

IN THE CIRCUIT COURT, FIFTH  
JUDICIAL CIRCUIT, IN AND FOR  
MARION COUNTY, FLORIDA

KATHERINE VAUGHAN, as Personal  
Representative of the Estate of RICHARD  
VAUGHAN, deceased,

CASE NO.: 01-2089-CA-B

Plaintiff,

Vs.

TEE PEE TIRE, INC., a Florida Corporation,  
TERRY PERZY, individually, DUNLOP TIRE  
CORPORATION, GOODYEAR DUNLOP  
TIRES NORTH AMERICA, LTD., GOODYEAR-  
SUMITOMO RUBBER INDUSTRIES, LTD.,  
SUMITOMO RUBBER INDUSTRIES, LTD., and  
THE GOODYEAR TIRE & RUBBER COMPANY, INC.

Defendants.

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**ORDER DENYING DUNLOP'S MOTION FOR SANCTIONS  
AND GRANTING DISSEMINATION OF DISCOVERY DOCUMENTS**

This cause having come before the Court on June 7, 2006, on Dunlop's "Motion for Sanctions for Violation of Protective Order Regarding Defendants' Confidential Documents and Ruling of Court", and Plaintiff's Motion for Ruling on the Confidentiality of Documents Pursuant to Sunshine in Litigation Act and the Court having heard arguments of counsel and otherwise being fully advised in the premises finds and orders as follows:

On September 12, 2005, the Court held a jury trial on this cause. During the course of the trial the Plaintiff requested the Court on several occasions find the documents produced by Defendant Dunlop in discovery of this case be disseminated to the public pursuant to the Sunshine in Litigation Act and also find the documents were not entitled to trade secret protection. The Court deferred ruling on those issues. On September 22, 2005, the jury in this

cause returned a verdict for the Plaintiff finding that the subject tire was defective in design, unreasonably dangerous and proximately caused the death of Richard Vaughn.

Dunlop thereafter filed various post trial motions. The Plaintiff filed a formal motion for oral argument seeking a determination of the confidentiality of the documents pursuant to the Sunshine in Litigation Act. On December 14, 2005, the Court held a hearing and denied Dunlop's post trial motions. At Dunlop's request, the Court deferred ruling on the Plaintiff's Motion to Determine the Confidentiality of the Documents, pending an evidentiary hearing. The Court also directed Plaintiff to give written notice to Dunlop if they informally sought to share the documents with other lawyers in pending Dunlop cases, and ruled that no dissemination of plant documents should be made pending a separate evidentiary hearing on such confidentiality.

Subsequently, Defendant Dunlop filed a Motion for Sanctions alleging that Bruce R. Kaster, counsel for the Plaintiff, distributed the discovery documents in this case in violation of this Court's rulings of December 14, 2005. On March 29, 2006, Dunlop's Motion for Sanctions and on March 16, 2006 Vaughan's Sunshine in Litigation motion were both noticed for hearing to take place on June 7, 2006, and Dunlop's counsel (the same counsel who represented Defendant Goodyear in this action) was duly noticed of the evidentiary hearing that they had previously requested.

Despite Dunlop's earlier request for an evidentiary hearing on this precise issue, Dunlop failed to produced adequate evidence at the hearing that the documents were entitled to trade secret protection. Dunlop further failed to establish "good cause" preventing disclosure of the documents at issue as contemplated by Fla. Stat. §69.081(7) (Florida Sunshine in Litigation Act).

Regarding Dunlop's allegations of improper document dissemination by Mr. Kaster in violation of this Court's *ora tenus* ruling, Dunlop failed to produce any evidence, whatsoever, of

any document violations by Mr. Kaster. To the contrary, Mr. Kaster disputed such allegations and presented uncontroverted evidence that no such violation occurred. This Court hereby finds Dunlop's allegations of improper document dissemination wholly unfounded and without merit. Accordingly, Dunlop's Motion for Sanctions is hereby denied. Further, Mr. Kaster's *ore tenus* motion for costs associated with his response to said motion is also denied.

The Plaintiff in the instant case seeks disclosure of all documents produced by Defendant Dunlop in the instant case. The Plaintiff alleges two (2) distinct bases for such disclosure. First the Plaintiff contends that the discovery documents are not subject to trade secret protection as defined by Fla. Stat. §688.002(4). Second, the Sunshine in Litigation Act requires disclosure of the discovery documents as the subject tire constitutes a public hazard as defined by Fla. Stat. §69.081.

At the June 7<sup>th</sup> hearing, Defendant Dunlop failed to meet its burden to establish any of the documents at issue were trade secrets or establishing good cause to prevent the dissemination of the discovery documents in this case. This Court also finds that the alleged trade secret documents are not the types of documents from which competitor tire companies could derive economic value if said information was disclosed. Specifically, the discovery documents produced in this case consist of adjustment data, which this Court determines is merely a compilation of customer complaints relating to problems associated with certain tires, and/or the documents consisting of photographs and videos relating to a plant which is no longer in use and/or consists of other documents which relate to a tire which has been out of production for several years and/or consists of documents produced by a company no longer in existence. Also, the documents produced by the Defendant in this case relate to a tire which the jury determined to be defective and unreasonably dangerous. Therefore, the Court finds that disclosure of the

discovery documents in this case is permissible based upon the lack of evidence produced by Defendant Dunlop coupled with this Court's own findings that the documents are of the type that little, if any, economic benefit could be derived by a competitor of Dunlop through disclosure. Accordingly, the Court hereby finds and orders that the discovery documents in the instant case do not fall within the purview of Fla. Stat. §688.002(4) and should not be protected as "trade secret."

Secondly, the Plaintiff contends the Sunshine in Litigation Act (Fla. Stat. 69.08) requires disclosure of any information relating to a public hazard. The jury in this case has determined that the subject tire (Dunlop Touring P 215/65R15 tire) was defective and unreasonably dangerous and proximately caused the death of Richard Vaughan. The Court, having heard the evidence in this case simultaneously with the jury, independently concurs with the jury findings; and the Court further finds the subject tire in the instant case to be a product which has caused and is likely to cause injury to other persons. As discussed, Defendant Dunlop has not made a good cause showing as to trade secret materials. Moreover, the Court concludes that all discovery documents in this case may be useful to members of the public in protecting themselves from the dangers related to these Dunlop tires. Therefore, in addition to finding that the documents do not consist of trade secret materials, the Court further determines that disclosure of such documents is mandated by Fla. Stat. §69.081. It is therefore,

ORDERED AND ADJUDGED, that Defendant Dunlop Tire Corporation's Motion to Sanction for Violation of Protective Order Regarding Defendant's Confidential Documents and Ruling of Court is hereby DENIED. It is further,

ORDERED AND ADJUDGED, that Plaintiff's *ora tenus* motion for Sanctions in responding to Dunlop's motion is hereby DENIED. It is further,

ORDERED AND ADJUDGED, that all discovery documents in this case are not protected as trade secrets pursuant to Fla. Stat. §688.002(4). It is further,

ORDERED AND ADJUDGED, that all discovery documents in this case relate to a public hazard, and disclosure is mandated by Fla. Stat. §60.081. It is further,

ORDERED AND ADJUDGED, that dissemination of the subject documents is hereby stayed for a period of ten (10) days from the date of execution of this order.

Dated June 30, 2006

/s/ William T. Swigert

William T. Swigert  
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a conformed copy of the foregoing Order has been provided by U.S. Mail to **John C. Seipp, Jr. and Sergio V. Medina**, Attorneys for Dunlop, Two Alhambra Plaza #800, Miami, FL 33134-5214; **R. Matthews Miles, Jr.**, Attorney for Tee Pee Tire, Inc. and Terry Perzy, 433 Silver Beach Avenue, Suite 201, Daytona Beach, FL 32118; **Bruce R. Kaster**, Co-Counsel for Plaintiff, P. O. Box 100, Ocala, FL 34478; and **David D. Guiley**, Co-Counsel for Plaintiff, 631 W. Morse Boulevard #200, Winter Park, FL 32789-3730, this 14 day of July, 2006.

**M. TUCKER**

~~Judicial Assistant~~ Deputy Clerk