Issue, it is intended for use on a medium truck tire application. The "RV" designation indicates that the tire was primarily intended for use on recreational vehicles or motor home applications.

23. Within the Subject Tire Scope identified in Defendants' discovery responses, Goodyear designed, produced, and marketed 10 different tires with the G670 RV name. None of those tires share the same plant specifications, and the Tire at Issue is the only one of the 10 tires that was manufactured by GDTNA at its Buffalo plant. Based on my research, I determined that none of the other 9 G670 RV tires are what the tire industry would deem similar to the Tire at Issue. I have prepared a chart showing the differences in key characteristics of 3 exemplar G670 tires, and have attached that chart as Exhibit 1 hereto.

Goodyear Undertakes Great Efforts to Develop, Maintain, and Safeguard Its Valuable Confidential, Proprietary, and Trade Secret Information.

24. Goodyear takes important steps to ensure that its trade secrets and competitively sensitive information remain strictly confidential. Even after a new model tire is released to the public, the specific technical information about the tire is treated as confidential, commercial trade secret, proprietary information by Goodyear. Disclosure of such information to a competitor would give the competitor information that otherwise could not be obtained through any other means. From this information, the competitor could realize substantial cost savings or make adaptations. This would severely and unfairly reduce Goodyear's competitive advantage.

25. A competitor could use the technical information requested by Plaintiff to copy all or part of Goodyear's specifications, manufacturing processes or marketing techniques and

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policies and give them a technical advantage. The competitor could do so without compensating Goodyear for its expenses incurred in developing these ideas. Just as significantly, the competitor's development time and cost for the concept, design, or component would be greatly reduced if it had access to the tire specifications and other documents for the Goodyear tires about which Plaintiffs seek information. Competitors would also be spared the considerable additional expense associated with reverse engineering in attempts to gain information on Goodyear technology. This triple threat of a competitor's unearned savings, Goodyear's uncompensated expense, and the competitor's market gain would result in an unfair competitive disadvantage to Goodyear.

26. Discovery regarding design and development process, design history, and design specifications for Goodyear tires would involve documents which contain confidential, trade secrets. The tire specifications, mold drawings, and mold tread layout, taken together, provide the information by which a competitor could duplicate Goodyear's unique design of the Subject Tire. The tire specification information is not provided to anyone outside of Goodyear. Similarly, information about the materials used in the manufacture of the tire would allow a competitor of Goodyear to gain the benefit of the sources of the components and procedures used to manufacture the tire without the cost and expense of developing the same. Goodyear enjoys unique advantages over its competitors in the tire industry as a result of these processes and materials. This information cannot be easily duplicated and its disclosure would severely harm Goodyear as it would allow a competitor to learn the results of years of research and development that lead to the unique processes Goodyear employs to manufacture its tires. This information is not known outside of Goodyear and this information is restricted inside of

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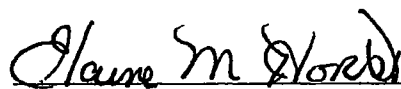
Goodyear. The disclosure of such information would put Goodyear at a significant competitive disadvantage.

27. Consistent with the highly proprietary and trade secret nature of this information, Goodyear carefully guards the secrecy of its design information. Access to this tire design information is very limited and restricted to a small group of people on a "need-to-know" basis. Other company personnel do not have access to this information. The information concerning Goodyear's tire designs and revisions of those designs that is kept electronically is on password protected computer systems. Only certain employees have the ability to access these systems.

Further, Affiant sayeth not.


TERRENCE L. PARSONS

SWORN TO AND SUBSCRIBED BEFORE ME, Notary Public, in the State of Ohio,
County of Summit, on this 12th day of August, 2013.


NOTARY PUBLIC, STATE OF OHIO



Elaine M. Horst
Resident Summit County
Notary Public, State of Ohio
My Commission Expires: 07/29/2014

Exhibit 1

COMPARISON OF G670 TIRES

	Exemplar #1	Exemplar #2	Subject Tire
Size	225/70R19.5	255/70R22.5	295/80R22.5
Load Range	F	H	H
Plant of manufacture	Topeka	Danville	Buffalo
Carrying capacity (single)	3,640 lbs	5,510 lbs	7,830 lbs
Carrying capacity (dual)	3,415 lbs	5,070 lbs	6,940 lbs
Inflation pressure	95 psi	120 psi	125 psi
Weight	59.7 lbs	89 lbs	112 lbs
Design Rim width	6.75"	7.5"	9.0"
Section width	8.9"	10.0"	12.1"
Diameter	32.0"	36.4"	41.3"
Revolutions per mile	644	566	499
Original tread depth	13/32"	14.5/32"	16/32"
Vehicle application	Class 3-6	Class 7	Class 8
Number of belts	3	4	4
Belt wire configuration	B1 3+2 10 EPI, B2&B3 3+2 15 EPI	B1 3+2 10 EPI, B2&B3 3+2 15 EPI, B4 3+9+1 9 EPI	B1&B4 2+2 14 EPI, B2&B3 5 14 EPI
Ply wire configuration	3+9+1 16 EPI	3+9+1 17.4 EPI	3+7 17 EPI

The 3 tires represented above are used in vehicle applications that are covered by DOT Truck Weight Classes 3-8. The following is a description of the vehicles used in the different applications:

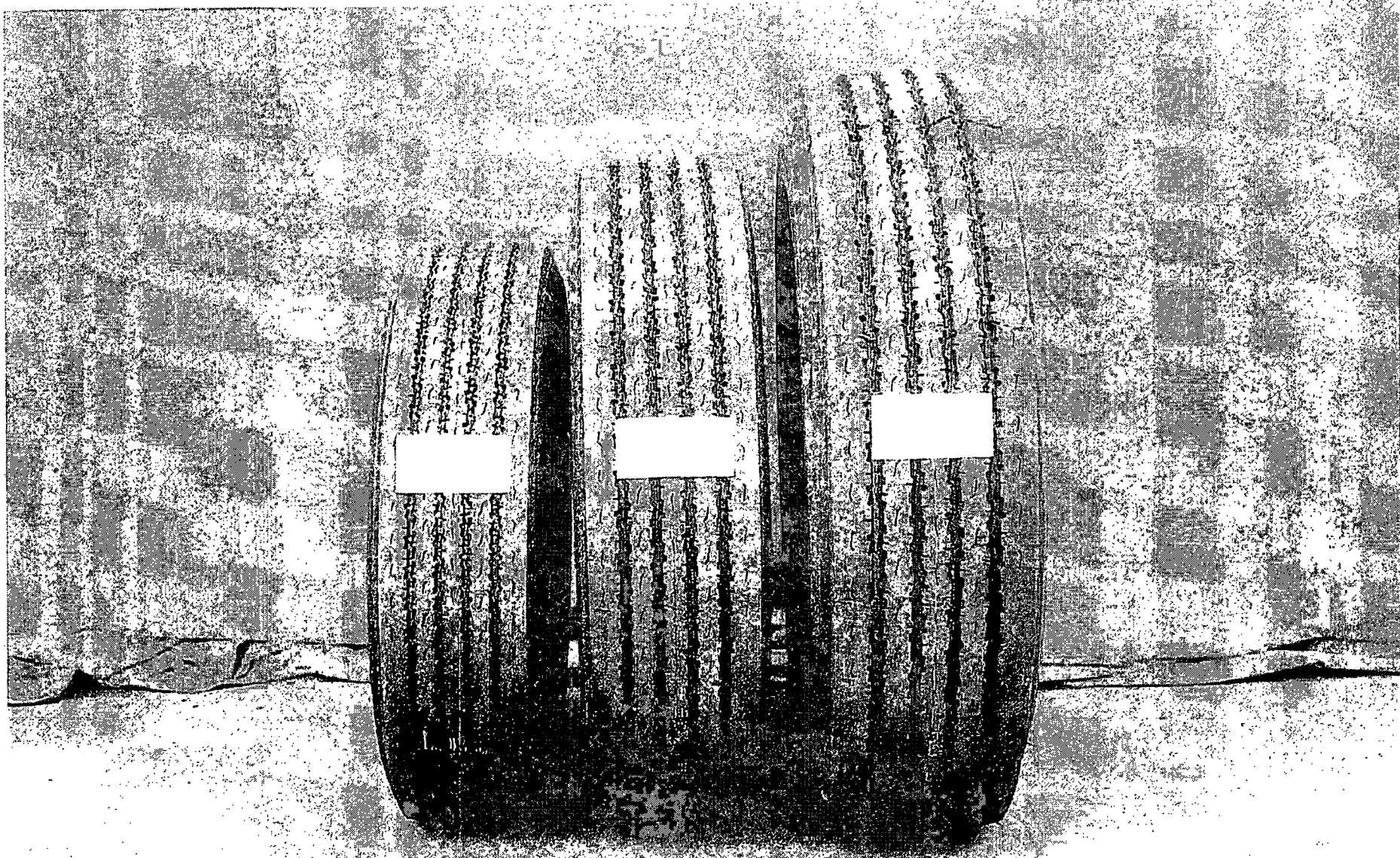
Class 3-6—Trucks using many different sizes & load ranges including (but not limited to); mini bus, school bus, city delivery, walk in delivery van, conventional delivery van, landscape utility, bucket utility, beverage delivery, rack & stake body delivery, and single rear axle delivery which can carry a gross vehicle weight of 10,001 to 26,000 lbs. As an example, the 225/70R19.5 LRF tires can carry a maximum gross vehicle weight of 20,940 lbs when used as specified above on a vehicle with a single rear drive axle with dual tires. Vehicle placards must always be used as the reference for maximum gross vehicle weight.

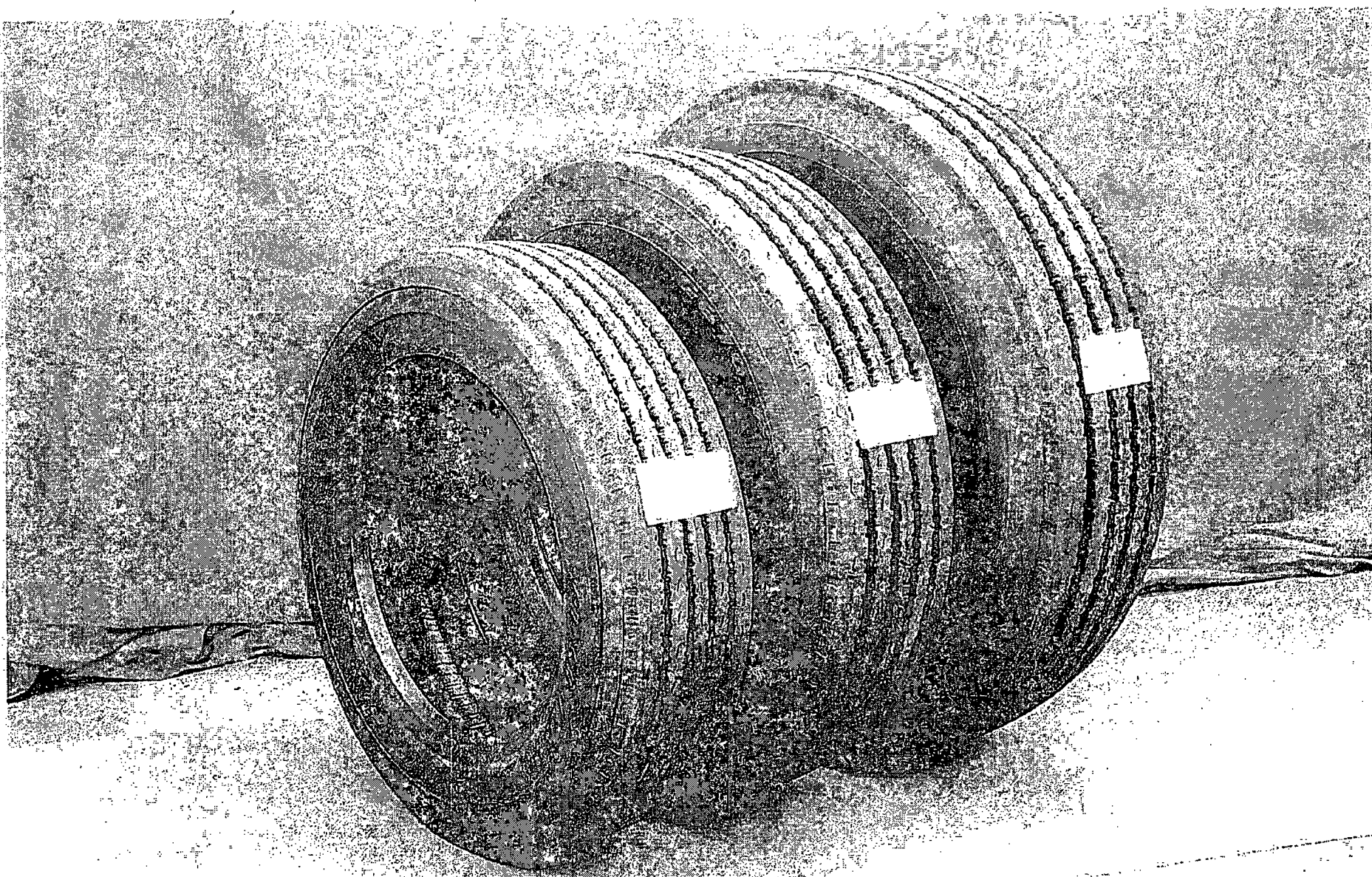
Class 7—Trucks using many different sizes & load ranges including (but not limited to); city transit bus, furniture delivery, high profile semi tractor, home fuel delivery, medium semi tractor, refuse haul, and tow truck when used as specified above on a vehicle with a single

Exhibit 1

or double rear drive axles with dual tires which can carry a gross vehicle weight of 26,001 to 33,000 lbs. These tires are also applied to the semi trailers for this truck weight class. Vehicle placards must always be used as the reference for maximum gross vehicle weight.

Class 8—Trucks using many different sizes & load ranges including (but not limited to); tour bus, motor home/recreational vehicle, cement mixer, dump, fire, fuel, heavy semi tractor, refrigerated van, and semi sleeper tractor which can carry a gross vehicle weight of 33,001 lbs & over. These tires are also applied to the semi trailers for this truck weight class. As an example, the 295/80R22.5 LRH can carry a maximum gross vehicle weight of 59,080 lbs when used as specified above on a recreational vehicle with a single rear drive axle with dual tires along with a tag axle. Vehicle placards must always be used as the reference for maximum gross vehicle weight.





IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA.

CASE NO.: 16-2006-CA-9400
DIVISION: CV-B

JERMAINE JONES, individually;
MARY JONES, his wife, individually;
JERMAINE JONES and MARY JONES,
as Parents and Natural Guardian of Minor
Child, CHARMAINE JONES; and TISH
UPSHAW, as Personal Representative of
the Estate of NAKIA JONES, Deceased,

Plaintiffs,

vs.

THE GOODYEAR TIRE & RUBBER COMPANY,
a foreign corporation; et. al.,

Defendants.

**ORDER ON PLAINTIFFS' MOTION TO COMPEL
AND DEFENDANT'S OBJECTION**

THIS CAUSE was heard upon plaintiffs' Motion to Compel defendant Goodyear Tire to Provide Better Responses to plaintiffs' July 7, 2008 Request for Production and upon defendant Goodyear Tire's Objections to plaintiffs' Request to Produce dated March 6, 2009. The tire in this case is a passenger tire, Decathlon P215/75R15 and plaintiffs seek discovery regarding light truck tires knowas "Load Range E" (LRE) tires. Plaintiffs' assert that the light truck tires are substantially similar to the tire in question which the defendant denies citing, inter alia, Barcenas v Ford Motor Company, 2004 WL 2827249 (N.D. Cal. 2003). The Barcenas v. Ford Motor Company case discusses in great detail the multitude of differences between the different classes of tires manufactured by the same company which a court must consider in order to make an informed

EXHIBIT "E"

decision. Insufficient information was presented by the plaintiffs; and therefore, the plaintiffs have not met their burden of establishing that the Decathlon passenger tire is substantially similar to the "LRE" tires to permit the discovery requested. Upon consideration, it is

ORDERED that plaintiffs' Motion to Compel is denied and defendant's Objections are sustained to the extent that plaintiffs' Request for Production requests information regarding the "LRE" tires.

DONE AND ORDERED in Chambers at Jacksonville, Duval County, Florida, this

_____ day of June, 2009.

ORDER ENTERED

JUN 18 2009

/s/ Frederick B. Tygart

FREDERICK B. TYGART, Circuit Judge

Copies to:

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PRATHER • KEEN & LITTKY-RUBIN

— TRIAL & APPELLATE ATTORNEYS —

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June 13, 2014

Via Electronic Mail and U.S. Mail

Bianca Liston, Esq.
111 N. Magnolia Ave. #1200
Orlando FL 32801

Re: HARTSOCK (Estate of Sarah Mills) v. Goodyear
Our File No.: 13/0016

Dear Mia:

This is an attempt to meet and confer and comply with Local Civil Rule 7.02 DSC regarding the defendant's responses to the Fifth Request to Produce.

The Fifth Request to Produce was sent to the defendants on April 1, 2014. The Defendants filed their responses on May 23, 2014. I want to point out that this request to produce is very unique because we were able to refer you to the specific portions of your corporate representative's deposition where the documents we are seeking were identified and described. As a result I won't spend too much paper explaining what we are requesting because your own employee has done a lot of this for us through his deposition.

We intend to compel complete responses to the following requests if we are unable to reach an agreement on production with you.

Request No. 1, 2, 4, and 5 seek production of the claim materials pertaining to G670 tires that failed and became the subject of a claim. These materials are directly relevant to the design and manufacturing defects and the defendant's knowledge and notice of these defects.

Request No. 9 and 107 seek notice provided to NHTSA regarding G670 tires, and mandatory government reporting pursuant to the Tread Act. After the massive Firestone ATX/Wilderness recall Congress created an early warning system that required manufacturers to report defect problems and trends to the government. Goodyear is required by federal law to self report defects and defect trends to NHTSA

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pursuant to the TREAD Act. These records are relevant to our defect and notice claims. Goodyear has produced many claims regarding G670 tires. The Plaintiff wants to know whether or not Goodyear fulfilled its requirement to report these to the government and if so, what Goodyear told the government was the cause of the defects. Goodyear says we will look but we are going to do it only for a limited time period. We disagree with the self-imposed restrictions.

Request No. 10 and No. 11 seeks Terry Parsons' [and other key employees] personnel file, curriculum vitae, and prior testimony. Goodyear says it will search for his testimony but objects to everything else. The background, training and experience of Goodyear's key employees who are witnesses in this case is very relevant. If there is overly personal information and earnings information it may be redacted. I note that you have always been very eager and liberal in your redactions even when we do not offer.

Request No. 12 seeks to compare the design of other medium truck tires made in the exact same plant where our tire was made. If Goodyear is making a better designed medium truck in the same plant that is relevant to the defects in the G670, and the economic and technologic ability to make a better tire.

Request No. 13 seeks design materials of other tires using the same inner liner compound as the G670. We believe that other tires, including tires in the same plant, were using the same compound and although the compound may have been adequate for other tires it was not adequate for the G670 and its intended use.

Request No. 16. Terry Parsons testified that RV manufacturers participated in the collaboration for the design of the G670. This is clearly discoverable. Goodyear says "We will look, but are only going to look for communication "around the time". I don't know what that means. We object to the self-imposed time limitation.

Request No. 20 seeks documentation of the amount of under inflation that Goodyear contends produces separations in G670 tires. I feel certain that under inflation and impact will be your defense in this case, with perhaps others. Goodyear says that they will search, but only during their limited tire scope. We object to the self-imposed time limitation.

Request No. 22 seeks the records that determine whether or not G670 tires are being manufactured in compliance with design specifications. Goodyear objects, imposes self-limiting definitions and then list documents already produced along with two (2) pages of new documents. There is clearly a lot more documents that exist that are being withheld.

Request No. 23 seeks full section drawings for G670 tires. Goodyear says we can't find one for your size and we are not going to give you the ones for the other sizes. The court has already ordered and you claim to have given us the specifications for the other tires so the drawings are also relevant and should be provided. Terry Parsons testified that they exist.

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Request No. 25 seeks the agreement between Goodyear and Goodyear Dunlop. Goodyear objects and says there is no specific agreement dealing with the G670 tire. That was not our request. You redefined our request and then say none. Terry Parsons' deposition indicates there is an agreement and of course there must be. We would like you to answer our request not the one you rewrote for us.

Request No. 27 seeks communications between Goodyear and Dunlop regarding G670 tires that Terry Parsons says exists. Communications between the two defendants about G670 tire are clearly relevant.

Request No. 28, No. 31, and No. 33 seeks money flowing back and forth between Goodyear and Monaco concerning G670 tires. Goodyear again redefines the request and says we will look for warranty records. The request was not limited to warranty records. We're seeking warranty and claims payments as well as actual purchase of tires data. In addition, this request seeks communications which includes letters back and forth, PowerPoint presentations, discussions of problems, e-mails, etc... We know there were discussions going back and forth because Terry Parsons talked about them and the Defendant has produced some PowerPoint presentations and some letters. However, you specifically limit the time frame to something that is not restricted by the request.

Request No. 29 and No. 32 seeks profit, costs, and sales data for G670 tires. Goodyear says we will search but we are going to limit the scope. We object to the limitation. Part of our claim in this case is that the inner liner was too thin. We do have other defects as well. The inner liner material is the most expensive rubber component and we believe that Goodyear limited the thickness of the inner liner to save money. Costs, sales prices, and profit are therefore relevant.

Request No. 35, No. 36, No. 37, No. 38, No. 41, No. 42, and No. 44 seeks testing of the air permeation rate through the inner liner compound. One of our defect theories is that the inner liner was insufficient and allowed air to permeate through it into the structure of the tire and cause the tire to separate and blow out. This is clearly relevant no documents concerning the air permeation rates have been produced. Once inflation pressurized air enters the structure of the tire it mechanically causes a separation, and also causes an oxidative effect because the rubber compounds used in the tire structure are not designed to be exposed to oxygen.

Request No. 39 seeks specifications for other tires that use the same rubber compounds that were used in the subject tire. Although the compounds in the subject tire may be appropriate for use in other tires of different intended uses. We contend they were not appropriate for use in our tire. For example if the inner liner is used on a smaller, lower air pressure rated, and load rated tire it may be perfectly acceptable.

Request No. 40 seeks claim documentation regarding G670 tires. In responding in the past Goodyear unilaterally limited its responses to claims made only in the United

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States. When we know that the G670 tire was used in Canada, Mexico, and outside North America. It does not really matter on which countries roadways a G670 tire failed. The failure is what is relevant.

Request No. 43, No. 45, No. 46, No. 48, No. 49, and No. 50 seeks design data for G670 tires made in our exact size, with nylon cap plies, which Mr. Parsons very reluctantly revealed to us in his deposition. One of our defect theories in this case is that our tire should have had nylon cap plies. Terry Parsons has testified that the tire was made and tested. Goodyear has produced no design data for this tire. Their response even acknowledges the documents were not produced and says please see the high speed test. This request does not seek the high speed tests. The request seeks the design materials and specifications. Goodyear even patented the cap ply design and our request seeks the patent files. Obviously, in order to get a patent you have to submit the file to the government to do so. Goodyear has failed to produce this.

Request No. 51, and No. 52 seeks documents and computer modeling of the force that occurs in tires and is known to cause tread and belt separation – interlaminar shear. Mr. Parsons testified that this type of phenomenon was known, was known to cause separations, and has been tested. This is the force that caused the failure of our tire. Goodyear has produced no documents regarding the phenomenon that we know caused the failure of the tire in this case. Mr. Parsons also acknowledged that the addition of nylon cap ply to a tire design has the effect of reducing the interlaminar shear that causes separations.

Request No. 55 seeks production data as well as scrap data. One of the reasons to scrap a tire that is shown in Goodyear's own documents is that during the manufacturing process the innerliner ends up being too thin. Scrapping tires is an expensive process particularly on a tire of this size and cost. As a result factories strongly discourage scrapping tires. The Plaintiff has located manufacturing defects in the subject tire which indicate that it should have been scrapped before leaving the plant and should never have been sold. The number of other tires that were actually discovered and scrapped is relevant to the frequency with which the manufacturing defects seen in the subject tire were occurring during the manufacturing process.

Request No. 56, and No. 57 seeks summary reports and other compilations of the claims made regarding G670 tires. The Defendant has produced thousands of pages showing many hundreds of claims made concerning G670 tires. However, Goodyear has failed to produce any documents or reports which summarize or compile the data or examine trends. We know from the testimony of Mr. Parsons and know independently from experience generally in the tire field that all tire companies including Goodyear track trends and summarize the number, costs, and extent of claims for tire lines. Goodyear clearly has reports of the number of claims made for G670 tires, the costs of those claims, and the recommendations made internally how to reduce or eliminate the claims. These reports go directly to Goodyear's knowledge of the problem and the failure to make design changes necessary to prevent the failures from continuing to occur. You have given the raw data but not the reports and summaries that stem from it.

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I doubt very much that when a Goodyear manager asked for the G670 claim data that anyone dumped 20,000 unorganized pages in his office like you have done with us.

Request No. 58 seeks documentation of the intended foreseeable use and useful chronologic life of the G670. The tire in this case was made in 2003, and the accident occurred in 2010. From past experience with tire companies including Goodyear the Plaintiff expects Goodyear and its experts to advance that the tire was too old and should have been remove from service prior to the accident, or was used in an unintended or unforeseeable manner. The tire contains no expiration date or any information regarding how long it is suitable for use. Internal documents from Goodyear answering these questions are clearly relevant and address the Defendant's anticipated defense arguments.

Request No. 59 seeks the plant newsletter. The Plaintiff is aware and the Defendant's employees including Mr. Parsons as well as those currently scheduled for deposition will confirm that the plant utilized a newsletter that reported many things including production problems, production quantities, scrap, and a host of other issues that will include the production of the G670 tire. Plaintiff believes that candid statements not subject to lawyer filtering made by the Defendant in their newsletter with regard to problems and scrap rates on G670 tires are directly relevant to the issues in this case.

Request No. 60 seeks release language. Mr. Parsons in his deposition testified that Goodyear uses different release language when they determine that a returned tire is defective than when they determine that a tire is not defective but decide to settle the claim anyway. Goodyear has produced many releases in this case for claims settled regarding G670 tires and the Plaintiff needs to be able to differentiate which release language means Goodyear determined the tire was defective.

Request No. 62, No. 63, No. 64, No. 65, No. 66, and No. 69 seeks information concerning the specific compounds used in the tire, and the costs of those compounds. Terry Parsons has testified that the inner liner compound was the most expensive rubber used in the tire. The Plaintiff believes that the reason why Goodyear decided to make the inner liner too thin was to save money. The specific material used and its composition determines its price. For example, tires with higher concentrations of patented butyl rubber compounds cost more than compounds with less butyl rubber. The reason is that butyl rubber is the most effective at preventing the undesired effect of air permeating into the tire structure from the air cavity. The Plaintiff needs to be able to demonstrate the cost of the respective components and how Goodyear's design and decision process focused around costs.

Request No. 67 and No. 80 seeks specifics regarding the inner liner dimensions and the rationale for why and how those specific dimensions were determined. The inner liner in this case is composed of a flat sheet of rubber; however, the thickness of the rubber sheet is not uniform across its entire width. Some areas are thicker, some are thinner. One of the defect theories in this case that Goodyear's contour dimensions were defectively created and subject to stretching and thinning during manufacture. The

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Plaintiff is entitled to determine the basis on which Goodyear specified which aspects the inner liner would be thicker than others.

Request No. 68 seeks Goodyear's inner liner textbook or manual. Terry Parsons testified that there is a published set or series of inner liner criteria that are utilized whenever a tire is designed. He testified that those materials were consulted in this case. Goodyear has produced no documents concerning this manual. Goodyear has only produced documents demonstrating the finished product of what inner liner they decided to use in the subject tire. Obviously, if the manual said use an inner liner that was different than the one that Goodyear ultimately chose that would be extremely relevant to the Plaintiff's defect theories in this case. Goodyear also says we will search for the "Visual standard applicable during the one week of manufacturing". This isn't what we asked for and we object to this limitation.

Request No. 72 seeks computer modeling of the G670 tire. Mr. Parsons testified that Goodyear had this technology, it was used and yet the Defendant has produced no documents whatsoever of any computer modeling. Computer modeling allows the design and/or testing of the tire on the computer, and allows the computer designer to modify the design, and then test the modified design as well.

Request No. 74, No. 75, No. 76, No. 77, No. 79, and No. 81 seeks documents identifying the persons responsible for, and the reasons why a 75 mph speed rating was assigned to the G670 tire. This is particularly important because at the time of the tires design the maximum speed limit on the highways of this country were 75 mph. One of the Plaintiff's defect theories in this case is that the Defendant should not have designed this tire with a 75 mph speed rating when it knew that the tires would be used on RVs which are long distance, over the road vehicles, traveling on highways for extended periods of time, at speeds of 75 mph or above. Mr. Parsons testified that heat is the enemy of the tire and that as a tire travels for extended distances at higher speeds it develops heat which can cause or contribute to tire failure. I know for sure that Goodyear will claim there is evidence of "high heat" in this tire and that is why it failed. Goodyear always says that. The Plaintiff believes that Goodyear intentionally put this tire on the roadway on RV's knowing that the tire would be operated at or above its maximum load carrying capacity, and at or above its maximum speed rating. Goodyear's design decisions essentially created a likely to fail scenario.

Request No. 86, and No. 87 seeks Smithers' Reports. Smithers is an independent laboratory that cuts up, measures, and analyzes all tires and publishes reports that it sells to tire manufacturers. Goodyear is a subscriber to the Smithers Reports and uses its reports to evaluate its own products including the G670 as well other tires that Goodyear makes and other tires that its competitors make. When designing tires, Goodyear examines Smithers data for competitor tires to determine the internal structure and dimensions of competitor tires in order to evaluate the appropriate components and dimensions for a newly designed Goodyear tire including the G670. Smithers Reports are an essential component of the design process for all tires including the G670 in this case. Plaintiff is entitled to see the Smithers Reports that

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Goodyear utilized during its design process for the subject tire. None have been produced.

Request No. 89, and No. 103 seeks information concerning the impact resistance or impact durability of G670 tires. The Plaintiff knows from prior experience with Goodyear concerning the G670 tire that Goodyear will claim that the reason the tire failed in this case is that it suffered an impact wherein it hit something in the roadway at some point during the thousands of miles prior to the day of the accident. Goodyear's experts say this in every case and will be unable to provide any of the specifics of the alleged impact. Impacts to tires are clearly a foreseeable event that should be designed for and warned about. Tire companies including Goodyear test and evaluate the impact resistance of the tires. Plaintiff is entitled to impact testing regarding G670 tires.

Request No. 90, and No. 92 seeks documents concerning the actual quantification of the "Margin of Extra Performance" that Terry Parsons discussed in his deposition regarding G670 tires. Mr. Parsons testified that the G670 was built with a "Margin of Extra Performance" but he refused to actually quantify it. The Plaintiff is entitled to know what that margin is. Clearly if the tire was actually designed with such a margin there must be documents which support Mr. Parsons testimony. If documents do not exist to support his testimony then this is a basis to impeach Mr. Parsons.

Request No. 91, and No. 105 seeks documents to evaluate Mr. Parsons claim that testing the G670 tires at speeds of 25 mph, or 35 mph on a road wheel is really the equivalent of testing the tire on an actual vehicle on the roadway traveling at 75 mph. Plaintiff is entitled to determine if Goodyear has any documents to support this contention and if they do not this is a basis to impeach Mr. Parsons testimony. The Plaintiff's experts in this case will be critical of the fact that Goodyear conducted no on vehicle testing of its G670 tires, no on road testing of G670 tires, and conducted no road wheel testing at real world highway speeds. Goodyear says they will search for non-protected documents submitted to NHTSA. That is not what we asked for and we object to their narrowing the scope.

Request No. 93 seeks on vehicle and on road testing of the G670 tire. Goodyear redefines the request and says we could not find any data for the 35th weeks of 2003. That is not what we asked for. We object to the redefinition and restriction of the request.

Request No. 94, and No. 95 seeks affidavits filed by the Defendants in G670 cases across the country. Goodyear responds that the affidavits are either public record or maybe not because they are subject to protective order. Goodyear has filed affidavits in other cases stating that they have national coordinating counsel. This person should have all G670 affidavits at the ready to produce in this case. Plaintiff is entitled to know if the Defendant is filing affidavits, perhaps by the same individuals who filed affidavits in this case, that are contrary to the affidavits filed in the subject case.

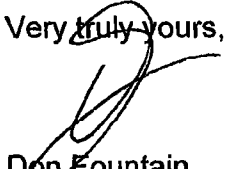
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Request No. 98, and No. 99 seeks instructions given to material handlers and tire builders concerning the inner liner for the G670 tire. One of the Plaintiff's defect theories in this case is that the tire contains manufacturing defects. During the manufacture of the subject tire the inner liner was stretched or damaged to the point that it was too thin and as a result the tire should have been scrapped before it left the plant. The Plaintiff is generally familiar with tire cases including those against Goodyear and knows that are a series of instructions that are given to the boots on the ground material handlers, and tire builders about what to do, and what not to do. Goodyear has produced none of that material in this case.

Request No. 100 seeks documentation of the relationship between tire blowouts on the steer axle of an RV and an accident. Plaintiff believes that Goodyear has internal documents that confirm that if a steer axle blowout occurs on a large RV the likelihood of loss of control is extremely high, particularly at highway speeds. Plaintiff believes that Goodyear will produce expert testimony in this case that tire blowouts are a benign event and should never cause loss of control. In fact, Goodyear in its Affirmative Defenses has blamed the driver of the RV in this case for failing to maintain control of his vehicle, and claims that this was a controllable event, and that the accident was caused by driver error. Goodyear states that they will search for literature on this topic. Goodyear makes it sound as though they are going to search for literature outside of the Goodyear Company. Plaintiff is especially interested in Goodyear's internal position on this topic.

Request No. 102 seeks Goodyear's position on how much air pressure the owner of the RV should have kept in the subject tire. Plaintiff believes that Goodyear will take the position that the owner of the tire who testified in deposition that he used 110 psi of air in the tire, and that this amount was approved by the Goodyear representative at an RV rally he attended was not the correct pressure to use. The owner of the RV has produced the actual measured weight of the vehicle on a wheel position by wheel position basis and the manufacturer of the RV, Monaco, has produced a similar document reflecting their weighing of the vehicle as well. As such the exact weight of the vehicle is known. What is unknown is what Goodyear contends is the appropriate amount of pressure to use.

Very truly yours,



Don Fountain
DF:sab

cc: Mark C. Tanenbaum, Esq. (via email only)



MCDONALD TOOLE WIGGINS, P.A.
ATTORNEYS AT LAW

July 9, 2014

Via Electronic Mail

Donald R. Fountain, Esq.
Clark, Fountain, LaVista, Prather, Keen &
Littky-Rubin
1919 N. Flagler Drive
West Palm Beach, FL 33407

Re: *Hartsock v Goodyear*
Our File No.: G003-10195

Dear Mr. Fountain:

Following is our response to your correspondence of June 13, 2014 concerning Defendants' Response to Plaintiff's Fifth Request to Produce, which consists of approximately 144 discovery requests including sub-parts:

Temporal Scope of Discovery Request

With respect to the temporal scope afforded Plaintiff's Fifth Discovery Requests, consistent with Judge Duffy's instructions to reach an agreement on same, we forwarded correspondence to Plaintiff's counsel on May 12, 2014 regarding the lack of a relevant time limitation in Plaintiff's requests. Upon following up with Ms. Maness on the scope of discovery and request for withdrawal of many of the discovery requests due to their breadth seeking discovery not limited to the Tire at Issue¹, to substantially similar RVs, or to a relevant time period, she indicated that the requests would not be limited and a letter would be forthcoming. We never received such a letter or any indication suggesting a reasonable scope of discovery. As a result, and in an effort to comply with Judge Duffy's instructions about various discovery requests, we did expand the temporal scope from the original scope of *one year before the date of manufacture to one year after the date of manufacture to the date of manufacture of the tire at issue to the date of Plaintiff's accident*. We disagree with your contention that we imposed a time limitation. It's a rational and reasonable time scope, particularly in light of your refusal to move off a limitless

¹ This matter involves a particular tire G670RV 295/80R22.5 bearing DOT No. DANU2CAW3503, which designation indicates a particular tire manufactured by Goodyear Dunlop Tires North America, LTD ("GDTNA") at its Tonawanda (Buffalo), New York plant during the 35th week of 2003.

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time period in many of your requests. We request that you explain why neither the original nor current time scope is sufficient. We will consider your reasoning in good faith.

REQUEST NOS. 1, 2, 4 and 5 - Privileged Claim File/Investigatory Materials

First, with respect to the privileged information you seek, your statement that "[t]hese materials are directly relevant to the design and manufacturing defects and the defendant's knowledge and notice of these defects" does not provide legal support for your position. It does not address either the timing of the creation of the information or the privileged nature of some of the information. Branham v. Ford Motor Company, 390 S.C. 203, 227 (2010) addresses the timing. It holds that "post-distribution evidence is evidence of facts neither known nor available at the time of distribution. When assessing liability in a design defect claim against a manufacturer, the judgment and ultimate decision of the manufacturer must be evaluated based on what was known or reasonably attainable" *at the time* of manufacture.

As to the privileged nature of some of the information requested:

- (a) **Request No. 1** seeks examination files, reports, photographs and notes for "all G670 claim tires including any tires sold outside of the United States";
- (b) **Request No. 2** seeks examination files, reports, testing, photographs and notes for "all G670 claim tires examined by Terry Parsons or other analysts;
- (c) **Request No. 4** seeks examination results and finding from all analysts' examination of all G670 tires, including any tires sold outside of the United States;
- (d) **Request No. 5** seeks production of all G670 claim tires, including any tires sold outside of the United States.

Among other objections, Defendants objected to the production of the examination files, reports, photographs and notes created at the request of legal counsel and in anticipation of claims. It is axiomatic under the Federal Rule of Civil Procedure 26(b)(3), things prepared "in anticipation of litigation" are generally protected from discovery, whether a party's attorney, consultant, or other agent prepared them. The privilege is premised on the idea that "not even the most liberal of discovery theories **can justify** unwarranted inquiries into the files and the mental impressions of an attorney." Hickman v. Taylor, 329 U.S. 495, 510 (1947). (Emphasis added). Therefore, Defendants will stand on their objections as to Request No. 1, 2, 4 and 5. If you have case law that supports your position that such materials are discoverable, we will consider same in good faith.

REQUEST NOS. 9 and 107 – Communications With NHTSA

Request No. 9 seeks communications with or notices to NHTSA concerning the fitment of the G670 tires; **Request No. 107** seeks communications with NHTSA and updates to the TREAD

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Act concerning "G670 or RV tires." Goodyear stands by its objections, response and offer. Goodyear indicated that it would "search for non-protected documents submitted to NHTSA concerning the fitment of G670RV 295/80R22.5 tires on substantially similar RVs from the date of manufacture of the Tire at Issue to the date of Plaintiff's accident, July 6, 2010." It also offered: "If Plaintiff will identify what is meant by the phrase "government or quasi governmental agency or entity," it will respond with responsive information identified." Please do so.

REQUEST NOS. 10 and 11 – Personnel Files of Employees

As indicated, we will search for the curriculum vitae and prior history of Defendants' employees and will produce to the extent available. However, as to the production of their employment files, Defendants stand on their objections. If you have case law that supports your request, please forward and we will consider in good faith.

REQUEST NO. 12 – Design Of Other Medium Truck Tires Made At The Same Plant

REQUEST NO. 13 – Design of All Tires, Other Than the G670 Made With the Same Or Similar Inner Liner Compound

In **Request No. 12**, you seek all design specifications, release/development files, cross section drawings, inner liner materials, compounds, etc. concerning "all medium truck or RV tires other than the G670 made at the Tonawanda plant from January 1, 2000 to the present". In **Request No. 13**, you seek all design specifications, release/development files, cross section drawings, inner liner materials, compounds, etc. concerning "all medium truck or RV tires other than the G670 made at the Tonawanda plant from January 1, 2000 to the present, that used the same or similar inner liner compound as was used in the G670...".

In addition to their objections on the basis, the requests are unduly burdensome and limitless. Defendants continue to object to the discovery of tires which are not substantially similar to the Tire at Issue. Such discovery is not supported by Gibson v. Ford Motor Co., 510 F. Supp. 2d 1116, 1120 (N.D. Ga. 2007). As stated in Gibson, a demonstration is required that models must share "pertinent characteristics" **before permitting discovery** into those other models. Id. (Emphasis added). In fact, the Gibson case holds that conclusory statements do not justify such discovery, id. at 1121, rather the Plaintiff **must** make a showing of substantial similarity:

Courts generally undertake a "fact specific determination of the extent of the similarities and dissimilarities" of claimed similar vehicle models to determine if discovery of a model other than that involved in an accident in litigation should be allowed under Rule 26. "[D]ifferent models of a product will be relevant if they share with the accident-causing model those characteristics pertinent to the legal issues raised in the litigation." The models must share "pertinent characteristics" as they relate to the accident at issue. **What is required is a**

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specific factual showing of substantial similarity. Conclusory statements of alleged similarity are not enough.

Id. at 1120 (citations omitted).² (Emphasis added). You have not demonstrated that these tires are substantially similar. Furthermore, the time period you demand is also inconsistent with the case of Branham v. Ford Motor Company, 390 S.C. 203, 227 (2010) which states that “post-distribution evidence is evidence of facts neither known nor available at the time of distribution. When assessing liability in a design defect claim against a manufacturer, the judgment and ultimate decision of the manufacturer must be evaluated based on what was known or reasonably attainable” *at the time of manufacture*.

To the extent you seek compound formulas, Defendants object to same. Courts uniformly preclude the production of information pertaining to compounds and formulas. This information constitutes extremely confidential trade secrets and is not subject to discovery. See In re Bridgestone/Firestone, Inc., 106 S.W.3d 730 (2003); In re Continental General Tire, 979 S.W.2d 609 (1998); Sears v. Nissan Motor Co., 932 F.2d 975 (10th Cir. 1991); American Standard Inc. v. Pfizer, 828 F.2d 734 (Fed. Cir. 1987); Heller v. Shaw Industries, 1997 WL 786542 (E.D.Pa. 1997); Bridgestone Americas Holding, Inc. v. Mayberry, 878 N.E.2d 189, 196 (Ind. 2007) (holding plaintiffs who proved the skim stock formula was relevant, but failed to show how the formula itself was necessary for their case, were not entitled to discover the formula); Crum v. Bridgestone/Firestone North American Tire, LLC, 907 A.2d 578, 588 (Pa. Super. 2006)(reversing the trial court and finding a tire manufacturer’s trade secret rubber compound formulas were not subject to discovery because the formulas themselves do not indicate whether a tire was defectively manufactured; knowledge of the formulas does not aid in a determining the physical properties a tire after the rubber has been cured or vulcanized). See also, In re Continental Gen. Tire, 979 S.W.2d 609 (Tex.1998); Bridgestone/Firestone, Inc. v. Superior Court, 7 Cal. App. 4th 1384, 9 Cal. Rptr. 2d 709 (1st Dist. 1992).

Defendants therefore stand on their objections raised in its Response to Request Nos. 12 and 13. If you have some reasonable alternative approach, we will consider in good faith.

REQUEST NO. 16 – Documents re Collaboration of Design of Tire by RV Manufacturers

Request No. 16, seeks “Any and all documents reflecting the identities of the recreational vehicle manufacturers who collaborated with Defendant regarding the design of the G670 tire, and any and all documents describing the nature, extent and amount of collaboration that occurred. Please see deposition of Terry Parsons Day #1, P. 56 L. 22 – P. 57 L. 6”.

² See generally Johnson v. Hankook Tire Mfg. Co., 2011 U.S. Dist. LEXIS 2783 (N.D. Miss. Jan. 5, 2011) (“As such the plaintiff’s discovery requests should be limited to the subject model and size tire and any tire that shares a common green internal specification as opposed to any tire that might share a generic component. After considering both positions, the court finds the defendant’s position the more compelling one.”). (Emphasis added).

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In your letter you state that "Terry Parsons testified that RV manufacturers participated in the collaboration for the design of the G670." The pages identified in the discovery request, however, indicates that Mr. Parsons testified that he did not know whether Goodyear ever collaborated on the design of the G670 RV tire with any manufacture. Moreover, in the deposition of Jim Koerner, he indicated that he did not have communications with RV manufacturers while designing the G670RV 295/80R22.5 tire. Nonetheless, Goodyear has agreed to search for communications at or around the time of the manufacture of the G670RV 295/80R22.5 tire with RV manufacturers concerning their input, if any, on the design of this tire.

REQUEST NO. 20 – Documents and Testing regarding Separations in G670 Tires

Request No. 20 seeks "Any and all documents and testing describing the nature, extent, amount and conditions of under inflation or over deflection that cause or produce separations in G670 tires."

Defendants stand by their objections and responses, where they have agreed to "search for testing of the G670RV 295/80R22.5 tire conducted from 35th week of 2003 (date of manufacture of the Tire at Issue) to July 6, 2010 (date of Plaintiff's accident) involving conditions of underinflation and overdeflection that cause tread separations and supplement this response accordingly."

Although you state that "I feel certain that under inflation and impact will be your defense in this case, with perhaps others," you have yet to identify your defect theories in response to discovery responses propounded to you. Defendants also incorporate the explanation and offer concerning time scope infra.

REQUEST NO. 22 – Cut Tire Analysis

Request No. 22 seeks: "Any and all documents, Cut Tire Analysis Program, Cut Tire Sheets, scanned images of tire sections, actual tire sections, protocols for evaluating findings and analysis of compliance with specifications and tolerances for all G670 cut tire analysis from development through present. Please see deposition of Terry Parsons Day #1, P. 119 L. 9 – 23, P. 122 L. 12 – 21, P. 124 L. 7 – P. 125 L. 1, P. 126 L. 7 – 15, P. 140 L. 25 – P. 141 L. 1, P. 142 L. 22 – P. 143 L. 22, P. 144 L. 13 – P. 145 L. 10, P. 147 L. 25 – P. 148 L. 10, P. 150 L. 14 - 23."

In our response, we identified and produced cut tire sheets, the development and release file, and Cured Cross Section Drawings. In its response, GDNTA indicated that it "will also search for scanned images of the cut tire sections of the G670RV 295/80R22.5 tire and instructions for conducting cut tire analysis in effect during the 35th week of 2003 (date of manufacture of the Tire at Issue) to July 6, 2010 (date of Plaintiff's accident) and will supplement this Response if any records are identified." We also agreed to produce the visual standard applicable to the inner liner for the G670RV 295/80R22.5 tire in effect during the week of manufacture (35th week of 2003) of the Tire at Issue. Please advise with specificity the information you seek and we will consider in good faith.

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Defendants also incorporate the explanation and offer concerning time scope infra.

REQUEST NO 23 – Full Section Drawings

REQUEST NO. 23 seeks “Any and all Full Section Drawings for all G670 tires. Please see deposition of Terry Parsons Day #1, P. 166 L. 24 – P. 167 L. 6.”

Are you seeking Full Section Drawings for all other tires? If you review the hearing transcript of April 15, 2014, Judge Duffy indicated that we should provide Plaintiff with the cut tire sheets concerning the other G670 RV tires. Those have been produced to you in compliance with the Court’s Order. Please clarify your request.

REQUEST NO. 25 – Joint Venture Agreement

Request No. 25, citing to Terry Parsons’ deposition, seeks “Any and all Joint Venture Agreements between Goodyear and Dunlop, including related correspondence and documentation. Please see deposition of Terry Parsons Day #2, P. 215 L. 20 – P. 217 L.1.”

In its Response, Goodyear states, subject to its objection, that “there is no joint venture agreement between GOODYEAR and GDTNA concerning the design and manufacture of the G670 295/80R22.5 tire.” Please advise if this satisfies your inquiry.

REQUEST NO. 27 – Communications Between Goodyear and Dunlop

Request No. 27 seeks “Any and all documents regarding Defendant Goodyear’s communications to Defendant Dunlop concerning manufacture of G670 tires. Please see deposition of Terry Parsons Day #2, P. 216, L. 21 - P. 217, L.2.”

Your request is not limited to the Tire at Issue and seeks communications concerning the manufacture of all G670 tires. If you will agree to limit your request to the G670 295/80R22.5 tire manufacture at the Buffalo plant, GDTNA/GY will agree to search for communications between GDTNA/GY concerning the design of the Tire at issue during the period of time that the Tire at Issue was designed and released.

REQUEST NOS. 28, 31, 33, 40 – Goodyear/Monaco Communications/Claims

Request No. 28 seeks “Any and all documents reflecting communications, exchange of funds, credits and claims between Defendant Goodyear and Monaco, and between Defendant Goodyear and any other RV manufacturer or distributor, concerning G670 tires, including any tires sold outside of the United States. Please see deposition of Terry Parsons Day #2, P. 218, L. 16 - P. 219, L. 5, P 247 L 18 – 24”; **Request No. 31** seeks: “Any and all documents regarding fitment, sale, recommendations and discussions between Defendants and any RV or motor vehicle manufacturer or distributor regarding use of the subject tire as original equipment on Monaco

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and Fleetwood vehicles and vehicles of any other RV manufacturer, including the recommended inflation pressures listed on the vehicle placard. Please see deposition of Terry Parsons Day #2, P. 247, L. 18 - 24.”: **Request No. 33** seeks: “Any and all documents, including PowerPoint presentations, related to Defendant’s meetings and discussions with Monaco and other RV manufacturers regarding the recommended inflation pressure that should be listed on the vehicle placard, the inflation pressure that should be utilized, “marginal” load carrying capacity, lack of margins, surveys, information gathered at RV rallies, and inflation issues with original equipment tires, including documents reflecting any recommendations made, testing requested or performed, and warnings to consumers or vehicle dealers and service personnel. Please see deposition of Terry Parsons Day #2, P. 228, L. 10 – 16, P. 232, L. 13 - P. 237, L. 4, P. 238, L. 8 – 21, P. 253, L. 22 - P. 254, L. 25, P. 304, L. 11 – 23, P. 305, L. 7 – 12, P. 307, L. 13 - P. 309, L. 7, P. 370, L. 10 - 13.”; and **Request No. 40** seeks: “Any and all documents reflecting the purchase of original equipment Goodyear tires, including G670 tires, and the payment of claims presented by Monaco and other Motorhome manufacturers as a result of tire failures, including any tires sold outside of the United States. Please see deposition of Terry Parsons Day #2, P. 344, L. 10 – P. 245 L. 7.”

Your request is not limited to the Tire at Issue and seeks information concerning all G670 tires. Defendants will stand by their objections and responses wherein Goodyear has agreed to “search for the number of warranty claims made by Monaco for the G670RV 295/80R22.5 tire from the 35th week of 2003 (the date of the manufacture of the Tire at Issue) to July 6, 2010 (the date of Plaintiff’s accident)” and to “search for documents reflecting communications, occurring from the 35th week of 2003 (date of manufacture of the Tire at Issue) to July 6, 2010 (date of Plaintiff’s accident), between GOODYEAR and manufacturers of substantially similar RVs concerning the appropriate fitment and tire pressure of the G670RV 295/80R22.5 tires on substantially similar RVs. Further, if you will agree to limit your request to the Tire at Issue, I will determine whether information can be produced pertaining to the claim payments made to Monaco Coach Corporation, if any, from the date of manufacture of the Tire at Issue to the date of Plaintiff’s accident. As to the PowerPoint referenced in your letter, that document does not pertain to the Tire at Issue. Please advise if this will satisfy your inquiry.

REQUEST NOS. 29 AND 32 – Sale of Tire to Monaco Coach Corporation

Request No. 29 seeks “Any and all documents showing the quantity, price, cost, profit and date of sale of all G670 tires to Monaco, including the sale of the specific Hartsock tire and Green tire and any tires sold outside of the United States. Please see deposition of Terry Parsons Day #2, P. 218 L. 22 – P. 219 L. 5.”; **Request No. 32** seeks: “Any and all documents showing the total revenue, cost, and profit pertaining to and derived by Defendant from the G670 tire line, including any tires sold outside of the United States, and including budgeting for the G670 line, cost cutting or cost containment efforts or evaluations.”

Your request is not limited to the Tire at Issue and seeks information concerning all G670 tires; however, in the interest of cooperative discovery, Goodyear has agreed to search for “documents reflecting the number of G670RV 295/80R22.5 tires sold to manufacturers for substantially

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similar RVs from the date of manufacture of the Tire at Issue (35th week of 2003) to the date of Plaintiff's accident, July 6, 2010, and will supplement this Response if any records are located." Please advise if this satisfies your inquiry.

REQUESTS NOS. 35, 36, 37, 38, 41, 42 AND 44 – AIR PERMEATION

Based on the information provided in your meet and confer letter, you are seeking "testing of the air permeation rate through the inner liner compound." In the deposition of Jim Koerner, he indicated that no such testing was performed on the Tire at Issue during the design and development of the subject tire. We also asserted a work product/attorney client privilege objection to this request and have identified testing on a privilege log. Your requests are also duplicative of Fourth Discovery Request No. 24 where you sought "All air permeation testing and intracarcass pressurization testing of G670 tires and the inner liner materials utilized in G670 tires. Page 102, Line 1 – 8." See our response to that request which also indicated that "during the design and development of the Tire at Issue, none." I believe this should satisfy your request.

REQUEST NO. 39 – Other Tires Using Same Compounds

Request No. 39 seeks: "Any and all documents, including the design specifications, development file, release file, cured tire cross section drawings, inner liner materials, compounds, and gauges, inner liner contours and cut tire documents of other tires that use the same compounds used in the subject tire including compounds identified in Hartsock.000425-000595, and .000605.1 as G18F8, G10A8 [also known as 6500 and 6178], G33T4, G12R3, B17X1, G2036, and G21G4."

As you seek information concerning other tires and compound formulas, see our Response to Request Nos. 12 and 13 above.

REQUESTS NOS. 43, 45, 46, 48, 49 AND 50 – NYLON CAP PLIES

Based on the information provided in your meet and confer letter, you are seeking the design materials and specifications for the design of the high speed test. In the interest of cooperative discovery, Defendants will search for the design materials and specifications used in the design of the prototype tires identified in the Monaco High Speed Test previously produced under Bates Label HARTSOCK.004878-004921.

To the extent that your request is not limited to the Tire at Issue and/or you seek a further response, Defendants rely on their responses and objections to this response.

You have also used as deposition exhibits various patents in Green and Hartsock. Please advise which patent for which you seek additional information concerning and we will consider in good faith.

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REQUEST NO. 51 AND 52 – Modeling/Inter-Laminar Shear Force

Request No. 51 seeks “Any and all documents related to modeling and testing of inter-laminar shear force, strain energy density, and stress and strain force in truck, RV, or G670 tires. Please see deposition of Terry Parsons Day #2, P. 323 L. 11 – P. 324, L. 8, P. 451 L.2 – P. 452 L. 4.” and **Request No. 52** seeks “Any and all documents related to the effect that cap plies have on the level, location or effect of inter-laminar shear force, and the relationship between interlaminar shear force and component separation in tires. Please see deposition of Terry Parsons Day #2, P. 325 L. 6 – P. 326 L. 4.”

Please clarify what you are seeking with these Requests. As indicated in Jim Koerner’s deposition, modeling was not used during the design and testing of the Tire at Issue prior to its manufacture. See also the Fourth Discovery Request No. 15 where the same information was provided. Based on this information, please provide a further explanation of the documents you are requesting and the time period, and we will consider in good faith.

REQUEST NO. 55 – Production Data

Request No. 55 seeks: “Any and all documents concerning production data for G670 tires, from the start of production of each to present, including total first stage construction, total second stage construction, total cured, total that passed uniformity testing, total that passed visual inspection, total sent to warehouse for sale, total scrapped or removed from production at any point for any reason, and the total cost of removed or scrapped production. Please see deposition of Terry Parsons Day #2, P. 338 L. 2 – 17, P. 340 L. 2 - 15.”

In your letter, you state that “[t]he Plaintiff has located manufacturing defects in the subject tire which indicate that it should have been scraped before leaving the plant and should never have been sold.” Although discovery requests have been served upon you requesting Plaintiff to identify the design and manufacture defects he is claiming in this matter, this is the first time that you have made this specific allegation. Nonetheless, GDTNA has agreed to search for “a document reflecting the production numbers of G670RV 295/80R22.5 at the Buffalo plant from the 35th week of 2003 (date of manufacture of the Tire at Issue) to July 6, 2010 (the date of Plaintiff’s accident).” It has also stated in response to Request No. 70, that it would “search for records of the number of finished tires scrapped at the Tonawanda plant from May 2003 to May 2006.”

To the extent that your request is not limited to the Tire at Issue and/or you seek a further response, Defendants rely on their responses and objections to this response.

Please advise if this satisfies your inquiry.

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REQUEST NO. 56 AND 57 – Claim Summary

Request No. 56 seeks “Any and all documents, reports, compilations, monthly, quarterly or yearly analysis, and trend analysis of overall G670 and medium truck tire performance, returns, warranty claims, property damage or injury claims, blowouts, separations, failures and complaints, including past or future trend analysis, predictive modeling or forecasting.” and **Request No. 57** seeks “Any and all documents concerning any task force, committee, or team that dealt with RV tire issues and problems, including field performance and adjustment and claim trends that were undesirable.”

I disagree with your contention that the property damage files were provided in an “unorganized” fashion. The data provided to you was organized by claim number and produced to you in two categories: the subject tire and the other G670 tire lines. Defendants also rely on their responses and objections to these responses as, among other objections, they are not limited to a reasonable time period, not limited to the tire at issue or substantially similar tires, and seek information protected by the attorney client/work product doctrine.

Please provide a further explanation of the documents you are requesting and the time period, and we will consider in good faith.

REQUEST NO. 58 – Chronological Life of a Tire

Request No. 58 seeks “Any and all documents regarding the expected, intended, and foreseeable useful chronologic life and mileage of G670 tires.” Plaintiff takes the position that this discovery is relevant based on an assumption that Goodyear will take the position that the subject tire involved in this lawsuit “was too old and should have been removed from service prior to the accident.” This is not a position that Goodyear has asserted to date in this litigation. However, in the interest of cooperative discovery, Goodyear agrees to produce the Product Service Bulletin for Recreational Vehicle (RV) Tires. Please advise if this satisfies your inquiry.

REQUEST NO. 59 – Tonawanda Plant Newsletter

Request No. 59 seeks “Any and all documents, including the Tonawanda plant newsletter [formerly known as The Dunlop Times], reflecting communications to Tonawanda plant employees from January 1, 2000 to present. Please see deposition of Terry Parsons Day #2, P. 363 L. 21 – 25.” Although you state that the newsletters are discoverable, you fail to correct the deficiencies in your request. As explained, your request is not limited to a relevant time period or to any description of the content of the “communications to Tonawanda plant employees.” In the interest of cooperative discovery, if you will select topics relevant to the issues in this litigation, we will search for responsive information, to the extent available from the date of the design of the tire until the date of the manufacture of the Tire at Issue.

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REQUEST NO. 60 – Release Claim Language

Request No. 60 seeks: “Any and all documents regarding the release claim language that is used when Goodyear acknowledges that a returned tire failed due to a design or manufacturing defect. Please see deposition of Terry Parsons Day #2, P. 367 L. 16 – P. 368 L. 22.”

In your meet and confer letter, you take the position that Terry Parsons testified that “Goodyear uses different language when they determine that a returned tire is defective than when they determine that a tire is not defective but decided to settle claim anyway.” However, upon review of the deposition testimony referenced in this request, the line of questioning concerned whether Goodyear would state in its release that “we admit liability, we agree to a defect.” When further inquiry was made as to the type of language used, Mr. Parsons indicated that he could not answer that question. We therefore take issue with the mischaracterization of his deposition testimony. Further, you have not articulated a reason why such information is discoverable in this litigation. Please provide a further response and we will consider same in good faith.

REQUEST NOS. 62, 63, 64, 65, 66, AND 69

Although Requests Nos. 62, 63, 64, 65, 66 and 69 seek a variety of different pieces of information, your letter seems to focus on information concerning the specific compounds used in the tire and the costs of those compounds. Your requests, however, are not limited to the Tire at Issue and seek compound formulas. Further, even the information upon which you now focus constitutes extremely confidential trade secrets and is not subject to discovery. See In re Bridgestone/Firestone, Inc., 106 S.W.3d 730 (2003); In re Continental General Tire, 979 S.W.2d 609 (1998); Sears v. Nissan Motor Co., 932 F.2d 975 (10th Cir. 1991); American Standard Inc. v. Pfizer, 828 F.2d 734 (Fed. Cir. 1987); Heller v. Shaw Industries, 1997 WL 786542 (E.D.Pa. 1997); Bridgestone Americas Holding, Inc. v. Mayberry, 878 N.E.2d 189, 196 (Ind. 2007) (holding plaintiffs who proved the skim stock formula was relevant, but failed to show how the formula itself was necessary for their case, were not entitled to discover the formula); Crum v. Bridgestone/Firestone North American Tire, LLC, 907 A.2d 578, 588 (Pa. Super. 2006) (reversing the trial court and finding a tire manufacturer’s trade secret rubber compound formulas were not subject to discovery because the formulas themselves do not indicate whether a tire was defectively manufactured; knowledge of the formulas does not aid in determining the physical properties a tire after the rubber has been cured or vulcanized). See also, In re Continental Gen. Tire, 979 S.W.2d 609 (Tex.1998); Bridgestone/Firestone, Inc. v. Superior Court, 7 Cal. App. 4th 1384, 9 Cal. Rptr. 2d 709 (1st Dist. 1992). Defendants therefore rely on their responses and objections.

REQUEST NO. 67 AND 80 – Inner Liner Dimensions

Request No. 67 seeks “Any and all documents and drawings, showing the dimensions of the contour of the inner liners of G670 tires, including the inner liner layer, squeegee or barrier layer, contour die drawings and specifications including DIE# 0I67-450 [see Hartsock.000451], any changes, and the engineering reason or rationale for the contour shape and dimensions, including

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the inner liners/squeegee's/barrier layers identified on Hartsock.00012822-00013743 as LN40945, LN39138, LN40610, LN38922, LN01105, LN41203, LN07075, SQ40946, SQ40322, SQ36494, SQ39711, SQ00308, SQ00307." and **Request No. 80** seeks: "Any and all documents reflecting the timing, reason, purpose, persons requesting, persons authorizing, nature and extent of any change, testing or evaluation of requested engineering changes, or cost of requested changes that occurred to the contour of the inner liner of the G670 tire, including drawings of the actual contour and extruder die. Please see deposition of Terry Parsons Day #2, P. 491 L. 19 – P. 492 L. 25, P. 498 L. 7 – P. 499 L. 23."

Your requests are not limited to the Tire at Issue and seek compound formulas. Courts uniformly preclude the production of information pertaining to compounds and formulas. This information constitutes extremely confidential trade secrets and is not subject to discovery. See In re Bridgestone/Firestone, Inc., 106 S.W.3d 730 (2003); In re Continental General Tire, 979 S.W.2d 609 (1998); Sears v. Nissan Motor Co., 932 F.2d 975 (10th Cir. 1991); American Standard Inc. v. Pfizer, 828 F.2d 734 (Fed. Cir. 1987); Heller v. Shaw Industries, 1997 WL 786542 (E.D.Pa. 1997); Bridgestone Americas Holding, Inc. v. Mayberry, 878 N.E.2d 189, 196 (Ind. 2007) (holding plaintiffs who proved the skim stock formula was relevant, but failed to show how the formula itself was necessary for their case, were not entitled to discover the formula); Crum v. Bridgestone/Firestone North American Tire, LLC, 907 A.2d 578, 588 (Pa. Super. 2006) (reversing the trial court and finding a tire manufacturer's trade secret rubber compound formulas were not subject to discovery because the formulas themselves do not indicate whether a tire was defectively manufactured; knowledge of the formulas does not aid in determining the physical properties a tire after the rubber has been cured or vulcanized). See also, In re Continental Gen. Tire, 979 S.W.2d 609 (Tex.1998); Bridgestone/Firestone, Inc. v. Superior Court, 7 Cal. App. 4th 1384, 9 Cal. Rptr. 2d 709 (1st Dist. 1992).

In the interest of cooperative discovery and without waiving its objections, GDTNA will agree to search for documents pertaining to the design specifications for the inner liner used during the manufacture of the Tire at Issue. As to the compound information of the inner liner, we rely on our objections.

REQUEST NO. 68 – Inner Liner Targets

Request No. 68 seeks "Any and all documents, both in print and electronic format, reflecting inner liner targets and minimums referenced in the GMS computer (Goodyear's electronic reference guide for tire design) stored data base regarding inner liners in tires. Please see deposition of Terry Parsons Day #2, P. 419, L. 14 - P. 420, L. 1."

Although Defendants have offered to search for the visual standard applicable to the inner liner for the G670RV 295/80R22.5 tire in effect during the week of manufacture (35th week of 2003) of the Tire at Issue, Plaintiff claims that this information is not what he is looking for, citing Mr. Parsons testimony in another case. Your characterization however is not consistent with Mr. Parsons' testimony or the document that you seek. Goodyear will agree to provide the visual

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standard referenced and if you still contend that the document is not what you seek, please advise and we will consider in good faith.

REQUEST NO. 72 – Computer Modeling

Request No. 72 seeks “Any and all CAD [computer aided design] files, 2D or 3D, or other computer models of G670 tires, including those used to design or evaluate G670 tires or components, including FMEA [failure modes and effects analysis] and FEM [finite element modeling] of tire stresses and failure modes including inter laminar shear, and shear strain density. Please see deposition of Terry Parsons Day #2, P. 449, L. 21 – P. 450 L.9.”

In its response, Defendants stated that they would search for “for any computer modeling conducted on the G670 295/80R22.5 tires from the date of manufacture of the Tire at Issue to the date of accident of July 6, 2010, to evaluate the performance of the tire.” Your meet and confer letter does not reflect this agreement and does not provide me with an understanding of your issues. Therefore, please revise your response and we will consider in good faith.

REQUEST NOS. 74, 75, 76, 77, 79 AND 81 75 MPH Speed Rating

Although **Requests Nos. 74, 75, 76, 77, 79 and 81** seek a variety of different pieces of information, you have apparently reduced your request to information concerning the person responsible for the reason a 75 mph speed rating was assigned to the G670 tire. Without waiving Defendants’ response and objections, we will agree to locate and disclose a person knowledgeable about the reason a 75 mph speed rating was assigned to the Tire at Issue.

REQUEST NOS. 86 AND 87 – Smithers Reports for G670 and RV tires/Medium Truck tires

Request No. 86 seeks: “Any and all documents, Smithers Reports, and color photographs or other similar reports, reflecting that Goodyear G670 tires of any size and plant manufacture, or other Goodyear or other manufacturer tires in size 295/80R 22.5 have been sectioned and its construction and components reviewed, measured and analyzed. Please see deposition of Terry Parsons Day #3, P. 161 L. 11 - 22.” and **Request No. 87** seeks: “Any and all documents, Smithers Reports, and color photographs or other similar reports reflecting that the Defendant analyzed, measured or reviewed construction or performance of competitor tires or Goodyear family tires of any size and plant manufacture in conjunction with its development and design of RV and medium truck tires, including the G670 tire line and the G291 tire in size 295/80R22.5 manufactured at the Defendant’s Wolverhampton plant.”

Defendants have responded to your request as follows:

...Further, GOODYEAR states none as to the “Smithers Reports” contained in Claim No. 459580/Thomas and referred to in Mr. Parsons’ deposition cited in this Request. The

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incident tire referenced in the Claim No. 459580 was shipped to Smithers' Laboratory at the request of Progressive Insurance's Claim Representative.

I am uncertain as to what further information you are seeking. Please indicate and we will consider in good faith. As to Request No. 87, your request for information is objectionable as, among other reasons, it is not limited to the Tire at Issue. Defendants therefore rely on their responses and objections to this response.

REQUEST NOS. 89 AND 103 – Impact Testing

Request No. 89 seeks: Any and all documents reflecting static or dynamic component, steel belt wire or cord, or complete tire impact testing of G670 tires. Please see deposition of Terry Parsons Day #3, P. 172 L. 20 - 24." **Request No. 103** seeks: "Any and all documents reflecting any impact testing of G670 tires or medium truck tires, or testing that shows any scientific relationship between an impact to a tire while in use and a separation occurring hundreds or thousands of use miles later."

Plaintiff's request is not limited to the Tire at Issue. As indicated "To require GDTNA[GOODYEAR] to search for and locate information related to all aspects of the entire G670 tire line and the design and manufacture of tires without a limitation to time, to the Tire at Issue and without limiting the Request to a specific component, aspect of the manufacturing process, or defect allegation related to the Tire at Issue is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. If Plaintiff will agree to limit this Request and address the deficiencies, GDTNA[GOODYEAR] will search for responsive documents." Nonetheless, your meet and confer letter does not resolve any of the deficiencies. If you will so limit your request, the Defendants will respond accordingly.

REQUEST NOS. 90, AND 92 - Margin

Request No. 90 seeks "Any and all documents quantifying and reflecting the amount of "margin of extra performance" in G670 tires. Please see deposition of Terry Parsons Day #3, P.185 L. 10 - 22" and **Request No. 92** seeks: "Any and all documents reflecting tests, test results and persons responsible for, the engineering rational and the specific Safety Margins, Targets, Bogeys, and Level of Performance Beyond the published ratings of G670 tires, at given loads, speeds, temperatures and inflation pressures. Please see deposition of Terry Parsons Day #3, P. 209 L. 20 – P. 210 L. 22."

Although Defendants stand on their objections, in the interest of cooperative discovery, it refers Plaintiff to the deposition of Jim Koerner who testified concerning the design of the Tire at Issue. After review of the deposition and to the extent that Plaintiff seeks additional information, specific to the testimony of Mr. Koerner, please indicate such and we will consider in good faith.

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REQUEST NOS. 91 AND 105

Request No. 91 seeks "Any and all documents quantifying, correlating or reflecting the equivalent on vehicle and roadway speeds, and on vehicle and on roadway inter-laminar shear to the test speeds of 67 inch and 120 inch diameter test wheels, and the inter-laminar shear forces imparted by the test wheels. Please see deposition of Terry Parsons Day #3, P. 202 L. 9 – 21, P. 218 L. 16 – P. 219 L. 6, P. 221 L. 14 – P. 22 L. 8." and **Request No. 105** seeks "Any and all tests, documents, technical papers and submissions to any organization, non-governmental or governmental agency which you rely upon to equate drum test speeds to real world highway speeds or to flatbed speeds as developed by Cal Span."

In your meet and confer letter, you state you are seeking documents which correlate highway speeds to the tests conducted on the Tire at Issue. However, such information is equally available to Plaintiff and his experts.

REQUEST NO. 93 – On Road Testing

Request No. 93 seeks "Any and all documents concerning on vehicle, on road, or on test track evaluation or testing performed by Goodyear or any third party of any RV tires or other tires that Goodyear used to evaluate the performance, durability or other characteristics of the G670 tire."

Although you continue to seek information concerning on road/on vehicle testing. As testified to by Mr. Koerner in his deposition, such testing was not conducted on the Tire at Issue. This is consistent with its response that "GOODYEAR states that it has not located on vehicle, road or test track testing of the G670RV 295/80R22.5 tire to evaluate its performance, conducted from the 35th week of 2003 (the date of manufacture of the Tire at Issue) to July 6, 2010 (the date of Plaintiff's accident)."

As to the time limitation, Defendants incorporate the explanation and offer concerning time scope infra. Likewise, if a further response is sought, please indicate that which you are seeking and we will consider in good faith.

REQUEST NOS. 94 AND 95 - Affidavits

Request No. 94 seeks "Any and all affidavits filed by Defendants in any G670 claim or case." **Request No. 95** seeks "Any and all depositions, including exhibits, of the Defendants' representatives, employees or former employees in any G670 claim or case." However, from your meet and confer attempts, it appears that you are solely seeking Affidavits filed by Goodyear employees.

In your letter you seek Affidavits from Goodyear's employees and state that "Plaintiff is entitled to know if the Defendant is filing affidavits, perhaps by the same individuals who filed affidavits in this case, that are contrary to the affidavit filed in the subject case." Your request as noted in our objections is over broad as it is not limited to litigation concerning the Tire at Issue but seeks

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affidavits concerning any G670 claim or case. If Plaintiff will explain why Affidavit(s), to the extent they exist, filed in support of a motion bears any relevance to the case at issue, we will consider in good faith.

REQUEST NOS. 98 AND 99 - Instructions

Request No. 98 seeks: "Any and all Tire Builder Instructions, Work Instructions, Final Finish Instructions, for G670 tires, including processing, storage, and handling of the inner liner components." Defendants have identified documents pertaining to visual standards, instructions, control plans and the like. **Request No. 99** seeks: "Any and all documents concerning the foreseeable, expected and permissible level of stretching and thinning of the G670 inner liner during tire manufacture, and how to determine if the inner liner has been stretched too thin and as a result the tire must be scrapped."

In our response, we identified responsive documents which were in your possession. You now state that our response was insufficient, and seek what seems to be work instructions concerning the construction of the inner liner. In the interest of cooperative discovery and without waiving our objections, we will agree to search for any such work instruction in effect at or around the date of manufacture of the Tire at Issue.

REQUEST NO. 100 – Documents Regarding Other Goodyear Family Tires

Request No. 100 seeks "Any and all documents concerning what other Goodyear Family tires used the same inner liner compound as the G670 tire." The "meet and confer" portion of your letter is not clear and we do not understand that which you seek... If you will rephrase your request, we will consider in good faith. As you seek information concerning other tires and compound formulas, see Response to Request Nos. 12 and 13 here.

REQUEST NO. 102 – Appropriate Inflation Pressure on Subject RV

Request No. 102 seeks: "Any and all documents reflecting the recommended and appropriate amount of inflation pressure that Mr. Rodrigues, the owner of the subject RV, should have kept in the steer axle tires of the subject RV based upon the measured weight on each tire of the front axle by Mr. Rodrigues of 6,770 pounds for the left front tire and 6,770 pounds for the right front tire."

In your correspondence, you indicate that the owner of the RV has produced the actual measured weight of the vehicle on a wheel position by wheel position basis and that the manufacture of the RV has produced a similar document. We disagree. The described weights do not reflect the loads of the RV together with the impact of the Lincoln pick-up truck with the golf cart in its bed. In our response, Defendants identified the Monaco Coach Owner's Manual, and other documents, which contain information concerning the method to weigh the RV and determine the appropriate PSI pressure of each tire. At this point in this litigation, no other response is available as it prematurely seeks expert opinions.

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Concluding comments

As always, I am available to discuss discovery in general and the content of this letter in particular. As your requests are quite voluminous and the issues presented complex, I recommend we discuss over the phone. Please advise as to your availability in the coming week. Of course, we recognize that during our attempts to meet and confer, the deadline to serve any Motion to Compel under the Local Rules is likewise extended.

Sincerely,



Bianca G. Liston

BGL/mp

cc: Mark C. Tanenbaum, Esq.
Curtis Ott, Esq.

How to Request Confidential Treatment of Early Warning Reporting (EWR) Data

You may submit a request for confidential treatment of certain Early Warning Reporting (EWR) data to NHTSA. The following questions and answers should provide you with the information necessary to ensure that your request for confidential treatment is properly considered.

1. Has NHTSA addressed what EWR data are confidential?

NHTSA has determined that certain classes of EWR information will be afforded confidential treatment. See 49 CFR Part 512, Appendix C. The classes of early warning information to where the agency has granted confidential treatment are:

- a. Data relating to warranty claims and warranty adjustments;
- b. Data relating to field reports and copies of field reports;
- c. Data relating to consumer complaints;
- d. Production numbers, other than of light vehicles; and
- e. Common Green Identifiers

2. Do I need to request confidential treatment for EWR data relating to warranty claims and warranty adjustments, field reports, consumer complaints, common green identifiers, and non-light vehicle production numbers? How do I do so?

No. You do not need to request confidential treatment for EWR data relating to warranty claims and warranty adjustments, field reports, consumer complaints, common green identifiers; and non-light vehicle production numbers. You need only place a "P" designation in the Confidentiality Request Identifier in the template file name. A "P" designation does not mean a waiver of confidential treatment of this information, only that no other request for confidentiality is being requested for this EWR file.

3. Do I need to submit a separate written request for confidential treatment to NHTSA's Office of Chief Counsel for EWR data relating to warranty claims and warranty adjustments, field reports, consumer complaint, common green identifiers and non-light vehicle production numbers?

You do not need to submit a separate written request for confidential treatment for this EWR information to NHTSA's Office of Chief Counsel since NHTSA has determined that these classes of information are confidential.

4. May I request confidential treatment for EWR data that is not subject to a class determination?

You may. NHTSA has not precluded manufacturers from submitting individual requests for confidential treatment for EWR data relating to deaths and injuries based on claims and notices, numbers of property damage claims and/or production for light vehicles.

To assert a claim for confidential treatment for EWR data relating to reports of incidents involving death and injury, numbers of property damage claims and/or production for light vehicles, you must do the following:

- a. Place a "C" designation in the Confidentiality Request Identifier in the template file name; and
- b. Submit a written request to NHTSA's Office of Chief Counsel when the EWR report containing the "C" designation is submitted to NHTSA electronically. This request should conform to NHTSA's regulations on confidential business information (49 CFR Part 512) and generally includes:
 - Submission of the information that you claim to be confidential pursuant to 49 CFR Part 512;
 - Support for your claim for confidential treatment pursuant to 49 CFR Part 512; and
 - A certificate pursuant to 49 CFR Part 512, Appendix A.

5. What will happen if I place a "C" designation on EWR data relating to reports of incidents involving death and injury, numbers of property damage claims, and production for light vehicles, but I do not submit a written request for confidential treatment to the Chief Counsel?

If you fail to submit a written request to NHTSA's Office of Chief Counsel at the time the EWR data is submitted to NHTSA, the claim for confidentiality is not valid and the information may be disclosed to the public.

6. What will happen if my request for confidential treatment does not conform to the requirements in 49 CFR Part 512?

Your request for confidential treatment must meet all the requirements in 49 CFR Part 512, including submitting the appropriate number of copies, clearly identifying the information that is the subject of the request, and providing a certification.

Failure to meet all the requirements in 49 CFR Part 512 will result in the denial of your request for confidential treatment.

7. What will happen if I do not submit adequate support for my request for confidential treatment to Chief Counsel?

You must submit adequate support that the release of EWR data will cause competitive harm and that such harm will be substantial. See 49 CFR § 512.8(c)(2). Failure to provide adequate support will result in a denial of your request for confidential treatment.

8. What do I do if I do not wish to request confidential treatment for EWR data that is not the subject of a class determination?

If you do not seek confidential treatment for information that is not subject to a class determination (i.e., incident reports on deaths and injuries based on claims and notices, numbers of property damage claims, and production information for light vehicle manufacturers only), you merely place a "P" designation in the Confidentiality Request Identifier in the template file name.

9. Where can I find more information about 49 CFR Part 512 and NHTSA's confidentiality process?

You may obtain more information about NHTSA's confidentiality process from 49 CFR Part 512 at 49 CFR Part 512 or the Office of Defects Investigation's EWR compendiums. The compendiums may be accessed at <http://www-odi.nhtsa.dot.gov/ewr/ewr.cfm>.

10. What is the address where I submit my request for confidential treatment?

You may send your request for confidential treatment to:

Office of Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Ave., SE
West Building, W41-227
Washington, D.C. 20590

You may submit your request by regular mail. However, the use of regular mail may result in a delay of the receipt of your request for confidential treatment due to the Department of Transportation's security procedure for screening incoming mail delivered by the U.S. Postal Service. Because of the potential for a delay in the receipt of requests for confidential treatment, we recommend that you submit a request for confidential treatment by an overnight courier.

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

CASE NO.: CA: 2:13-cv-00419-PMD

Plaintiff,

vs.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and Goodyear Tire &
Rubber Company, a foreign corporation,

Defendants.

_____ /

AFFIDAVIT OF TERRENCE L. PARSONS

STATE OF OHIO)
) SS:
COUNTY OF SUMMIT)

BEFORE ME, the undersigned Notary Public in and for the aforementioned State and County, personally came and appeared Terrence L. Parsons, who, upon being duly sworn, did depose and state as follows:

1. My name is Terrence L. Parsons. I understand the nature of this oath, and I am otherwise competent to testify to the matters stated in this Affidavit. This testimony is based on my own personal knowledge and the facts stated herein are true and correct.

2. I am employed as a Chief Tire Analysis Engineer for The Goodyear Tire & Rubber Company ("Goodyear").

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3. I have been employed by Goodyear and Kelly-Springfield since 1972 in various capacities involving tire technology. My work at Goodyear has involved, among other things, designing, building, and testing radial passenger, light truck, medium truck, and agricultural tires, and developing tires for specialty markets. I received a Bachelor of Science in Mechanical Engineering degree from West Virginia University.

4. As part of my duties with Goodyear, I maintain a continuing and active role in the following professional and technical associations: the Society of Automotive Engineers, the American Society for Testing and Materials, and the Tire Society.

5. From my work with Goodyear, I am generally knowledgeable about the design and manufacture of Goodyear tires.

6. I have reviewed the Rule 30(b)(6) deposition notices ("deposition notices") served by Plaintiff in this lawsuit. There, Plaintiff identifies topics, without limitation, that seek information which includes the development, design, manufacturing process, testing, and claims, pertaining to all G670 line of tires, as well as communications between the Defendants and any vehicle, manufacture, supplier or distributor regarding the appropriateness of the G670 line of tires on any vehicle or line of vehicles.

7. The deposition notices also seek production of documents based on those topics, as well as "*any and all documents related thereto.*"

8. The Defendants have already produced various documents that include those related to the design, development, and testing for the G670 RV 295/80R22.5, Load Range H tire manufactured by GDTNA and designed by Goodyear for the period of time of one year prior to

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the date of manufacture of the Tire at Issue to one year after ("Subject Tire Scope"). Based on the Court's recent ruling, the Defendants have also produced documents concerning the inner liner for the tire lines referred to as G670 in its moniker during the Subject Tire Scope. The collection of the inner liner materials took approximately six and a half days to collect. It is estimated that the collection of documents concerning the inner liners for the G670 tire lines without a limitation to time could easily take at least 5 times that amount.

9. The collection of documents in addition to those described at Paragraph 8 above and as requested by Plaintiff in the deposition notices would take considerable more time, and would greatly increase my earlier time estimate, as Plaintiff's topics are neither limited to a specific time period, nor are they limited to a specific set of documents due to the inclusion of the language seeking production of "*any and all documents related thereto.*" The collection of these documents would need to take place in multiple locations such as Defendants' headquarters and three separate manufacturing facilities.

10. Plaintiff's request for documents is unduly burdensome. For example, the request for development, design, manufacturing process, and testing documents, among others, would require the assistance of numerous employees at both the Defendants' headquarters and the manufacturing facilities where these tires are made. Defendants' development, design, manufacturing, testing records for its tires are stored using different methods. In order to attempt a document search for the broad categories of documents requested by Plaintiff in his topics pertaining to all G670 tire lines, the employees at these various locations will be diverted from their regular job responsibilities (during such an undertaking to locate review and compile such

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documents) imposing financial costs to Defendants and adversely affecting their operations. Regardless, based on the request for documents as described by Plaintiff without any limitation, it is impossible to predict the exact amount of time that a collection of this nature would take and whether, in the end, such a collection would satisfy Plaintiff's request for "*any and all documents related thereto*." In fact, a conservative estimate is that the effort would require more than a month and involve many employees.

11. Plaintiff is also seeking information relevant to all vehicles; however, based on the differences addressed herein concerning the length, weight and tire size of each RV, I do not consider all vehicles to be similar or even comparable to RVs.

12. The process and equipment used to manufacture the inner liner for the Tire at Issue in the Buffalo plant is different from the process and equipment used to manufacture the inner liners at the other plants.

13. Within the G670 tire line, there are additional load ranges: F, G and L. The inner liners vary based on the load range and maximum air pressure for the other G670 tires.

14. I report directly to Jim Stroble. Mr. Stroble is employed as the Manager of the Product Analysis Department for The Goodyear Tire & Rubber Company.

15. Mr. Stroble and I examined the Tire at Issue¹, as well as the companion tires. This examination was completed at the request of legal counsel and in anticipation of and/or preparation for litigation.

¹ The tire at issue in this case is a 295/80R22.5 Goodyear G670 RV load range H tire bearing DOT No. DANU2CAW3503.

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16. Mr. Stroble was not involved in the development, design or manufacture of the Tire at Issue.

17. I am also aware that at the time of the release of the Tire at Issue, Mike Wilps was the manager of the testing department. He was the head of the department but did not personally conduct the testing of the Tire at Issue.

18. I am also aware that Hugh Thompson assisted in the collection of documents in the Estate of Green v. Goodyear, et al. case. He had no involvement with the design, development, manufacture, testing, marketing or sale of the Tire at Issue.

19. As part of my employment and work at Goodyear, I have become generally knowledgeable concerning the types of RVs, their sizes and weights.

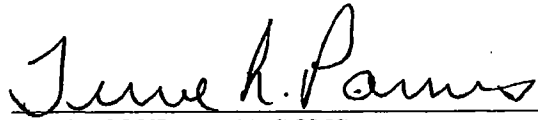
20. RVs are described in the industry by select types. These types range from Class A, B, C, Conventional Travel Trailer, Fifth-Wheel Travel Trailer, and the Folding Camping Trailer. The Class A RV is the largest of the RVs and could weigh in excess of 40,000 lbs and exceed an overall length of 35 feet. The smallest is the folding camping trailer that also has varying weights and lengths within the category. These types of RV also may be equipped with different tire sizes.

21. The manufacturer of each RV would indicate on the vehicle's placard, the recommended pressure (psi) and Gross Axle Weight Rating (GAWR) for the axles. The GAWR is the maximum weight that an axle can support. It is common that RVs in the same type have different psi tire recommendations and overall weights depending on the size and content of the RV affecting its loads.

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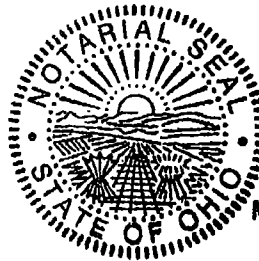
22. Based on my experience, due to the differences in the length, weight and tire size for each RV, I do not consider them collectively to be similar as is the position taken by Plaintiff's counsel in his discovery requests. Nor are RVs similar to passenger automobiles.

Further, Affiant sayeth not.


TERRENCE L. PARSONS

SWORN TO AND SUBSCRIBED BEFORE ME, Notary Public, in the State of Ohio,
County of Summit, on this 5th day of February, 2014.


NOTARY PUBLIC, STATE OF OHIO



BARBARA JOCHUM
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Stark County
My Comm. Exp. 10/21/18

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

CIVIL ACTION NO. 2:13-cv-00419-PMD

THEODORE G. HARTSOCK, JR., AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
SARAH MILLS HARTSOCK,)
)
Plaintiff,)
)
-versus-)
)
GOODYEAR DUNLOP TIRES NORTH AMERICA,)
LTC., a foreign corporation; and THE GOODYEAR)
TIRE & RUBBER COMPANY, a foreign corporation,)
)
Defendants.)
_____)

PLAINTIFF'S REPLY IN SUPPORT OF HIS MOTION TO COMPEL

Plaintiff submits this Reply to limited points raised by Defendants in their Response to Plaintiff's Notice of Motion and Motion to Compel concerning Discovery Request No's 9, 57, 68, 96 and 107.

- A. Discovery Request No's 9, 57 and 107 – NHTSA early warning notification.

Plaintiff's discovery requests concerning the NHTSA early warning notification was not limited to "non-protected documents," although Defendants placed that limitation on the search they conducted and the response they provided. Koerner has testified unequivocally that materials were submitted to NHTSA concerning the G670 RV 295/80R22.5 tire at issue in this litigation.¹ The existence of responsive materials has been established. If Defendants consider those materials "protected," a privilege

¹ Koerner Deposition 143:24-144:25 and 148:19-152:5, submitted for *in camera* review with original Motion.

log must be produced in accordance with Rule 26(b)(5)(A), Fed.R.Civ.P. No privilege log has been provided. Defendants' response is incomplete and insufficient.

B. Discovery Request No. 68 – Global Design Manual v. Global Master Specifications.

Defendants' position on the Global Master Specifications is a distraction from the issue before the Court. Taking at face value Defendants' assertion that the Global Design Manual and the Global Master Specifications are different documents, Koerner testified that he did not review the inner liner specifications included in the Global Design Manual when he designed the subject tire and acknowledged that the Global Design Manual trumps any other design criteria as to the specification of the inner liner thickness. Whether or not the Global Design Manual is covered by Discovery Request No. 68, it has been requested in the litigation and has been the subject of ongoing discussion since Koerner's deposition. (DE 100, Exhibit E item 1, Exhibit G item 1, Exhibit F item 1). In fact, the particular section in issue concerning inner liner thickness should have been produced at the outset of the discovery process in response to Plaintiff's First Discovery Request No. 11 (Exhibit L)², but the fact of its existence did not come to light until Koerner's deposition.

C. Discovery Request No's 96 and 107 – Meet and confer.

Defendants' own correspondence belies the assertion that no meet and confer occurred in regard to Discovery Request No's 96 and 107. Although Discovery Request No. 96 is not mentioned by number in correspondence from Plaintiff's counsel, in response to that correspondence Defendants referenced Discovery Request No. 96 and

² Plaintiff is continuing the lettering of exhibits beginning from the last exhibit to the original motion.

supplemented their response to Discovery Request No. 96. (DE 100, Exhibit F item 5, Exhibit G item 5, Exhibit B pp. 4-5). Defendants' correspondence of October 7 (DE 100, Exhibit F item 10) and December 22, 2014 (DE 100, Exhibit G item 10) detail the fact that Plaintiff has met and conferred concerning Discovery Request 107.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

May 1, 2015

F:\nd\Hartsock v. Goodyear\Pleadings\Drafts\Ps MTC 3\WTC reply docx-4/30/2015 3.50 PM

Exhibit L

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

CIVIL ACTION NO.: 2:13-cv-00419-PMD

THEODORE G. HARTSOCK, JR., AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF
SARAH MILLS HARTSOCK,

Plaintiff,

vs.

GOODYEAR DUNLOP TIRES NORTH AMERICA,
LTD., a foreign corporation; and THE GOODYEAR
TIRE & RUBBER COMPANY, a foreign corporation,

Defendants.

**PLAINTIFF'S FIRST
DISCOVERY REQUESTS**

The Plaintiff hereby requires the Defendant to answer under oath the Plaintiff's First Discovery Requests hereinafter set forth within thirty (30) days after the service hereof, in accordance with the Federal Rules of Civil Procedure. These Discovery Requests are served pursuant to and governed by inter alia, Rules 26, 33 and 34, Fed.R.Civ.P., and any applicable Local Civil Rule DSC. If hereinafter you are asked to produce documents or other materials which are not in your possession, but you are aware of who may have same, please either obtain a copy and produce same or set forth the name, current address and telephone number of the person or entity who may be in possession of same. Defendants' responses shall be separately and fully stated in writing and under oath. Plaintiff requests that all documents produced bear Bates stamps or numbers on them, and that your written responses identify which numbered documents respond to which discovery request. If you do not number the documents, then designate

Exhibit L

specifically which documents are responsive to which particular request. Documents include "email" and other electronic data.

1) Give the name and address of each person known to the parties or counsel to be a witness concerning the facts of the case or who you intend to call as a witness at the trial of this case, and for each, set forth a summary sufficient to inform the other party of the important facts known to or observed by such witness, indicate whether a statement has been taken from said party or witness, and provide a copy of any written or recorded statements taken.

2) Set forth a list of photographs, plats, sketches, correspondence, memoranda, notes, minutes, or other prepared documents in the possession of the party that relate to the claim or defense of the case, and produce a copy of each.

3) List the name and address of each expert witness whom the party has consulted or proposes to use as a witness at the trial of the case, each opinion that witness has or will testify to and the facts upon which that opinion is based. If you have a report from an expert witness, produce a copy of same. Produce a complete copy of said expert witness' file; of all memoranda, reports, correspondence, records and other documents said expert has considered with respect to this claim; and an up-to-date curriculum vitae for each witness.

4) Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to this action, including excess or "umbrella" coverage, the number of each such policy, the amount of liability coverage provided by each policy, and produce a copy of the policy, including the declarations page and endorsements, for each such policy. If this claim is being defended under a reservation of rights, or if any

Exhibit L

insurer has issued any communication reserving its rights as to this claim, provide copies of all documents relating to same.

5) If there is medical payments coverage or some other form of benefit available to the Plaintiff not based on fault or liability arising from this occurrence, so state and set forth the amount of such benefit and what it is available for.

6) What is the name and current address of each person who investigated this matter for the Defendant or its insurer(s).

7) Set forth the name and current address of each person who has supplied information to Defendant's counsel used to respond to these Discovery Requests.

8) If you contend that any person other than the responding Defendant contributed in any way to the cause of the incident upon which Plaintiff's claim is based, set forth the following:

- a) the name and current address of each such person or entity;
- b) each fact you base your contention upon; and
- c) the name and current address of each witness who can testify to each fact you rely upon.

9) If you have, within the past seven (7) years, been involved in litigation or had a claim made against you resulting from a delamination event with a Goodyear G670RV tire, set forth for each:

- a) the claimant's or party's name and address;
- b) the attorney's name and address;
- c) the date of the underlying occurrence;
- d) the date you were notified of same;

Exhibit L

- e) the DOT number of the tire involved;
- f) the ultimate resolution; and
- g) a copy of each Summons and Complaint served if suit was filed.

10) Produce a copy of Defendant's organizational chart showing Defendant's organizational structure, officers, all intercompany departments and the titles of the heads of each department.

11) Produce any and all documents regarding the specification for the inner liner of the Goodyear G670RV, any specification changes to the inner liner, who was involved with any specification changes and why specifications were changed for the inner liner of any Goodyear G670RV. This includes all Goodyear G670RV tires, whether manufactured in the Buffalo plant or any other plant.

12) Produce any and all documents produced in response to Requests for Production and/or per Court Order by Goodyear Dunlop Tires North America, Ltd., and The Goodyear Tire & Rubber Company in the companion matters of Kenneth J. Green, Nicole Ammons as Personal Representative of the Estate of William Y. Green, deceased, and Katherine Youngblood, as Personal Representative for the Estate of Jean M. Hodgkin, deceased, v. Goodyear *et al.* (Palm Beach County Circuit Court, Case Nos. 50-2010 CA 003001 XXXX MB; 50-2010 CA 003026 XXXX MB; and 50-2010 CA 016336 XXXX MB). This Request includes but is not limited to the following Bate Numbered documents produced in the above-referenced companion lawsuits: GY-KENGREEN-0000001-003433 and GDTNA-KENGREEN-0000001-001579.

13) Produce the entirety of the deposition transcripts, including the video and all exhibits thereto, of Goodyear employees, Terrance Parsons and Joseph Devic, taken in

Exhibit L

the companion lawsuits of Kenneth J. Green, *et al.* v. The Goodyear Tire & Rubber Company, *et al.*

14) Produce the subject failed tire from the companion lawsuits of Kenneth J. Green, *et al.* v. The Goodyear Tire & Rubber Company, *et al.* (Goodyear G670RV Unisteel, DOT# DANU2CAW0504).

15) If you refused to produce any document requested in these Discovery Requests below on the basis of privilege, please identify the document as follows:

- a) The title of the document;
- b) The author of the document;
- c) The date the document was produced and/or executed;
- d) List all parties who received copies of the document;
- e) Summarize the contents of the document; and
- f) State the exact reason you contend the document is covered by a privilege, and identify what that privilege is.

16) If any documents responsive to these Discovery Requests are lost, missing, stolen or destroyed, please list each document or class of documents that you are unable to produce and the specific reason you are unable to produce them. For each class of documents which you claim is lost, missing, stolen or destroyed, give the name and address of the last person or entity that you believe had possession, custody or control of the documentation, and the date you believe the documents were last available to you.

These Discovery Requests shall be deemed to continue from time of service until the trial of this case so that if any information sought herein comes to your knowledge or the knowledge of your representatives or attorneys after the Answers to Plaintiff's

Exhibit L

Discovery Requests have been submitted, you are required to supplement your Answers with additional responses in accordance with Rule 26(e)(1), Fed.R.Civ.P.

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ATTORNEYS FOR PLAINTIFF

May 8, 2013

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of PLAINTIFF'S FIRST DISCOVERY REQUESTS has been served upon counsel of record via electronic mail on May 8, 2013.

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GOODYEAR DUNLOP TIRES NORTH AMERICA, LTD.
THE GOODYEAR TIRE & RUBBER COMPANY

MARK C. TANENBAUM, P.A.

By: s/Doris V. Flathmann
Doris V. Flathmann
Assistant to Mark C. Tanenbaum

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Theodore G. Hartsock, Jr., as Personal
Representative of the Estate of Sarah Mills
Hartsock,

Plaintiff,

v.

Goodyear Dunlop Tires North America, LTD,
a foreign corporation; and The Goodyear Tire
& Rubber Company, a foreign corporation,

Defendants.

Case No. CA: 2:13-cv-00419-PMD

**DEFENDANTS' MOTION FOR PROTECTIVE ORDER PURSUANT
TO LOCAL RULE 30.04(C) AND RULE 26(C)(1) CONCERNING THE DEPOSITION
OF DENISE SEILER AND SUPPORTING MEMORANDUM OF LAW**

Defendants, GOODYEAR DUNLOP TIRES NORTH AMERICA, LTD. and THE GOODYEAR TIRE & RUBBER COMPANY ("Defendants"), by and through their undersigned counsel, hereby move for a protective order in accordance with Rules 26(c) and 30(d) of the FED.R.CIV.P. and Local Civil Rule 30.04(C), protecting from disclosure certain privileged information addressed during the deposition of Denise Seiler, held on April 24, 2015. Defendants further seek protection pursuant to Rule 26(c)(1), FED.R.CIV.P. from Plaintiff's demand that Goodyear identify its confidential, trade secret compound formula. Plaintiff does not consent to this motion.¹

¹ Plaintiff's counsel previously agreed to the same privileges asserted in the depositions of Jim Stroble, Jim Koerner, Valerie Wellen and John Struhsaker, concerning instructions not to answer based on communications with counsel. **Exhibit A.**

I. Local Civil Rule 30.04(C)

Pursuant to Local Civil Rule 30.04(C), counsel is required to file a Motion for Protective Order to preserve any privileges asserted during the deposition of its client within seven days after the termination of the deposition. Said Rule states:

Counsel shall not direct or request that a witness not answer a question, unless that counsel has objected to the question on the ground that the answer is protected by a privilege¹⁸ or a limitation on evidence directed by the Court or unless that counsel intends to present a motion under Fed. R. Civ. P. 30(d)(1). In addition, counsel shall have an affirmative duty to inform their clients that unless such an objection is made, the question must be answered. Counsel directing that a witness not answer a question on those grounds or allowing their clients to refuse to answer a question on those grounds shall move the Court for a protective order under Local Civil Rule 26(c) or 30(d)(3) within seven (7) days of the suspension or termination of the deposition. Failure to timely file such a motion will constitute waiver of the objection, and the deposition may be reconvened.

II. Rule 26(c)(1), FED.R.CIV.P.

Rule 26(c)(1), Federal Rules of Civil Procedure provides in pertinent part:

...

The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

- (A) forbidding the disclosure or discovery;
- (B) specifying terms, including time and place, for the disclosure or discovery;
- (C) prescribing a discovery method other than the one selected by the party seeking discovery;
- (D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;
- ...
- (G) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way.

III. Deposition of Denise Seiler – Goodyear’s 30(b)(6), Fed.R.Civ.P. Witness

Denise Seiler is an employee of the Defendant, Goodyear Dunlop Tires North America, Ltd. (“GDTNA”). She was identified as a Rule 30(b)(6) deponent to testify concerning various

areas including the design and development of the Tire at Issue. The deposition of Ms. Seiler was noticed by Plaintiff for April 24, 2015. **Exhibit B.**

During her deposition, Ms. Seiler was asked certain questions which required answers protected by the attorney-client privilege and the work-product doctrine, in addition to seeking trade secrets directed to the halobutyl content of the Tire at Issue. See also Affidavits of Terry Parsons – **Exhibits C1; C2 ¶5, 14, 24-27.** Counsel for Goodyear objected and instructed the witness not to answer such questions. In order to preserve the objections to those questions, Defendants file this motion.

The final transcripts have not been received²; however, based on excerpts from the rough drafts, the following questions were posed, instructions given and responses provided:

A. TRADE SECRET QUESTIONS – PROTECTED UNDER RULE 26(c)(1)(G), FED.R.CIV.P. AND CASE LAW

Q. All right. What is the percentage of butyl rubber in the innerliner for the G670 tire?

MR. TOOLE: I'm instructing you not to answer based on the reasons I've instructed every other witness since last Friday.

BY MR. FOUNTAIN:

Q. Do you know the butyl content of the innerliner for the G670 tire?

MR. TOOLE: I'm instructing you not to answer based on the same reasons.

...

Q. Has [there] Been any change to the [butyl] content so the innerliner of the G670 from the time production began in May of 2003 to the present?

MR. TOOLE: Same instruction.

B. QUESTIONS REGARDING DOCUMENTS SHOWN AND DISCUSSED WITH COUNSEL – PROTECTED BY ATTORNEY CLIENT/WORK PRODUCT PRIVILEGES

Q. Okay. I appreciate all that but that wasn't really my question. Pretty simple question. Did the policy in your company allow the sale of tires G670 295/80R22.5 that had innerliner thickness thinner [REDACTED], yes or no?³

² Upon receipt of the final transcript, Defendants will supplement this Motion with the respective transcript pages.

³ Confidential information has been redacted.

MR. TOOLE: Objection. Form. You don't have to answer yes or no. You can answer whatever you feel is appropriate for the question.

THE WITNESS: I believe in the beginning I clarified that the Dunlop [REDACTED], and I know from discussions with -- with Mr. Toole and from --

MR. TOOLE: Don't -- you shouldn't get into your discussions with me. That's considered privileged information and no one's entitled to know that.

THE WITNESS: Okay.

MR. TOOLE: So you can respond without giving --

THE WITNESS: I gotcha.

MR. TOOLE: -- my -- my comments or my discussion or any discussion we have had, if you can respond to his questions, that's great.

...

Q. You know that you've been produced today as a corporate representative to speak on behalf of your company, right?

A. Yes.

MR. TOOLE: Objection. Form. Move to strike.

BY MR. FOUNTAIN: That was -- that was explained to you, right?

MR. TOOLE: Same objection. Don't get into any conversations that you had with me or with any lawyer for the company.

...

Q. Which I think you had a chance to look at the exhibits before the deposition because Mr. Toole took them with him last [night]?

MR. TOOLE: Objection.

MR. FOUNTAIN: Correct.

MR. TOOLE: Objection. Form.

BY MR. FOUNTAIN:

Q. You've looked through these already?

MR. TOOLE: Same objection. I'm instructing you not to answer on things that I've asked to you look at or things you've looked at with me.

...

Q. Okay. You did look at the one last night, didn't you, in the exhibits?

MR. TOOLE: Objection. Form.

BY MR. FOUNTAIN:

Q. Did you look at that one?

MR. TOOLE: Don't -- don't answer him on what -- any conversations we may have had or any discussions we may have had or anything I've shown you.

BY MR. FOUNTAIN:

Q. I didn't ask you about any conversations you had with Mr. Toole. I said, did you see the exhibit last night that has the G670 with an innerliner [REDACTED]?

A. I don't know what you're referring to.

...

Q. All right. Well, take a look in Exhibit number 24. That is a cross-section from one of the tires made at your plant where the innerliner was measured and the measurements are reflected on the documents there and there's a little chart on the front page. Have you had a chance to review these before today?

MR. TOOLE: Objection. Form. If it's something that you and I have discussed or you've seen, don't answer it.

MR. FOUNTAIN: I just want to know are you seeing it for the first time right now or have you already seen it?

MR. TOOLE: That's the same instruction. Don't answer it if the only time you've seen it is based on conversation with me.

BY MR. FOUNTAIN:

Q. So are you going to answer the question or not?

A. I am not.

Q. Okay. All right. Let's switch gears for a minute. before I do that. Have you received any training or guidance or assistance about how to testify? How to give a deposition? Have you watched a tape? Have you been to a class? Have you received any -- and I'm not talking about what Mr. Toole told you to do or not to do but have you received any actual training on how to testify?

MR. TOOLE: Objection. Form. Just so you understand, if there's been anything associated with any lawyers for the company or from my firm, then you would not answer. If you received it -- if you have received any, you can answer if it's with -- to the exception or to the exclusion of the lawyers. Do you know what I'm saying?

THE WITNESS: Yes, sir.

MR. TOOLE: Okay.

THE WITNESS: No, I have not.

MR. TOOLE: All right.

Q. And I'm a little unclear on the answer based on the instruction. Does that mean you haven't received any training at all?

A. I've seen no videos or received any training outside of attorney-client.

Q. Okay. Gotcha. All right. Let's go to another exhibit. This is a one-page exhibit. It's Exhibit 46.

MR. TOOLE: Let's just make sure -- I move to strike that answer. I don't know how you might try and interpret that, but as to whatever preparation or meetings she may have had with me, any discussion of that or the substance of that would be protected, and I would object to that. Move to strike it.

As is shown above, the requested testimony involves questions concerning highly confidential trade secret information; and, a document reviewed and, discussions between, Ms. Seiler and GDTNA's counsel.

IV. Communications with Counsel and Documents Discussed are Governed by the Work-Product Doctrine and the Attorney-Client Privilege (Question B)

Ms. Seiler is an employee of GDTNA. Because of this relationship, any communications held in preparation for her deposition as a witness is governed by the attorney-client and work-product doctrine as more fully briefed below. Further, any documents selected and discussed by

counsel with the witness are subject to the work-product doctrine. It is axiomatic that the attorney work-product doctrine "can protect an attorney's selection and arrangement of documents in certain narrow circumstances, despite the fact that the documents themselves are not privileged." SEC v. Morelli, 143 F.R.D. 42, 47 (S.D.N.Y. 1992). See also Sporck v. Peil, 759 F.2d 312, 316 (3d Cir. 1985) ("Proper application of Rule 612 should never implicate an attorney's selection, in preparation for a witness' deposition, of a group of documents that he believes critical to a case. Instead, identification of such documents under Rule 612 should only result from opposing counsel's own selection of relevant areas of questioning, and from the witness' subsequent admission that his answers to those specific areas of questioning were informed by documents he had reviewed."); Gould, Inc. v. Mitsui Mining & Smelting Co., 825 F.2d 676, 680 (2d Cir. 1987); Schwarzkopf Technologies Corp. v. Ingersoll Cutting Tool Co., 142 F.R.D. 420, 422-23 (D. Del. 1992). Such opinion work-product is necessary for an attorney to properly prepare a client's case. Hickman v. Taylor, 329 U.S. 495, 510-511, 91 L. Ed. 451, 67 S. Ct. 385 (1947)). The documents, which are the subject of Question B, were selected by counsel and shown to the witness, and discussed by counsel, in preparation for her deposition, warranting protection from further inquiry by Plaintiff's counsel. Additionally, discussions between GDTNA's counsel and GDTNA's 30(b)(6) witness are privileged.

V. The Attorney-Client Privilege and Work-Product Doctrine (Question B)

The attorney-client privilege is "the oldest of the privileges for confidential communications known to the common law." United States v. Aramony, 88 F.3d 1369, 1389 (4th Cir. 1996) quoting Upjohn Co. v. United States, 449 U.S. 383, 389, 66 L. Ed. 2d 584, 101 S. Ct. 677 (1981). The attorney-client privilege protects "[c]onfidential disclosures by a client to an attorney made in order to obtain legal assistance." CresCom Bank v. Terry, 2013 U.S. Dist. Lexis

106994 at *8 (D.S.C. 2013) citing Fisher v. United States, 425 U.S. 391, 403 (1976). Further, the privilege protects "not only the giving of professional advice to those who can act on it but also the giving of information to the lawyer to enable him to give sound and informed advice." Aramony at 1389; AVX Corp. v. Horry Land Co., Inc., 2010 U.S. Dist. LEXIS 125169 at *4 (D.S.C. 2010). The purpose of the privilege is "to encourage full and frank communication between attorneys and their clients and thereby promote broader public interests in the observance of law and administration of justice." Id.; CresCom Bank at *8 quoting Upjohn Co. at 389. Furthermore, the privilege attaches where the client is a corporation, and where the attorney is in-house counsel. See Upjohn Co. at 390. "What is vital to the privilege is that the communication be made in confidence for the purpose of obtaining legal advice from the lawyer." CresCom Bank at *9 quoting United States v. Kovel, 296 F.2d 918, 922 (2d Cir. 1961).

The privilege derived from the attorney-client privilege is closely related to the work-product doctrine. Wells v. Liddy, 37 Fed. Appx. 53, 65 (4th Cir. 2001). Federal law governs the work-product doctrine in diversity cases. United Coal Cos. v. Powell Constr. Co., 839 F.2d 958, 966 (3d Cir. 1988). Under Rule 26(b)(3), FED.R.CIV.P., things prepared "in anticipation of litigation" are generally protected from discovery, whether a party's attorney, consultant, or other agent prepared them. The privilege is premised on the idea that "not even the most liberal of discovery theories can justify unwarranted inquiries into the files and the mental impressions of an attorney." Hickman v. Taylor, 329 U.S. 495, 510 (1947). (Emphasis added). The party claiming work-product protection has the burden of establishing entitlement to it. Sandberg v. Va. Bankshares, Inc., 979 F.2d 332, 355 (4th Cir. 1992). In evaluating a claim of work-product protection, the first and central inquiry is whether the thing the party seeks to protect was prepared "in anticipation of litigation." See Nat'l Union Fire Ins. Co. v. Murray Metal Sheet

Co., 967 F.2d 980, 984 (4th Cir. 1992). "The document must be prepared because of the prospect of litigation when the preparer faces an actual claim or a potential claim following an actual event or series of events that reasonably could result in litigation." Id.

The privilege encompasses both "fact" work-product and "opinion" work-product. United States v. Under Seal (In re Grand Jury Proceedings #5), 401 F.3d 247, 250 (4th Cir. 2004). Fact work-product, which consists of documents prepared by an attorney, that do not contain the attorney's mental impressions, can be discovered but only "upon a showing of both a substantial need and an inability to secure the substantial equivalent of the materials by alternate means without undue hardship." Id. quoting In re Grand Jury Proceedings, Thurs. Special Grand Jury Session Sept. Term, 1991, 33 F.3d 342, 348 (4th Cir. 1994); see Fed. R. Civ. P. 26(b)(3). Opinion work-product, which does contain the attorney's mental processes, is "more scrupulously protected as it represents the actual thoughts and impressions of the attorney." Id. Because the work product privilege protects not just the attorney-client relationship but the interests of attorneys to their own work-product, both the attorney and the client hold the privilege. Id. Here, Plaintiff is precluded from discovering facts, information, work-product developed by Defendants' counsel, and the witness, as well as information discussed in the preparation of the witness' deposition.

VI. Core Trade Secret Inner Liner Compound Formula (Question A)

The information sought by Plaintiff is indisputably confidential trade secret information. Compound and formula data of the type sought by Plaintiff are the lifeblood of every tire manufacturer, developed at great expense, and maintained in strictest confidence. As recognized by courts across the country, the harm from disclosure would be significant, substantial, and

potentially irreparable – greatly outweighing any relevance or necessity to Plaintiff in this litigation. No protective order can adequately safeguard compound formula information.

Defendants have produced approximately 1,356 pages of confidential and proprietary documents, including schematic drawings, the development file, GMS and cured tire specifications, as well as testing information concerning the Tire at Issue. Plaintiff now demands highly confidential and proprietary trade secret information regarding the halobutyl content of the inner liner of the Tire at Issue, even though this information is not relevant to Plaintiff's defect claim and lacks the requisite showing of necessity. As detailed below, the law is well-settled that trade secret material such as this is so commercially significant that its disclosure must not be permitted or compelled.

It is well-established that trade secrets are protected throughout the litigation process, from all phases of discovery through trial. Federal Rule of Civil Procedure 26(c)(1)(G) provides a protective order may be granted "requiring that a trade secret or other confidential research, development or commercial information not be revealed or be revealed only in a specified way." The reason for this protection is clear. The value of confidential information is destroyed if it is disclosed. As explained by the United States Supreme Court, "[c]onfidential business information has long been recognized as property." Carpenter v. United States, 484 U.S. 19, 26 (1987). The nature of a trade secret is that it derives its value from not being known to others. "[T]rade secrets partake of the nature of property, the value of which is completely destroyed by disclosure." In re Iowa Freedom of Information Council, 724 F.2d 658, 664 (8th Cir. 1984); In re Remington Arms Co., Inc., 952 F.2d 1029, 1032 (8th Cir. 1991) ("Public disclosure of trade secrets extinguishes the owner's property rights") (citing Ruckelshaus v. Monsanto Co., 467 U.S. 986, 1002 (1984)).

A. Trade Secret Status of Tire Companies' Formulas and Compounds is Well-Established and the Need to Protect that Data from Disclosure is Not Novel

The halobutyl content of the Tire at Issue's inner liner is indisputably a trade secret. Federal and state courts across the United States have afforded trade secret protection to tire compounds and formulas – including halobutyl content – finding that the value of preserving such information as trade secret justified excluding such data from the discovery process. Hajek v. Kumho Tire Co., 4:08CV3157, 2010 WL 503044, at 10* (D. Neb. Feb. 8, 2010) objections overruled, 4:08CV3157, 2010 WL 1292447 (D. Neb. Mar. 30, 2010) (denying motion to compel production of rubber compound formulas, including halobutyl percentages); see also, In re Continental Gen. Tire, 979 S.W.2d 609 (Tex.1998); In re Bridgestone/Firestone, Inc., 106 S.W.3d 730, 733 (Tex.2003); and Bridgestone/Firestone, Inc. v. Superior Court, 7 Cal.App.4th 1384, 9 Cal.Rptr.2d 709 (1st Dist.1992); In re Continental General Tire, 979 S.W.2d 609 (1998); American Standard Inc. v. Pfizer, 828 F.2d 734 (Fed. Cir. 1987); Heller v. Shaw Indus., 1997 U.S. Dist. LEXIS 18521 (E.D. Pa. 1997).

B. The Potential Harm to Goodyear Substantially Outweighs the Necessity of Disclosing this Trade Secret Information

The attached affidavits establish the trade secret nature of the information sought and the potential harm that its release would cause. **Exhibits C1; C2 ¶5, 14, 24-27.** Compelling disclosure of compound formulas puts them at risk for exploitation, irrespective of the assurances of the parties, counsel, or their retained consultants. The tire industry is global, and efforts by overseas companies to obtain trade secrets are well-known. Even inadvertent disclosures of trade secrets present a clear and present commercial danger. If Defendants are forced to disclose such data, and it falls into a competitor's hands, a sanction order could not make Defendants whole, and the harm could well be irreparable.

VII. Conclusion

WHEREFORE, Defendants, GOODYEAR DUNLOP TIRES NORTH AMERICA, LTD. and THE GOODYEAR TIRE & RUBBER COMPANY, respectfully request that this Court enter an Order granting its Motion for Protective Order Pursuant to Local Rule 30.04(C), preserving its privileged objections and sustaining counsel's instructions to the witness, Denise Seiler, not to answer questions protected by the attorney-client privilege and/or work-product doctrine; and, pursuant to Rule 26(c)(1), Fed.R.Civ.P, to prevent disclosure of highly confidential trade secrets.

s/ Curtis L. Ott

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Attorneys for Defendants

May 1, 2015

Columbia, South Carolina

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

CIVIL ACTION NO.: 2:13-cv-00419-PMD

THEODORE G. HARTSOCK, JR., AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
SARAH MILLS HARTSOCK,)

Plaintiff,)

-versus-)

GOODYEAR DUNLOP TIRES NORTH AMERICA,)
LTD., a foreign corporation; and THE GOODYEAR)
TIRE & RUBBER COMPANY, a foreign corporation,)

Defendants.)

) NOTICE OF VIDEO
) DEPOSITIONS DUCES
) TECUM

TO: CURTIS L. OTT, ESQUIRE, GALLIVAN WHITE & BOYD, P.A., AND M. GARY
TOOLE, ESQUIRE, McDONALD TOOLE WIGGINS, P.A., ATTORNEYS FOR
DEFENDANTS:

YOU WILL PLEASE TAKE NOTICE that the undersigned counsel for the Plaintiff
will take the following video depositions, pursuant to the Federal Rules of Civil Procedure,
before a Notary Public in and for the State of New York, or some other officer authorized
by law to administer oaths and take depositions and thereafter, from day to day as the
taking of the deposition may be adjourned, at Hilton Garden Inn, 4201 Genesee Street,
Cheektowage, NY 14225 (Buffalo Airport):

DEPONENT

DATE/TIME

Dan Badzinski

April 23, 2015 at 9:00 a.m.

Denise Seiler

April 24, 2015 at 9:00 a.m.

Deponents shall bring to the deposition all handwritten, recorded or otherwise
prepared documents related in any way to the subject matter of the litigation in the

deponent's possession. This shall include any statement given to anyone related to the incident in question. In accordance with the Court's order of May 5, 2014 (DE 83, p.5) the production of documents by the deponents requested herein is limited to those "documents or files that the employees have in their personal possession and that Defendants would not have been able to produce in response to previous requests for production."

PLEASE BE PRESENT if so minded.

MARK C. TANENBAUM, P.A.



By: _____

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LITTKY-RUBIN**
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ATTORNEYS FOR PLAINTIFF

April 2, 2015

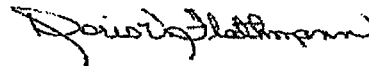
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of **NOTICE OF DEPOSITIONS DUCES TECUM** has been served upon counsel of record by electronic mail on April 2, 2015:

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By: _____
Doris V. Flathmann
Assistant to Mia Lauren Maness, Esquire

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Kevin Asanoff

From: Doris Flathmann <Doris@tanenbaumlaw.com>
Sent: Thursday, April 02, 2015 3:03 PM
To: Bianca Liston; Curtis Ott (cott@GWBlawfirm.com); Gary Toole; Michelle Preiser; Missie Urch (murch@GWBlawfirm.com); Sandy Moore (smoore@GWBlawfirm.com); Shannon Rush
Cc: Mark Tanenbaum; Mia Maness; Don Fountain; Suzan Bates; Karen Sandoval
Subject: Hartsock v. Goodyear Dunlop North America, Ltd., et al. - Civil Action No. 2:13-cv-00419-PMD
Attachments: Goodyear employee-Parsons & Carncross.pdf; Goodyear employee- Badzinski & Seiler.pdf

Dear all:

Attached for service are the following notices: (1) Notice of Taking Video Depositions Duces Tecum for Terry Parsons and Robert R. Carncross; and (2) Notice of Taking Video Depositions Duces Tecum for Dan Badzinski and Denise Seiler.

Thank you, Doris

*Doris V. Flathmann
Assistant to Mark C. Tanenbaum
and Mia Lauren Maness*

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PLEASE NOTE OUR NEW TEMPORARY STREET ADDRESS BELOW

MAIL: PO Box 20757 | Charleston, SC 29413-0757

TEMPORARY STREET ADDRESS: 120 CHURCH STREET/CHARLESTON, SC 29401

This communication may be attorney-client privileged or otherwise confidential. If you are not the intended recipient, please delete this message and notify the sender of this error.

EXHIBIT C1

DOCKET 107-3 (OMITTED)

AFFIDAVIT OF TERRENCE PARSONS, 4/24/2015

SEE DOCKET 103-3 AT JOINT APPENDIX VOL. IV, PP. 243-248

EXHIBIT C2

DOCKET 107-4 (OMITTED)

**AFFIDAVIT OF THE GOODYEAR TIRE & RUBBER CO.
(TERRENCE PARSONS) WITH EX. 1
EX. 1: COMPARISON OF G670 TIRES**

SEE DOCKET 104-3 AT JOINT APPENDIX VOL. IV, PP. 279 -288