

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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NORMA GARCIA, as Guardian
of Jorge Lizandro
Garcia, an incompetent
person,

MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

Plaintiff,

v.

CASE NO. 8:99-CV-1611-T-17TGW

KELLY-SPRINGFIELD
TIRE COMPANY, a foreign
corporation, and THE GOODYEAR
TIRE & RUBBER COMPANY,
a foreign corporation,

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Defendants.

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ORDER

This cause is before the Court on:

Dkt. 443 Motion in Limine to Exclude All Reference
To Other Models of Tires Manufactured by
Kelly-Springfield Tire Company, Goodyear
Tire & Rubber Company, or Other Tire
Manufacturers

Dkt. S-37 Response

Defendants move for an order precluding Plaintiffs, their attorneys and all witnesses from referring to, commenting on, or otherwise attempting to introduce at trial, any and all evidence pertaining to the testimony of other models and sizes of tires manufactured by Goodyear or other tire manufacturers. Defendant argues that such evidence will create jury confusion, and create the risk that a juror will find fault with Defendants because of allegations regarding other tire designs by other parties. Defendants also contend that evidence and testimony regarding other tire designs will lengthen the trial and waste time.

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Defendants argues that the focus of this trial is a Power King LT 235/85 R 16 steel belted radial tire with DOT serial number PJORAPLV224, and the specifications of this tire provides the proper scope of evidence in support of Plaintiff's claims. Defendant argues that evidence of claims, lawsuits and investigations of other produces will produce hopeless jury confusion. Defendant further argues that evidence of other tire models is not admissible unless the design and manufacture of those models is the same as, or substantially similar to, the model at issue.

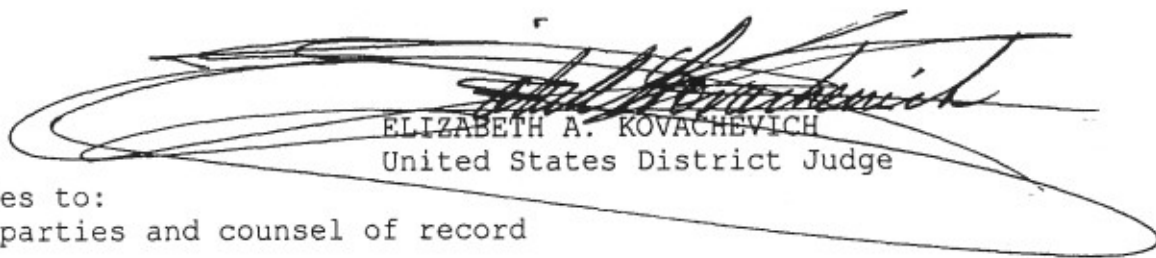
Plaintiff responds that the subject tire is identical to, or at least substantially similar to other radial light truck tires manufactured under other brand names, based on expert testimony. Defendant Goodyear investigated the tread throw problem with Load Range E tires, and included tires that were identical or substantially similar to that tire, which failed in the same manner and exhibited the same failure mechanism as the tire in this case.

After consideration, the Court concludes that evidence of other tires is admissible if the design and manufacture of those models is substantially similar to the model at issue. Accordingly, it is

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ORDERED that the Motion in Limine (Dkt. 443) is **denied**.

DONE and **ORDERED** in Chambers, in Tampa, Florida on this
27th day of February, 2004.



ELIZABETH A. KOVACHEVICH
United States District Judge

Copies to:
All parties and counsel of record