

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JOHNNY BATES and	:	
PATRICIA MIDDLETON BATES,	:	
	:	
Plaintiffs,	:	
	:	CIVIL ACTION NO.
v.	:	1:09-CV-3280-RWS
	:	
MICHELIN NORTH AMERICA,	:	
INC.,	:	
	:	
Defendant.	:	

ORDER

This case comes before the Court on Defendant’s Motion to Compel Production of Tires and Rims [35] and Defendant’s Motion for a Hearing [47].

After a review of the record, the Court enters the following Order.

The Federal Rules of Civil Procedure specifically provide for the production of relevant tangible things for inspection, testing, and sampling, upon request by an opposing party. See Fed.R.Civ.P. 34(a)(1). The Rule requires that the request “must specify a reasonable time, place, and manner for the inspection and for performing the related acts” Fed.R.Civ.P. 34(b)(1).

Accordingly, Defendants are entitled to inspect and test the subject tire, the other tires mounted on, or found in, the subject vehicle, and the rims on which those tires were mounted. The Court **GRANTS** Defendant's request to nondestructively examine and/or inspect the tires and rims at issue in its testing facility in Spartanburg, South Carolina.

However, the Court additionally recognizes that the evidence at issue is fundamental to Plaintiffs' case in chief and therefore, Plaintiffs have the right to be present while the property is being investigated and examined. Defendant's request for unsupervised access to the tires and rims is **DENIED**.

The Court **ORDERS** that, on a mutually agreed upon date, Plaintiffs shall transport the tire to Defendant's facility in Spartanburg, South Carolina for inspection, and/or examination by Defendants and their consultants. Any examination, inspection, or testing of the subject tires and rims will take place in the presence and under the observation of a representative of Plaintiffs. Defendants may conduct confidential communications outside the presence of Plaintiffs' representative. Following the inspection, Plaintiffs will transport the tires and rims back to their own facility. Defendant shall bear all costs and expenses of transporting the tires and rims between the various facilities. If

additional inspections are required, Plaintiffs must make the tires and rims available under the above-stated conditions.

Based on the foregoing, Defendant's Motion to Compel Production of Tires and Rims [35] is **GRANTED in part** and **DENIED in part**. Defendant's Motion for a Hearing [47] is **DENIED**.

SO ORDERED this 30th day of July, 2010.



RICHARD W. STORY
United States District Judge