

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT IN AND FOR
ORANGE COUNTY, FLORIDA

CASE NO. 03-CA-6253/Div. 33

ALLEN M. SATTERWHITE, and
MIRIAM SATTERWHITE,
husband and wife,

Plaintiffs,

vs.

CONTINENTAL TIRE NORTH AMERICA, INC.,
a foreign corporation; CONTINENTAL
GENERAL TIRE, INC., a foreign
corporation; GENERAL TIRE, INC.,
a foreign corporation; GENCORP INC.,
a foreign corporation; GENERAL TIRE
INTERNATIONAL COMPANY, a foreign
corporation; and JASON MORENO,
individually,

Defendants.

JASON MORENO, Individually and as
Natural Guardian and Personal
Representative of the Estate of
Iliana Elisa Moreno,

Defendant/Cross-Claimant,

vs.

CONTINENTAL TIRE NORTH AMERICA, INC.,
a foreign corporation; CONTINENTAL
GENERAL TIRE, INC., a foreign
corporation; GENERAL TIRE, INC.,
a foreign corporation; GENCORP INC.,
a foreign corporation; GENERAL TIRE
INTERNATIONAL COMPANY, a foreign
corporation,

Cross-Defendants.

XIOMARA GONZALEZ, individually and
as the Personal Representative of the
Estate of MONIQUE E. ORTIZ, deceased,

Plaintiff,

vs.

CONTINENTAL TIRE NORTH AMERICA, INC.,
a foreign corporation; CONTINENTAL
GENERAL TIRE, INC., a foreign
corporation; GENERAL TIRE, INC.,
a foreign corporation; GENCORP INC.,
a foreign corporation; GENERAL TIRE
INTERNATIONAL COMPANY, a foreign
corporation; and JASON MORENO,
individually,

Defendants.

FILED
8-4-06

ORDER ON MORENO'S MOTION TO COMPEL CTNA TO RESPOND TO PLAINTIFFS' SATTERWHITE AND MORENO'S REQUEST FOR PRODUCTION AND INTERROGATORIES (SERVED ON CTNA 12/5/05); CTNA'S OBJECTION TO MORENO'S NOTICE OF TAKING DEPOSITION OF CTNA'S REPRESENTATIVE AND MOTION FOR PROTECTIVE ORDER (SERVED 5/2/06); CTNA'S OBJECTIONS TO SATTERWHITE'S REQUEST TO PRODUCE (SERVED 6/7/06)

THIS MATTER came before the Court regarding the scope of discovery to be permitted in this case. Having heard argument, the Court finds:

This case involves an accident in which the treadbelt separated from the carcass of a tire manufactured by the Defendant, CONTINENTAL TIRE NORTH AMERICA, INC (hereinafter "CTNA"). The accident tire was a P205/70R15 Ameri*Tech ST tire bearing DOT Serial #A3MOFFA253. Said tire was manufactured by CTNA at its Mt. Vernon plant in the 25th week of 1993. The accident occurred on April 15, 2002 following a tread belt separation of the right rear tire on a vehicle driven by Defendant/Cross-Claimant, JASON MORENO, (hereinafter "MORENO"). Jason Moreno lost control and crossed the median of Interstate 4, striking the vehicle driven by Plaintiff, ALLEN M. SATTERWHITE (hereinafter "SATTERWHITE").

The Court finds that CTNA has produced information from its Committee studying tread belt separation documenting the fact that its study involved all of its passenger and light truck tires. (See Belt Edge Durability Committee Minutes, 27 pages, Nos. Sat0406000148-174). Additionally the Court finds that Plaintiff seeks discovery of tread belt separation and belt edge durability information involving all tires made with the same skim stock used in the subject tire. The Court has considered the affidavits of David Osborne and Dennis Carlson. The Court finds that the skim stock in the subject tire was the same as used by CTNA in other passenger and light truck tires.

Additionally, the Court finds Plaintiff seeks information as to those tires made in the time period the subject tire was made that were made with nylon cap overlays. The Court further finds that Plaintiff seeks CTNA documents regarding tire aging.

CTNA has failed to produce relevant information and findings and instead has limited its production to only one of its many tires, a P205/70R15 Ameri*Tech ST tire, and further limited its production only to those tires built at its Mt. Vernon plant.

SATTERWHITE seeks discovery of relevant and logical information not limited in the unilateral manner the defendant has chosen (specific tire and specific plant). Satterwhite seeks

information as to all passenger and light truck tires manufactured by CTNA in which the belt edge separation problem was investigated and/or which were made with the same skim stock. The record establishes that CTNA was concerned with the problem of tread belt separation across many tire lines and the CTNA tread belt separation study involved all CTNA passenger tires and all CTNA light truck tires. The Court finds Plaintiff has made a sufficient showing that "substantially similar" tires were being studied and that tires using the same skim stock were substantially similar to the subject tire.

SATTERWHITE specifically seeks discovery of said information for a period of 5 years before the manufacture of the subject tire and through April 15, 2002, the date of the subject accident.

IT IS HEREBY ORDERED AND ADJUDGED that:

1. MORENO'S Motion to Compel is GRANTED.
2. CTNA'S Objection to MORENO'S Notice of Taking Deposition and Motion for Protective Order is DENIED.
3. CTNA'S Objection to SATTERWHITE'S Request to Produce is DENIED.

IT IS FURTHER ORDERED AND ADJUDGED that CTNA shall produce:

1. All material gathered, considered, created by, and/or distributed by the Belt Edge Durability Committee for the purposes of evaluating tire performance and tread belt separation based on warranty data, field engineering data, and tire development testing results and all reports, documents, data or information in written, electronic or other format relating to all monitoring of design changes dealing with belt durability, as well as all material relating to proposed design changes addressing the issue of belt edge durability.

2. All adjustment data and codes involving all passenger and light truck tires with the same skim stock as the subject tire including all tests including wire coverage tests, holographic studies, x-rays, and tire cut analysis for tires manufactured with the same skim stock.

3. All documents relating to the manufacturing processes at the Mt. Vernon plant for the years 1992 through 1995.

4. All documents relating to tire aging.

5. All documents relating to nylon overlay design analysis and consideration and decision making as to which tires incorporate nylon cap plies, as well as, adjustment data and/or analysis of all 14 and 15 inch tires incorporating nylon overlays manufactured in the years 1992 through 1997.

6. All items produced shall be for a limited period of 5 years before the manufacture of the subject tire through April 15, 2002, the date of the subject accident.

IT IS FURTHER ORDERED AND ADJUDGED that CTNA shall produce all of these items within twenty (20) days of this Order.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida, this ____ day of _____, 2006. **Original Signed**

AUG 01 2006

Judge of Circuit Court **LAWRENCE R. KIRKWOOD**
CIRCUIT COURT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to Milford Forest Hutchinson, III, Hutchinson & Associates, 5100 Sunbeam Road Suite 1, Jacksonville, FL 32257; Steven J. Rothman, Esq., Jones, Foster, Johnston & Stubbs, P.A., P.O. Box 3475, West Palm Beach, FL 33402-3475; Pierre Seacord, Esq., Ringer, Henry, Buckley & Seacord, P.A., P. O. Box 4922, Orlando, FL 32802-4922; Bruce R. Kaster, Esq., Bruce R. Kaster, PA, P.O. Box 100, Ocala, FL 34478-0100; and to Orman L. Kimbrough, Jr., 236 S. Lucerne Circle at Delaney, Orlando, FL 32856-8188, this ____ day of _____, 2006.

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AUG 01 2006
GAIL ROBINETTE
JUDICIAL ASSISTANT