

IN THE STATE COURT OF WALKER COUNTY
STATE OF GEORGIA

FILED IN OFFICE
JUN 09 2008

Richard D. ...
Clerk

LEONARD L. HEAVRIN, JR. and
RANDALL G. HEAVRIN, Individually, as
the surviving children of Leonard L. Heavrin,
Deceased; and DEREK SHEPHERD, as
Attorney in Fact for HARRY SHEPHERD,
Individually, as the sole surviving parent of
Nancy Heavrin, Deceased,

Plaintiffs,

v.

BRIDGESTONE CORPORATION;
BRIDGESTONE AMERICAS HOLDING, INC.;
BRIDGESTONE FIRESTONE NORTH
AMERICAN TIRE, LLC; and
WILLIAM A. CHASTAIN,

Defendants.

CIVIL ACTION

NO. 06CV5909

PLAINTIFFS' SECOND MOTION FOR SANCTIONS

Defendants Bridgestone Firestone North American Tire, LLC and Bridgestone Americas Holding, Inc. (collectively "Firestone") filed a motion with the Court requesting that the Court order plaintiffs to provide them with the subject tire for inspection at the Firestone inspection laboratory in Akron, Ohio and outside the presence of plaintiffs' counsel. Although plaintiffs repeatedly offered Firestone access to the tire for inspection at the location where the tire was stored, Firestone insisted that it needed the tire at its own laboratory to use all the "specialized equipment" that was available at that inspection facility.

Specifically, Firestone argued that it was necessary to take the tire to Ohio because "[w]e have special lighting, special tire mounting machines, special tire x-ray equipment that can move

the tire around so it can be x-rayed from different angles, specialized microscopes and other equipment, none of which, obviously, is commonly present in just any location.” (See Hrg of 5/1/07 at 39, Attached as Exhibit 1.) Firestone also submitted the affidavit of engineer Brian Queiser who explained: “[G]iven the equipment that may be necessary for a *thorough and proper forensic examination* of a tire involved in litigation – including high intensity lighting, x-ray equipment, specialized microscopy and photograph equipment, tire spreaders, and demounting machines – the examination should take place in specially-outfitted engineering facilities, such as at Bridgestone/Firestone’s Akron Technical Center in Akron, Ohio.” (See Affidavit of Brian J. Queiser dated September 1, 2006, attached as Exhibit 2 (emphasis added)). Based upon these assertions, the Court entered an order on March 4, 2008 requiring plaintiffs to transport the tire to Akron, Ohio as many times as Firestone requested during a 90-day period.

After the order was entered, Firestone requested a single inspection of the subject tire. On Firestone’s requested date of April 25, 2008, attorneys for plaintiffs and plaintiffs’ tire consultant transported the subject tire to Akron, Ohio for Firestone’s requested inspection. As a videotape of the tire inspection reveals (See videotape DVDs, attached as Exhibit 3), Firestone’s assertions about its need to have the tire inspection at its Akron facility were proved utterly false. During the approximately 7-hour inspection by 2 different tire inspectors, the tire remained on a table in the laboratory and was only transported to another table to be photographed. Although the Firestone inspectors used a light and magnifying glass to look at the tire, the tire was never x-rayed, no microscopes were used, and no specialized equipment was employed.¹ Everything

¹ Although one of Firestone’s experts did use a tire spreader to examine the tire, the other expert showed that a wooden stick could be just as easily used. Further, a tire spreader was available at the Birmingham facility where the tire was stored and where plaintiffs originally offered it for inspection.

done to this tire could have been done at the facility in Birmingham where plaintiffs originally offered Firestone an inspection.

It is now clear that the entire purpose of Firestone's motion was to either get the tire away from plaintiffs' counsel or to delay this case. As the Court will recall, Firestone repeatedly claimed it could not comply with discovery until it had inspected the tire and that it could not inspect the tire until it could do so secretly at its facility in Akron where Firestone had the "specialized equipment" it needed to inspect the tire. (See letters dated 07/26/06 and 08/11/06 attached as Exhibit 4 and 05/01/07 Hrg at 44 and 46, attached as Exhibit 1.) To the extent that it was Firestone's goal to delay the case, it succeeded. From the date the case was filed, it took almost 2 years for this inspection to take place and took almost 2 years for Firestone to make any attempt to respond to discovery, and that came only after an order of this Court granting the motion to compel.² There was certainly no need for the delay or for the tire to travel to Akron at considerable expense to the Heavrin family. As plaintiffs repeatedly explained, Firestone was always welcome to examine the subject tire at the location where the tire was stored.

Because Firestone made false representations to the Court which resulted in the Heavrin family paying considerable expense and incurring considerable delay to their case, plaintiffs request that the Court require Firestone to pay for the attorney's fees and travel expenses related to this inspection and motion. In the event the Court grants this motion, plaintiffs will prove the amount of those expenses to the Court.

² And Firestone still has not complied with this Court's order granting the motion to compel. Firestone's disregard of the Court's directive necessitated plaintiffs' first motion for sanctions filed on May 6, 2008 included in its response to Firestone's Motion for Clarification and/or Reconsideration.

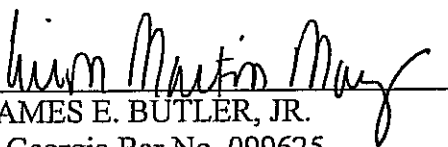
CONCLUSION

For all the reasons set forth above, Plaintiffs respectfully request that this Court GRANT Plaintiffs' Second Motion for Sanctions. Firestone's misrepresentations have caused the Heavrin family to incur considerable expense which should be paid by Firestone—not the Heavrin family.

This 5th day of June, 2008.

Respectfully Submitted,

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EXHIBIT 1

IN THE STATE COURT OF WALKER COUNTY

STATE OF GEORGIA

LEONARD L. HEAVRIN, JR., and)
RANDALL G. HEAVRIN, Individually,)
as the surviving children of)
Leonard L. Heavrin, Deceased;)
and DEREK SHEPHERD, as Attorney)
in Fact for HARRY SHEPHERD,)
Individually, as the sole surviving)
parent of Nancy Heavrin, Deceased,)

Plaintiffs,

) CIVIL ACTION FILE

) NO. 06W-5909

v.)

BRIDGESTONE CORPORATION; BRIDGESTONE)
AMERICAS HOLDING, INC., BRIDGESTONE)
FIRESTONE NORTH AMERICAN TIRE, LLC;)
and WILLIAM A. CHASTAIN,)

Defendants.)

TRANSCRIPT OF HEARING

LaFayette, Georgia

10:13 a.m.

Reported by: Leslie K. Estes

Certified Court Reporter, Notary Public

COPY

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1 you can take it to your -- what he calls our
2 secret laboratory in Akron, and I don't know
3 what the secret is. It's right out here in
4 the open, and we've had an affidavit
5 explaining what equipment is in the
6 laboratory and how it's used, so there isn't
7 much secrecy to it. But what he wants to do
8 is if we're going to do that, he wants to
9 come and stand behind us and look over our
10 shoulder while we're doing this, that, and
11 the other to the tire.
12 And I think it's fair to assume, Your
13 Honor -- and he hasn't denied this, and we've
14 said this in some of our pleadings -- they've
15 had the tire for nearly 18 months, assuming
16 they got it shortly after the accident, and,
17 obviously, if they wanted to -- and I'm sure
18 they have -- they've had their experts look
19 at it. And I doubt if they looked at it in
20 the wrecker service facility. I'm sure they
21 took it to their laboratories and examined it
22 any way they wanted to. I also assume, for
23 purposes of fairness, that they haven't
24 destroyed anything or done anything
25 destructive. I have no evidence of that.

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1 But that's all we want. We just want a
2 level playing field. We want to be able to
3 do what they did. We didn't look over their
4 shoulder when they examined it, and the law
5 doesn't give them any special privilege
6 because they happen to have possession of the
7 tire or because they're the plaintiffs. The
8 parties are deemed equal before the Court.
9 Now, we have offered an affidavit of
10 Brian Queiser, who is the manager of
11 Firestone's product analysis department, as
12 to why it's important to have this tire
13 examined in the Firestone laboratory. And I
14 can go into this in as much detail as
15 necessary. I don't know that it's highly
16 disputed. We have special lighting, special
17 tire mounting machines, special tire x-ray
18 equipment that can move the tire around so it
19 can be x-rayed from different angles,
20 specialized microscopes and other equipment,
21 none of which, obviously, is commonly present
22 in just any location.
23 We also have the means to safeguard the
24 tire while it's there. We have
25 chain-of-custody provisions, security, fire

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1 protection, those kinds of things. It's not
2 something that is going to put a tire at
3 risk. By the way, there's no indication,
4 Your Honor, in the record that any tire that
5 Firestone ever got from any plaintiff or
6 claimant didn't get properly, safely, and
7 nondestructively examined and returned to
8 that party. So it's not like we have some
9 kind of bad track record that he has reason
10 to worry about. We've done a lot of this, as
11 you might know.
12 We may use outside consultants, in other
13 words, engineers who don't work for
14 Firestone, who might come in as our
15 consultants and tell us what they think about
16 the tire. Now, obviously, we've got to
17 coordinate the visits of those people, so
18 this is not something that can just be turned
19 on a dime and done in a few hours. These
20 people travel from different places. And,
21 also, I think it's fair -- and I'm sure they
22 took advantage of this to the extent they
23 wanted to -- you know, if you want to go back
24 and look at the books or look at the design
25 or look at, you know, a treatise or something

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1 and then come back and see how that applies
2 to the tire, that doesn't -- it all can't be
3 done just instantly, and so we ought to be
4 given a reasonable amount of time to do it
5 and spread over several days, at least, which
6 obviously presents a problem from the
7 standpoint of having them standing around
8 waiting for us. There's nothing sinister in
9 any of this. There's nothing secret in any
10 of this.
11 And it's interesting to me that
12 Mr. Fryhofer quoted from the multidistrict
13 litigation, Your Honor, because we have
14 quoted from that, as well, in our filings.
15 Exhibit G to our motion are two orders from
16 the same multidistrict litigation in which
17 the Court twice ordered exactly what we're
18 requesting in this motion. Judge Shields
19 said, Firestone is entitled to examine and
20 perform nondestructive testing on the subject
21 tires from each case in its own facility in
22 Akron. It is not required to disclose to
23 plaintiffs' counsel what type of
24 nondestructive testing it intends to perform.
25 And then it says, you know, Firestone will

12 (Pages 42 to 45)

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<p>1 return the tires after the nondestructive 2 testing, and it says no destructive testing 3 may be performed. 4 And then in her second order, she gets a 5 little more specific. She says they're 6 individual cases that have to be addressed, 7 and Firestone has the right to take 8 possession of the subject tires in any case 9 for a period of 45 days. During that time, 10 they can conduct whatever nondestructive 11 testing and examination of the tires that it 12 wishes, as long as the tires are not altered. 13 And then they'll be returned in 45 days, and 14 the parties were urged to document the 15 condition of each subject tire before it 16 leaves their control. 17 So the same multidistrict litigation, 18 Your Honor, that Mr. Fryhofer is relying on 19 in the jurisdictional issue we're saying 20 shows that in a case that may have hundreds 21 of tires involved in a recall -- and by the 22 way, I want to stop here and say this is not 23 a recalled tire. It's been examined by the 24 National Highway Traffic Safety 25 Administration in a preliminary examination,</p>	<p>1 Now, the interesting language, Your 2 Honor, appears on the third page of the 3 printed decision, in the top right-hand 4 portion. It says, By preventing the parties 5 from having equal access to the pivotal piece 6 of evidence, the trial court's denial of 7 International's request thwarted the very 8 purpose of discovery. 9 And I think that equal access is not 10 just a casual phrase. Discovery means equal 11 access. It doesn't mean that they can do 12 whatever they want to in their laboratory and 13 then they can stand around and watch us or 14 try to keep us from examining the tire. We 15 should have the same access they have. 16 They've had it for 18 months. 45 days would 17 be satisfactory, as the judge did in the MDL 18 case, and we can get everything done and move 19 this case along. 20 You know, these cases cannot be resolved 21 until the product, in a product-liability 22 case, has been examined. And the fairness of 23 that examination is at issue here, and I 24 think that the leading case where the Court 25 of Appeals has addressed this is clear that</p>
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<p>1 which they closed without ordering a recall, 2 and so that just doesn't -- that's apples and 3 oranges, if I can say it that way. I just 4 diverted from the motion to amend because 5 Mr. Fryhofer brought that up. 6 The leading case, Your Honor, in this 7 area is a case called International Harvester 8 versus Cunningham, if I may approach, and I 9 have underlined certain provisions in that. 10 And that's an interesting case, Your Honor, 11 because it involves a second examination of a 12 piece of product that was involved in that 13 case, which is a crane that was on an 14 International Harvester vehicle. And in that 15 case, the trial court refused to allow the 16 second examination by the defendant's 17 experts. After the plaintiff's experts had 18 already examined it several different times, 19 they went ahead and tried the case, and then 20 a verdict was rendered for the plaintiff, and 21 the Court of Appeals, in a full bench 22 decision, reversed that verdict in part 23 because of the failure of the trial court to 24 allow that examination, the second 25 examination, by the defendant.</p>	<p>1 fairness requires equality in this 2 circumstance. They haven't pointed to a 3 single instance of fire tampering or 4 destruction. And we have offered this 5 consent order, and I do, Your Honor -- if I 6 may change it, recognizing that we're not in 7 concent mode here, I've changed the order to 8 just be the same order but not -- I think 9 this was presented. That is a composed order 10 that would set forth -- and if Your Honor 11 wants to put -- I put in there a reasonable 12 time for examination, and if Your Honor wants 13 to specify a number of days, I just hope you 14 will give us enough time to -- we obviously 15 have to ship it to Akron and ship it back and 16 we have to bring outside consultants in. 17 And, frankly, we'll be doing other things in 18 this case and it won't interfere with the 19 progress of the case to allow us, say, 45 20 days. But we would expect to try to get it 21 back in that period of time, anyway. 22 Your Honor, I've been representing 23 Firestone for over 35 years. I really 24 haven't had this kind of thing come up. 25 People turn the tires over to us --</p>

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1 plaintiffs' lawyers -- and some of them are
2 just as successful as Mr. Butler and
3 Mr. Fryhofer and are just as successful in
4 their product litigation and, yet, they give
5 us the tire and we give it back and that
6 moves the case along. We get to the next
7 phase, which is what do the experts think
8 about the tire. We can't even get to that
9 business at this point because we can't get
10 the tire in for an exam. We appreciate the
11 Court's help on this and I'm prepared to talk
12 about the other motion we have, the
13 protective order motion, but I guess in the
14 sequence, this is the one that's next. Thank
15 you, Your Honor.
16 MR. FRYHOFER: Right toward the end of
17 his argument, Mr. Adams said something. He
18 said nothing can go forward in this case
19 until there's an inspection of the tire. The
20 only reason there hasn't been an inspection
21 of the tire is because Firestone won't come
22 and look at the tire. We have repeatedly
23 offered the tire to Firestone for inspection.
24 We've told them they could come to our
25 office. We've told them they can come to

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1 Wheel Wrecker in Birmingham, and let me just
2 address that.
3 He's painted a picture of Wheel Wrecker,
4 in Birmingham, Alabama, as some junkyard with
5 a bunch of junk cars sitting around in weeds
6 and about what you'd expect at a junkyard.
7 Wheel Wrecker specializes in storing vehicles
8 in litigation and automotive components in
9 litigation for people all over the country.
10 They store vehicles for the FBI and the
11 Department of Justice. They have one of the
12 largest or indoor storage facilities in the
13 world, one of the largest indoor
14 inspection -- lighted, heated, air
15 conditioned, lifts, lighting, specialized
16 lighting. Now, I can't say they have
17 specialized tire examination equipment, but
18 experts usually bring that stuff there to
19 look at it.
20 Wheel Wrecker stores vehicles and
21 components for major automotive manufacturers
22 and plaintiffs' lawyers all over the country.
23 It is not some junkyard where you're crawling
24 around underneath cars stuck out behind some
25 building. In fact, they did an inspection of

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1 the vehicle involved in this crash at Wheel
2 Wrecker. They had their experts there and we
3 had the tire there. We even put the tire out
4 for their experts to look at it, and he spent
5 five minutes looking at it, five minutes.
6 Now, in fairness, I don't think that was
7 their tire expert. I think he was one of
8 their other experts, but it was there and it
9 was there with the rest of the vehicle.
10 There was a lawyer from Firestone who was
11 present there and he barely looked at the
12 tire. And this case has been pending a year
13 and ten months and these people haven't come
14 to look at the tire -- haven't had expert
15 come look at the tire.
16 I mean, why didn't they take us up on
17 our repeated offers for them to come look at
18 the tire, and if they needed some further
19 inspection, then come to the Court and ask
20 for that? So the dispute isn't that they get
21 an inspection and the dispute isn't that they
22 get only one inspection. This case he showed
23 Your Honor, the International Harvester
24 versus Prenger case, this had nothing to do
25 with secret, private inspections. It had

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1 nothing to do with that.
2 This is a case that got reversed because
3 the defendants got one inspection during
4 discovery. They asked for another
5 inspection, the plaintiff opposed, and the
6 Court didn't give it to them, the case got
7 tried, and the case got reversed. It does
8 not remotely stand for the proposition that
9 they're entitled to take our evidence that we
10 purchased from the insurance company, by the
11 way, and take it off and conduct some secret
12 inspection on it. Now, what they want is to
13 take possession of our tire, take it off to
14 Akron, and conduct inspections tests and not
15 allow us to be there present without us
16 maintaining control over it.
17 In practice, Your Honor, that is simply
18 not the way this works. Probably 85 to 90
19 percent of our practice is in automotive
20 products cases and automotive components
21 cases. And we've been doing this for about
22 15 years, I guess, and the only other time a
23 manufacturer ever demanded a secret
24 inspection was another tire place we had in
25 South Carolina. It was a Cooper tire. And

EXHIBIT 2

IN THE STATE COURT OF WALKER COUNTY
STATE OF GEORGIA

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RANDALL G. HEAVRIN, Individually, as)
the surviving children of Leonard L. Heavrin,)
Deceased; and DEREK SHEPHERD, as)
Attorney in Fact for HARRY SHEPHERD,)
Individually, as the sole surviving parent of)
Nancy Heavrin, Deceased,)
Plaintiffs)

v.)
BRIDGESTONE CORPORATION;)
BRIDGESTONE AMERICAS HOLDING,)
INC., BRIDGESTONE FIRESTONE)
NORTH AMERICAN TIRE, LLC; and)
WILLIAM A. CHASTAIN,)
Defendants.)

CIVIL ACTION FILE NO:
06W-5909

AFFIDAVIT OF BRIAN J. QUEISER

BEFORE ME, the undersigned authority, duly appeared Brian J. Queiser, and after being duly sworn, states as follows:

1. My name is Brian J. Queiser. I am over eighteen (18) years of age and I am competent to testify in all respects. I have personal knowledge regarding the matters stated in this affidavit. If called to testify, I could and would testify consistently with the statements in this affidavit.

2. I hold a Bachelor of Science degree in Aeronautical and Astronautical Engineering from Purdue University and a Master of Science degree in Engineering Mechanics from The Ohio State University.

3. I have been continuously employed by Bridgestone/Firestone, Inc. and then Bridgestone Americas Holding, Inc. at the Akron Technical Center since January 1994. Initially, I was assigned as an engineer in the Advanced Tire Technology Division and in August 1995 assigned as an engineer in the Passenger and Light Truck Tire Development Division. In March 2001, I transferred to the Product Analysis Department, in which I currently hold the position of Manager.

4. I have personally developed steel belted radial tires from concept through prototype development and testing, final engineering approval, and ultimately to production. The development process is rigorous, involving advanced engineering design tools such as computer aided modeling, prototyping, and extensive testing. My duties have also included requesting, performing, and evaluating the results of thousands of tire tests, conducted both within the laboratory on specialized tire testing equipment and carried out at test tracks on vehicles.

5. As a result of my job responsibilities and years of experience, I have acquired a detailed knowledge of tire engineering, including tire design, development, construction, materials, specification, testing, and performance. My extensive training and experience include ~~performing failure and causal analyses on failed or damaged tires from the field and those that~~ were subject to internal testing. I have also reviewed and become familiar with the manufacturing, quality control, and field performance processes and techniques utilized by Bridgestone/Firestone, Inc. and its successor, Bridgestone Firestone North American Tire, LLC (collectively, "Bridgestone/Firestone").

6. Currently, my primary responsibilities include tire analysis, along with basic engineering and research projects related to products manufactured by Bridgestone/Firestone.

As a regular part of my duties, I examine, test, and evaluate tires that are alleged to have become disabled in use and/or are involved in litigation.

7. Tire failure can be attributed to a variety of conditions other than a manufacturing or design defect. Conditions that can cause tire failure include impact damage, road hazard damage, improper inflation, overloading, puncture(s), mounting damage, improper repair or servicing, improper vehicle alignment, improper rim components, and operator driving habits. In addition, it is not uncommon in an accident for a tire to become damaged and/or deflated during the accident sequence by the vehicle itself or objects external to the vehicle (including the road), even when the tire sustained no failure prior to the accident itself.

8. Visual and tactile scientific examination of the physical condition of a failed tire, often including testing and/or measurement, is generally necessary to determine the specific cause of a tire failure. Though it may be possible to rule out certain design and manufacturing conditions based on known information, it is almost always impossible, without specific and detailed information of the condition of the tire after an accident, to definitively eliminate other possible causes of tire failure, as identified above.

9. I am familiar with the tools and procedures used by Bridgestone/Firestone to examine tires involved in litigation and know that such examination and testing is non-destructive unless prior approval is given by the court or agreed upon by all parties.

10. The customary procedure for conducting a thorough examination of a tire involved in litigation entails several essential steps. First, a visual and tactile scientific examination of the tire, wheel, and/or other components is conducted under specially designed and arranged high intensity lighting. Observations of the condition of the tire are recorded. If necessary, the tire is carefully demounted from the wheel utilizing proper equipment and

examination of the interior of the tire is performed. Non-destructive testing and measurements are conducted, such as with a durometer gauge to determine the hardness of the tire rubber at various points, which does not puncture or affect the physical integrity of the tire and leaves no visible marks.

11. Additionally, the tire may be examined with an x-ray machine and monitor designed for use with tires. Parts of the tire may also be examined under a special microscope, which has a digital image acquisition system.

12. In order to conduct a thorough forensic examination of a failed tire, it is imperative that the tire be demounted from the wheel in order to examine the condition of the interior of the tire. The internal examination may reveal evidence of punctures, cuts, impacts, repairs, internal damage and a number of other conditions that otherwise could not be observed from merely examining the exterior of the tire.

13. Examination of a tire outside the laboratory setting can limit the available inspection and testing techniques. It is not uncommon for an examination to be conducted in multiple sessions, over periods of different days or weeks depending on the circumstance. This process permits time for appropriate analysis and consideration of the evidence presented. As well, ~~given the equipment that may be necessary for a thorough and proper forensic examination~~ of a tire involved in litigation—including high intensity lighting, x-ray equipment, specialized microscopy and photography equipment, tire spreaders, and demounting machines—the examination should take place in specially-outfitted engineering facilities, such as at Bridgestone/Firestone's Akron Technical Center in Akron, Ohio.

14. Tires and related products provided to Bridgestone/Firestone's Akron Technical Center for custodial examination in litigation matters are documented for chain of custody. Such

items are stored and analyzed in a limited access laboratory and storage facility which is equipped with a security system and fire protection.

15. I understand that the plaintiffs in this case wish to have a representative present during Bridgestone/Firestone's examination of the tire that is the subject of this case. The presence of the plaintiffs' representative would hinder the examination in several ways. For instance, Bridgestone/Firestone's representative(s) and/or examiner(s) would be unable to openly communicate or verbally share ideas and initial impressions in the presence of the plaintiffs' representative. In addition, such an arrangement could prove cumbersome and burdensome since the examination(s) could take place at different times or on different days.

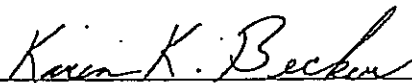
FURTHER, AFFIANT SAYETH NOT.



BRIAN J. QUEISER

STATE OF OHIO)
)
COUNTY OF SUMMIT)

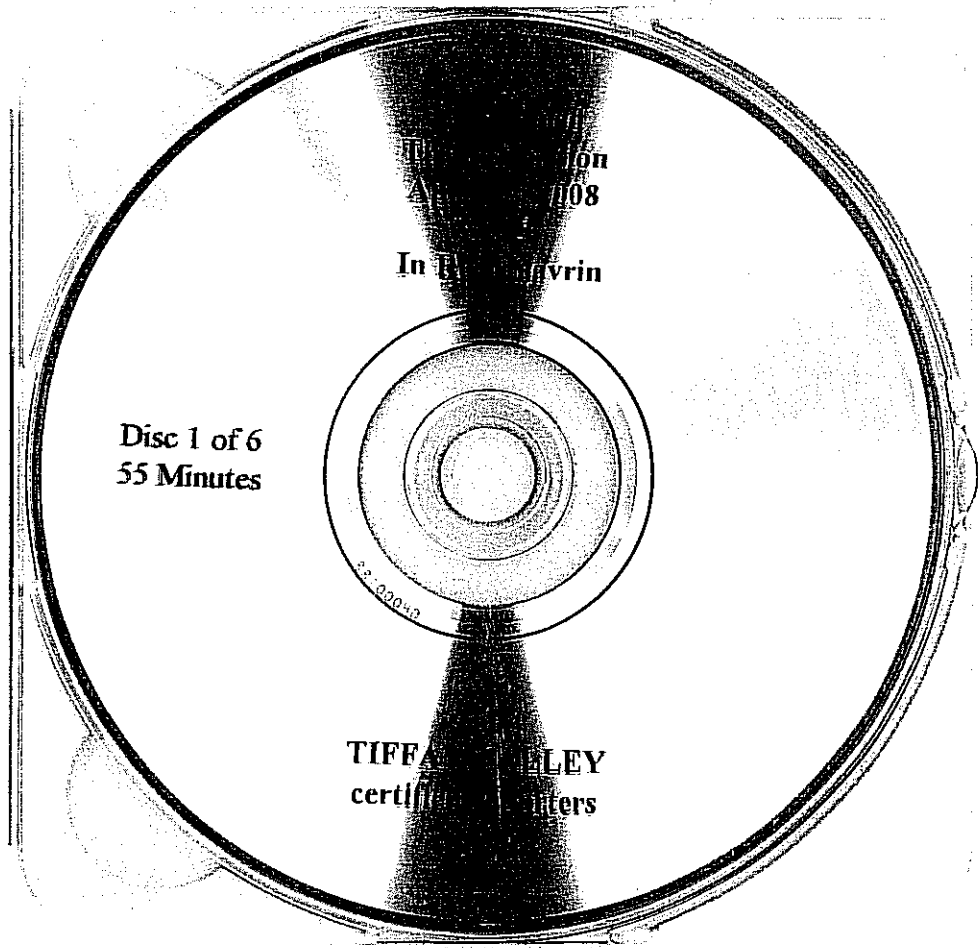
The foregoing instrument was acknowledged before me this 1st day of September, 2006, by Brian J. Queiser, who is personally known to me and who did take an oath.



NOTARY PUBLIC

KAREN K. BECKER
Notary Public
Residence - Summit City
State Wide Jurisdiction, Ohio
My Commission Expires March 6, 2011

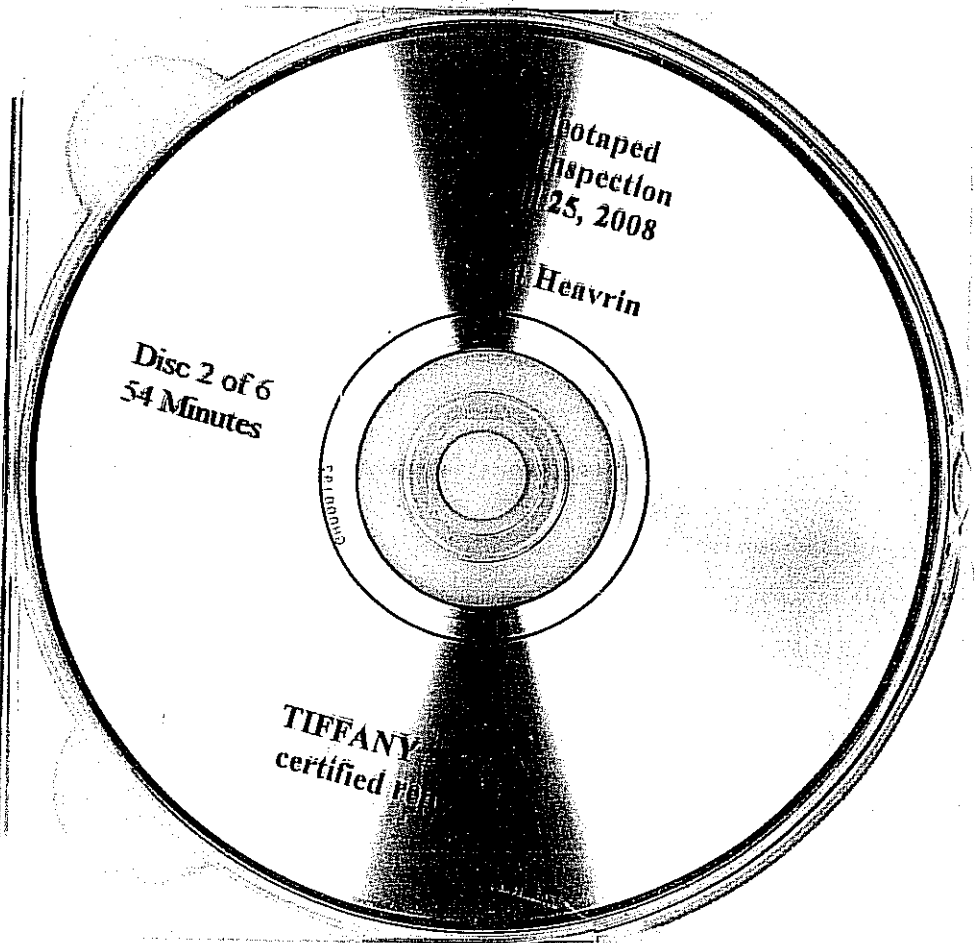
EXHIBIT 3



Disc 1 of 6
55 Minutes

In Heavrin

TIFFANY & CO. LEY
certified

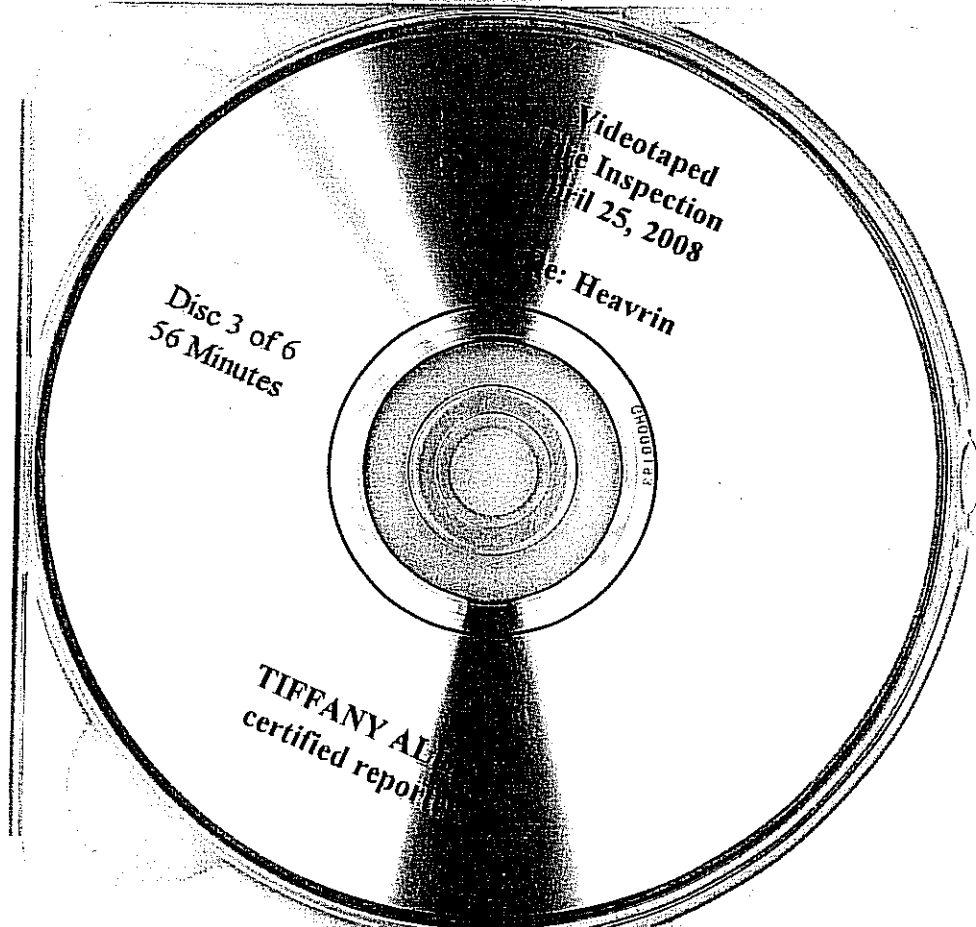


Disc 2 of 6
54 Minutes

Photaped
Inspection
25, 2008

Heavrin

TIFFANY & CO.
certified

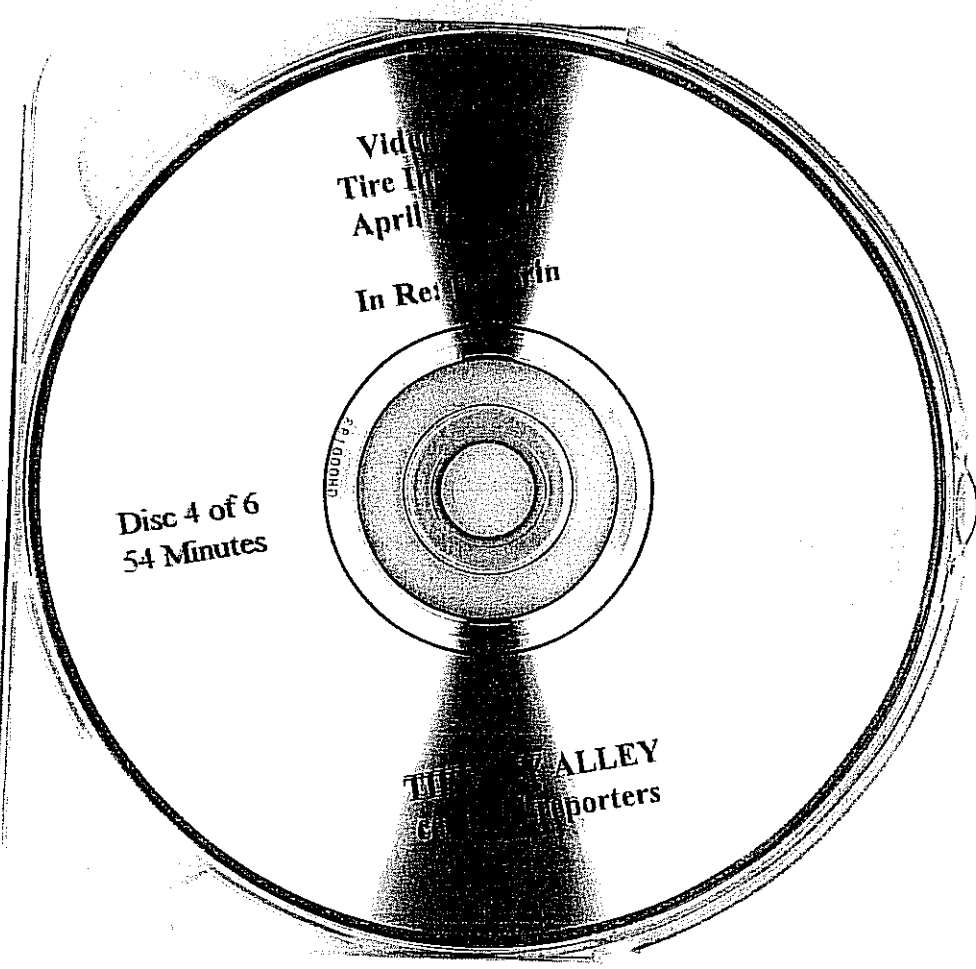


Videotaped
Tire Inspection
April 25, 2008

Disc 3 of 6
56 Minutes

Location: Heavrin

TIFFANY ALLEY
certified reporter



Videotaped
Tire Inspection
April 25, 2008
In Relation to Heavrin

Disc 4 of 6
54 Minutes

TIFFANY ALLEY
certified reporter

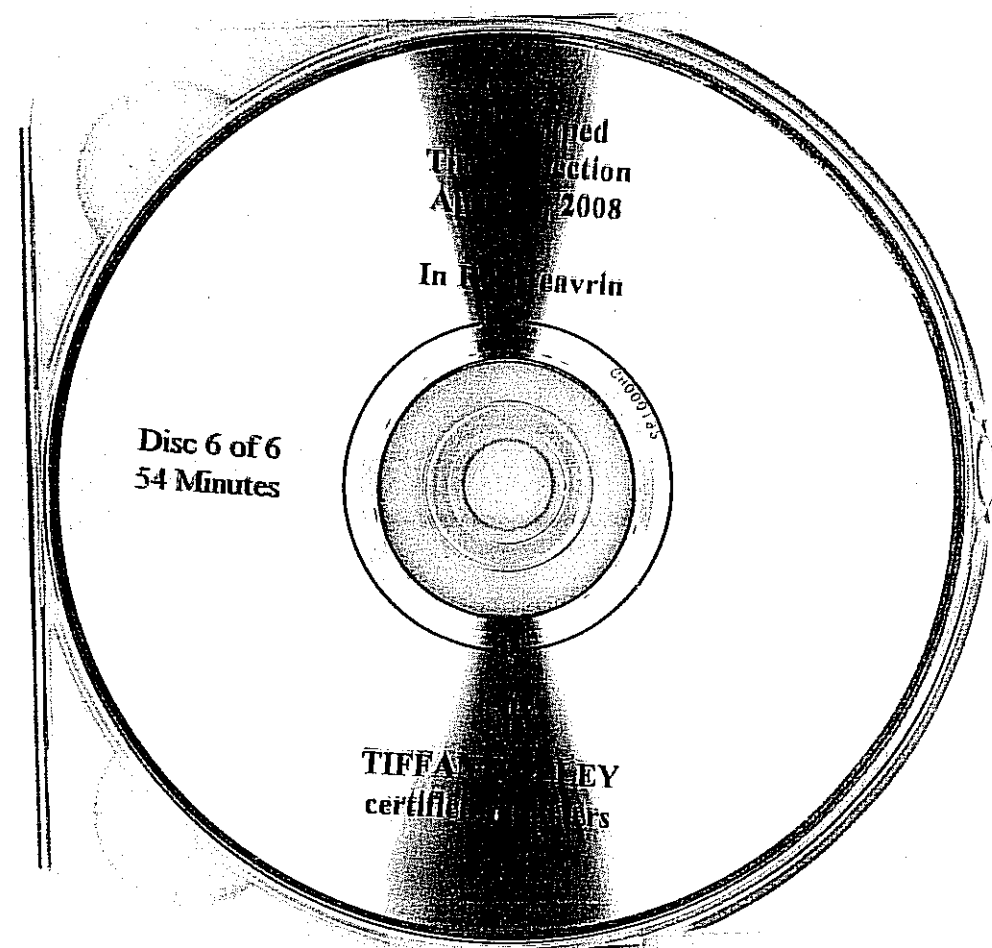
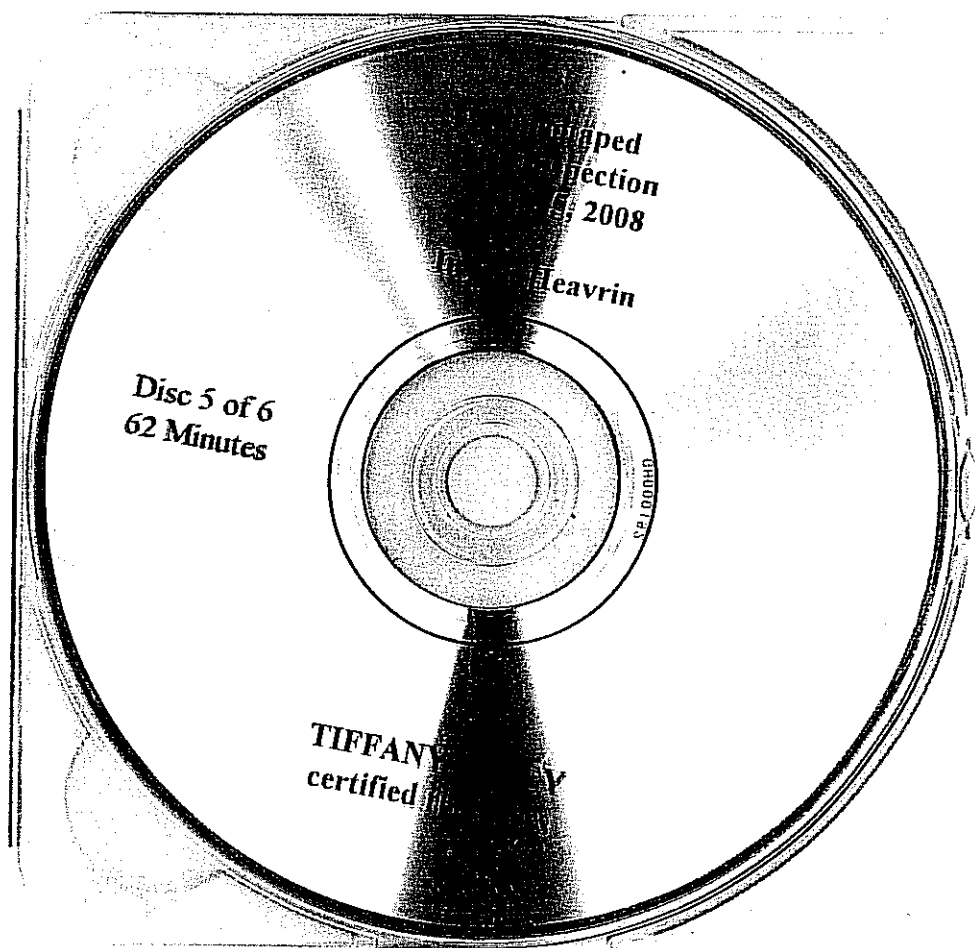


EXHIBIT 4

July 27, 2006

George W. Fryhofer III, Esq.
Butler, Wooten & Fryhofer, LLP
2719 Buford Highway
Atlanta, Georgia 30324

Re: *Leonard L. Heavrin, Jr., et al. v. Bridgestone Corporation; Bridgestone Americas Holding, Inc., Bridgestone Firestone North American Tire, LLC, et al.*; State Court of Walker County, Georgia Civil Action No. 06W-5909

Dear George:

I am enclosing herewith responses of Bridgestone Firestone North American Tire, LLC ("Firestone") and Bridgestone Americas Holding, Inc. to plaintiffs' initial discovery in the above-referenced case.

I would like to take the opportunity to address certain issues that need to be resolved in order to move discovery forward as between our clients in this case. These are as follows:

1. As you can see from the responses, Firestone needs to see the subject tire to establish its specific identity before supplementing discovery responses with tire specific information. We have recently sent you discovery in the form of requests for production of documents and things including the subject tire and any companion tires from the Chastain vehicle. It is not clear to me whether or not you or your colleagues have possession, custody or control of the subject tire. If you do not and you will point me in the right direction, I can get in touch with Mr. Chastain's counsel or whomever has the tire. Regardless of who has the tire, once we have had the chance to examine it and verify the identity of the particular tire, my client will be in position to supplement its discovery responses. We would like to get this accomplished quickly, if possible.

2. In connection with your turning the tire over to us, if there is concern about limiting testing and examination to non-destructive testing and examination, I can certainly understand that. We always have that concern with respect to others examining tires in litigation. In that regard, I have enclosed a proposed consent order which

requires of all parties only non-destructive testing and examination. If you find this form of order to be appropriate, please let me know, and we will move forward with getting it entered. If Mr. Chastain's counsel needs to be involved, we will have to contact them about them.

3. Another related matter is that many of the documents you have requested are proprietary. I have enclosed a proposed protective order, similar to ones we have used in other cases. If this is acceptable to you, we can present it to the Court, and, once it is entered, we can produce those responsive documents which are proprietary.

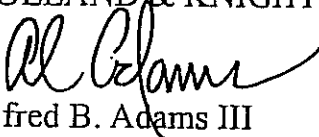
4. You will also see from our responses that my clients have assembled, for ease of dealing with these matters, a collection of documents known as the "Steeltex Collection." These documents, assembled from regular business records of Firestone, have been imaged and are available on CDs. They can be produced in paper form, but we find that CDs are usually preferred. These CDs, which are produced at Firestone's cost, cost about \$25.00 per disk. I will have to get you an exact count of the number of disks in the Steeltex Collection, but I believe it is somewhat over 60 disks. Once we have accomplished the above-itemized steps, we will be happy to get these disks reproduced and sent to you promptly. Of course, if there are case-specific documents or other documents responsive to your requests for production and not in the Steeltex Collection of CDs, we will produce those in paper form separately.

It is our goal with these steps to smooth and simplify getting the discovery process accomplished. We will be happy to work with you in that regard.

With best regards, I am

Very truly yours,

HOLLAND & KNIGHT LLP



Alfred B. Adams III

ABAIII:jg

Enclosures

cc: L. Branch S. Connelly, Esq. (w/enclosures)
Nicholas F. Stein, Esq. (w/enclosures)
The Hon. Norman S. Fletcher, Esq. (w/enclosures)
Caroline Johnson Tanner, Esq. (w/o enclosures)



August 11, 2006

George W. Fryhofer III, Esq.
Butler, Wooten & Fryhofer, LLP
2719 Buford Highway
Atlanta, Georgia 30324

Re: *Leonard L. Heavrin, Jr., et al. v. Bridgestone Corporation; Bridgestone Americas Holding, Inc., Bridgestone Firestone North American Tire, LLC, et al.*; State Court of Walker County, Civil Action No. 06-CV-5909

Dear George:

We were disappointed by the tone of your letter dated August 4, 2006, and reject any suggestion that Firestone intends to engage in "clear discovery abuse." With respect to the inspection of the subject tire, it is routine practice in tire litigation, as well as other types of product litigation, for the manufacturer to have an opportunity to inspect the product at issue. Further, Firestone is routinely provided the opportunity to conduct that inspection at its own facility to enable the use of high intensity lighting and other non-destructive tools necessary for a complete forensic examination. We cannot imagine what plaintiffs think would be done during a non-destructive examination of the subject tire that would necessitate any sort of supervision. As you know, we have proffered you a ~~proposed consent order limiting testing and examination to non-destructive~~. Certainly, Firestone will ensure that proper chain of custody is preserved.

Second, the product inspection, or positive, verifiable confirmation of the subject tire's identity, must be completed prior to the production of any confidential materials in discovery. Although we are not suggesting such is the case here, Firestone has been forced to defend itself in multiple lawsuits where the tire at issue was not a Firestone product, which did not become evident until the product was produced for inspection. As a result, Firestone is not willing to produce confidential and proprietary business information in the absence of confirmation that its product is, in fact, at issue in the particular litigation. While we appreciate the fact that you have provided a DOT serial number, that, alone, has not proved to be adequate confirmation in the past.

George W. Fryhofer III, Esq.

August 11, 2006

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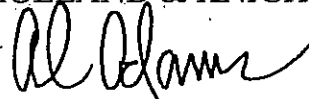
With respect to a protective order regarding confidential and proprietary information, we can understand that the parties may disagree about whether particular documents are entitled to such protection. For that reason, the proposed protective order provides a mechanism where any confidential designation can be challenged, and places upon Firestone the burden of going forward in the event of such a challenge. Moreover, Firestone has never indicated that it would withhold production of non-confidential information pending entry of a protective order. Although Firestone generally makes its complete production after positive identification of the tire and entry of a suitable protective order, in order to demonstrate its good faith in this case, Firestone will produce all non-confidential information as soon as possible. Firestone will not, however, agree to a sharing protective order.

Finally, with respect to the Steeltex collection, we find your rather fanciful analogy to the motion picture *Class Action* to be entertaining but quite a departure from reality. The Steeltex collection has been produced and utilized by attorneys in dozens of cases and is, in fact, the only practical way for Firestone to respond to sweeping discovery of the type propounded in this case. In any event, we would suggest that you evaluate the utility of the Steeltex collection based upon the reality of the production rather than on a Hollywood dramatization.

In conclusion, we are disappointed that you have chosen to take such an immediately hostile position without first allowing Firestone to demonstrate its good faith. Firestone takes its obligations to participate in discovery very seriously, and to our knowledge, has never been sanctioned in any court for any reason. We are prepared to cooperate fully in this case on terms that are reasonable to both parties. However, if necessary, Firestone will move the Court for adequate protective measures.

Very truly yours,

HOLLAND & KNIGHT LLP



Alfred B. Adams III

ABAIII:jg

cc: L. Branch S. Connelly, Esq.
Nicholas F. Stein, Esq.
- The Honorable Norman S. Fletcher, Esq.
Caroline Johnson Tanner, Esq.
Karsten Bicknese, Esq.

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CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel of record with a copy of

PLAINTIFFS' SECOND MOTION FOR SANCTIONS by depositing it in the United States

Mail with adequate postage affixed thereon and addressed as follows:

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DATED: June 5, 2008.

BUTLER, WOOTEN & FRYHOFFER, LLP

BY: Leigh Martin May
LEIGH MARTIN MAY
Georgia Bar No. 473389