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Tires That Kill



Tread Defects

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The Firestone tire recall and its surrounding events should bolster products claims involving [tread separation](#). The authors describe the recall, explain the tire-manufacturing process, and discuss aspects of litigating a case.

[Robert E. Ammons](#)

Introduction

Last August, Bridgestone/Firestone, Inc., the largest subsidiary of the world's largest tire and rubber manufacturer, [recalled 6.5 million tires](#) of a certain brand and size in North America. The recall was preceded by the U.S. government's investigation into hundreds of motor vehicle accidents resulting in death or serious injury, allegedly caused by tread or belt "separation" in these tires. Most accidents involved Ford Explorers equipped with the [recalled tires](#).

Based on recently released public information, it appears that many incidents of [tread separation](#) are attributable to poor manufacturing practices and quality control at certain tire plants. This information greatly bolsters manufacturing-defect claims involving tread separation. In addition, finger pointing by Firestone and Ford supports additional claims against these companies in tread separation cases, including design defect, marketing defect, and negligence claims.

On May 2, 2000, the National Highway Traffic Safety Administration (NHTSA) initiated a formal investigation into tread separation of Firestone Wilderness AT, ATX, and ATX II tires. These tires were original equipment on many Ford Explorers and other Ford sport utility vehicles and light trucks and were also available as replacement tires.¹

At the time NHTSA initiated this investigation, the agency was aware of 90 incidents involving these tires, 33 of which resulted in crashes causing 27 injuries and 4 fatalities. These numbers increased dramatically over a short period of time. At press time, NHTSA had received over 2,000 complaints, including reports of over 100 fatalities. Most drivers reported that they were driving at highway speeds when "suddenly they lost control." In some of the crashes it was reported that the tread wrapped itself around the rear axle.² NHTSA noted a "strong geographical trend," with most of the incidents occurring in the warmer-weather states.³

Shortly after NHTSA began its investigation, it was discovered that Ford had already [recalled Firestone tires](#) on its vehicles in at least 10 foreign countries, where it said hot temperatures could make the tread separation problem worse. Ford was replacing these tires for consumers in Venezuela, Ecuador, Colombia, Saudi Arabia, Kuwait, Oman, Qatar, Basra, Thailand, and

Malaysia.⁴ During the same period, numerous retailers, including Sears, Roebuck & Co., stopped selling these tires.⁵

Firestone announced the recall on August 9, 2000. The recall included all 15-inch Firestone ATX and ATX II models produced in North America and all 15-inch Firestone Wilderness AT models produced in the company's Decatur, Illinois, plant. Firestone made about 14.4 million of these tires. The company estimated that 6.5 million of the recalled tires were still in use, including 3.8 million Radial ATX and ATX II tires and 2.7 million Wilderness AT tires.⁶

Firestone indicated that it would execute the recall in three phases, beginning with the warmer-weather states. The company said the recall would take one year to complete. By August 12, Ford began offering replacement tires for its vehicles with tires subject to the recall in the United States.

Shortly after the recall, concerns were raised about its scope. Consumer groups in this country and others questioned why the 16-inch tires of all the models were not recalled and why the Wilderness AT tires built in plants other than the Decatur plant were not recalled. It was discovered that in 1999 Ford recalled 16-inch Wilderness AT tires in Saudi Arabia, other Persian Gulf countries, and Venezuela. Further, there was evidence that some of Firestone's other plants experienced manufacturing problems similar to those experienced at the Decatur plant. On September 1, NHTSA issued a "consumer advisory" for an additional 1.4 million Firestone tires that were not covered by the recall, noting that tread separation rates for the additional tires exceeded those for the recalled tires, sometimes by a large margin.⁷

Firestone's and Ford's problems with government agencies were not limited to products sold in the United States. In late August, the Venezuelan consumer protection agency released a report indicating that it had enough evidence to proceed with criminal charges against Firestone and Ford. Ford announced that Firestone had failed to include a nylon overlay in the Venezuelan tires that could have reduced the tread separations that led to hundreds of accidents and many fatalities. Firestone, however, maintained that Ford recommended tire pressure that was too low for driving conditions in that country.⁸

According to Firestone, it built the tires to Ford specifications, which did not include a requirement for nylon overlays. Ford charged that Firestone agreed to include the nylon overlays in tires manufactured in Venezuela but failed to do so. Ford further asserted that Firestone mistakenly labeled the tires to indicate that they contained nylon overlays.⁹

Ford has continuously maintained that the problem is exclusively related to the Firestone tires. Firestone, on the other hand, blames Ford for recommending an excessively low tire pressure.¹⁰

On September 6, the chief executives of Firestone and Ford testified before the U.S. Congress. Masatoshi Ono of Firestone offered an apology, stating he accepted "full and personal

responsibility” for the events leading to the hearings, but reiterated the company’s defense that drivers are to blame for the accidents.¹¹

Jacques Nasser, Ford’s chief executive, placed the blame on Firestone. He said that Ford did not learn of the tire problem until the company “virtually pried the data from Firestone’s hands and analyzed it ourselves.”¹² During the hearing, committee members accused Firestone and Ford of conducting a cover-up at the expense of people’s lives by failing to notify U.S. safety officials sooner about the problem.¹³ Both Ono and Nasser promised to furnish the congressional committee with additional information.

How a Tire is Manufactured

To understand how [tread and belt separations](#) occur, it is useful to have some understanding of how a tire is manufactured. Most tires, including the recalled ones, are pneumatic tires.

A pneumatic tire is defined as “a mechanical device made of rubber, chemicals, fabric, and steel or other materials, which, when mounted on an automotive wheel, provides the traction and contains the gas or fluid that sustains the load.”¹⁴ There are two basic types of pneumatic tires in use, radial-ply and bias-ply. The radial-ply tire has widely replaced the bias-ply tire in developed countries, due to its higher cornering properties, greater tread mileage, and better wet grip.¹⁵ It is defined as “a pneumatic tire in which the ply cords which extend to the beads are laid at substantially 90 degrees to the centerline of the tread.”¹⁶

Manufacturing a tire requires the assembly of various component parts. This requires an element of handwork, so the tire manufacturer must employ individuals with the skill and diligence to properly put a tire together.¹⁷

The skeleton of a radial-ply pneumatic tire consists of two hoops of steel-stranded wire. The ply, which is generally made of rayon or polyester, is wrapped around this framework in the form of a wide cylinder of rubber fabric, with cords running directly from one edge to the other.¹⁸

The belt unit, which consists of two to four layers of inextensible cord (known as “breakers”), is placed on the casing ply. It is preferable to produce a belt with some flexibility but little stretch. The sidewalls and tread are laid over this structure, and at this point the product is known as a “green” tire. The green tire is then “vulcanized.”¹⁹ In this process, the tire is subjected to extreme heat and pressure that cause the components of the tire to fuse together and coalesce until the rubber becomes a single structure—a completed pneumatic tire. These layers of components should never separate if the tire is properly manufactured.²⁰

Tread and Belt Separations

There are at least three causes of tread and belt separation that may be traced back to the manufacturer: breaker-edge separation, rubber skim-stock tearing, and rubber-interface separation (referred to as rubber-rubber separation in the noted source).²¹

In breaker-edge separation, looseness at the breaker edge develops into complete separation. There is inherent looseness at the edge because the steel cord is brass plated to make it bond to the surrounding rubber, and where the steel cord is cut, the brass plating is also cut.²² As a result, where the greatest adhesion is required—at the belt edge—there is an area of zero adhesion. Tire manufacturers are aware of this and must design and manufacture tires so that separation does not spread inside the tire.²³

In rubber skim-stock tearing, the tire separates when the skim stock, which is the rubber compound applied to the breaker cords, does not properly bond to the brass-plated steel cord. The skim stock is supposed to enhance adhesion in this area of the tire, and when it fails to do its job, tread or belt separation may occur.²⁴

Tires used in areas with consistently high temperatures often suffer this type of separation. Manufacturers know this, and therefore they must select their compounds and design their tires to perform in various temperatures.²⁵

Finally, rubber-interface separation results when certain surfaces within the tire fail to remain unified after vulcanization. This type of separation is almost always caused by manufacturing errors, such as allowing surfaces in the tire to become contaminated in various ways.²⁶

Questionable Practices

Some former Firestone employees who worked in the company's Decatur plant have revealed questionable practices at that plant. These employees, all of whom began working in the plant in the early 1960s, left the company during a strike in 1994.

One primary point of contention between Firestone and these plant workers was the company's decision to change from 8-hour days to 12-hour days. According to one of the Decatur plant employees, before the strike, Firestone held safety symposiums teaching workers that most problems in assembling tires occurred between the sixth and eighth hours of work.²⁷

During the strike, Firestone hired about 1,400 replacement workers. These employees worked the new 12-hour shifts. It was reported that many more tires were scrapped while the replacement workers were building them than when the regular workers built them.²⁸ Based on this information, it is likely that many tread separations can be traced to these inexperienced and overworked replacement employees.

It is clear that there were problems at the Decatur plant even before the replacement workers arrived. Former plant employees reported questionable manufacturing processes and quality control occurring well before the 1994 strike, including:

- storing green tires on the floor and allowing debris to stick to the tires;
- allowing hot and humid conditions inside the plant most of the time;
- requiring tire builders to build about 100 tires per hour;
- giving tire builders monetary bonuses for exceeding their quotas;
- “repairing” blisters or knots in tires before placing them into the stream of commerce; and
- failing to inspect, or properly inspect, all tires before placing them into the stream of commerce.²⁹

These poor manufacturing practices can lead to manufacturing defects and rubber-interface separation.

These former employees also reported that they used the same stock of green tires for all tire lines, and that tire builders and others in the plant did not change their manufacturing practices among different tire lines.³⁰ Based on this information, all Firestone tire lines, including those built at plants other than the Decatur plant, may have been manufactured under the same questionable practices. Accordingly, Firestone tires other than those recalled by the company may contain manufacturing defects similar to those in the recalled tires.

Firestone did not identify any specific defects when it announced the recall. A representative said the company had not determined “what, if any, problem there may be with these tires.”³¹

This representative noted that the company’s review of the relevant data suggested three things. First, the number of reported incidents with the 15-inch Radial ATX and ATX II was higher than with other sizes in this line of tires. Second, the Decatur plant was “overrepresented” in the accident claims and reports compared with the company’s other plants. Third, the majority of the incidents occurred in the southernmost states, suggesting a direct correlation between heat and tire performance.³²

About one month into the recall, a Firestone executive said the company was looking into “variations in the manufacturing process at the Decatur plant” and “the unique design specification” of the recalled tires.³³

The company’s statement regarding an overrepresentation of claims in connection with the Decatur plant and its investigation into manufacturing processes suggest a problem with the practices in this plant. Although Firestone singled out the Decatur plant, information has

surfaced suggesting that other plants experienced similar manufacturing problems. Information from former employees from these plants should shed additional light on this issue.

Manufacturing Defect

[Manufacturing defect](#) claims are bolstered by evidence of poor manufacturing practices in the tire plants. As noted above, rubber-interface separation, where the tire materials do not remain unified after vulcanization, is frequently related to manufacturing problems. Specifically, weak interface adhesion results when the breaker surfaces become contaminated or are allowed to deteriorate. The contaminant remains between the two breakers and prevents complete fusion.³⁴

There are many ways tire surfaces can become contaminated during the manufacturing process, causing rubber-interface separation.³⁵ For example, dust or moisture may accumulate on tires, contaminating them. As indicated by former Decatur plant workers, green tires were sometimes placed on the floor, which can cause contamination. Further, in light of the reported problems with the tire inspection process, it is likely that many defects went unnoticed before the tires were placed in the stream of commerce. Manufacturers must prevent such flaws by keeping their plants clean and air-conditioned and by employing strict quality control measures.

In light of the recall and evidence of poor manufacturing practices and quality control, juries may well be persuaded to hold the company liable for manufacturing defects in its tires, even where it may be difficult to identify the precise defect. While some courts may find that the occurrence of a tread separation is circumstantial evidence of a defect, the prudent practitioner will be prepared to present expert testimony regarding the precise nature of the defect. It is therefore important for a plaintiff's expert to be qualified to determine whether rubber-interface separation or some other type of tread separation occurred.

Design Defect

Firestone's statement acknowledging a correlation between heat and tire performance, as well as the company's investigation into the "specifications" of its tires, support a design defect claim in connection with rubber skim-stock tearing. As noted above, this type of separation is often aggravated by high temperatures. Manufacturers must ensure that the skim-stock material selected sufficiently enhances adhesion in all temperatures or in the range of temperatures expected wherever the tire is being placed into the stream of commerce. Obviously, the alternative design is a skim-stock material that works properly in the relevant temperature range.

Breaker-edge separation may also form the basis of a [design defect claim](#) . This type of separation can be prevented in many instances by the use of a nylon bandage or overbelt.³⁶

The nylon cord in the overbelt is heat-set to reduce excessive stretch, so it contracts during vulcanization. By winding an additional breaker with such an overbelt and extending it beyond the edges by a small amount, tire manufacturers can create a “belt tourniquet.”³⁷ This specific design has been in existence since the 1970s. The recalled Firestone tires do not incorporate this technologically and economically feasible alternative design.

Firestone’s emphasis on the recall in warmer-weather states, its statement acknowledging a link between heat and tire performance, and its investigation into the specifications of its tires bolster design defect claims involving skim-stock tearing and breaker-edge separation.

Marketing Defect

Documents surfacing since the recall show that Firestone (and Ford) knew about [tire safety problems](#) at least a year before the recall.³⁸ This information will certainly assist plaintiff counsel in arguing that the risks involving tread separation were foreseeable and that the companies should have warned the public.

It has been reported that many individuals hear loud noises before tread separation.³⁹ Unfortunately, most consumers and many tire dealers do not appreciate the severity of this symptom, which may indicate structural failure. In most instances, consumers simply have their tires rebalanced. Tire manufacturers should place a warning on all tires instructing users who hear loud noises to have the tires checked for structural damage and for the possibility of impending tread separation.

The tire recall has resulted in the dissemination of much information regarding tire defects. Tire manufacturers will certainly argue that the consuming public was warned immediately upon issuance of the recall. For instance, if a consumer fails to bring a vehicle to a Firestone dealer within a “reasonable” time, the company will probably argue that his or her claim is barred or that he or she was contributorily negligent. This defense is suspect in light of the problems Firestone encountered in implementing the recall and the company’s initial assessment that many customers would have to wait a year or longer for replacement tires.

Finally, in connection with the marketing defect issue, some experts have noted that Firestone tires have a relatively hard tread. Drivers can put an extraordinary number of miles on these tires, and yet a considerable amount of tread remains on them. As a result, there is no warning (through the physical properties of the tires) that they are getting worn out. Indeed, the first warning of a problem may be the actual [tread separation](#).

Potential Liability of Ford

As the seller of a product with defective component parts, Ford is subject to strict liability for harm caused in tread separation accidents under the same theories as Firestone. However,

Ford may face additional liability based on the stability of the vehicles into which the defective tires are integrated and on its recommendation of excessively low tire pressure.

Unfortunately, tread separation often causes a sport utility vehicle such as the Ford Explorer to roll over, a type of accident that frequently results in death or catastrophic injury to the vehicle's occupants. If tread separation occurs on a vehicle traveling 65 miles per hour, it becomes extremely difficult for the average driver to safely steer the vehicle to the road's shoulder.

The driver generally loses control as a result of a combination of factors. The loss of control starts with the [tread separating](#) from one of the rear tires. For example, if the right rear tread separates, the vehicle will pull slightly to the right, causing the driver to steer to the left to compensate. However, once the tread has separated, the vehicle will oversteer because the side force capability of that tire is drastically reduced (usually to 25 percent or less of its normal value). This means that the vehicle has two tires on the front generating side force, but only one good tire on the rear to balance the turning moment.

The oversteer becomes progressively more extreme as the lateral acceleration in the turn increases. As the lateral acceleration increases, the load on the rear of the vehicle is transferred from the remaining good tire on the left to the detreaded tire on the right, causing the side force capability of the rear tires to be reduced still further. This has been compared to trying to control the vehicle with its rear tires on ice.

As a consequence, any steer input will be amplified by the oversteer nature of the vehicle and lead to high lateral accelerations. Once the lateral acceleration exceeds the vehicle's stability threshold (which is approximately 70 percent of its static stability factor), the vehicle will roll over. As a result, the combination of Firestone tires and Ford Explorers can be a deadly mix.

As previously noted, many of the recalled tires were sold as original equipment on Explorers. This vehicle was introduced by Ford as a replacement of the Bronco II, which had a horrible fatal rollover record and a poor stability index. The Explorer is a bigger vehicle than the Bronco II, with a longer wheelbase and a slightly higher stability index, but it still has stability problems.

To improve the reported stability of the vehicle through rollover resistance testing, Ford manipulated the recommended air pressure in the tires to a low of 26 pounds per square inch. This is extremely low in comparison with the recommendations of other auto manufacturers, and may be one reason for the high incidence of tread separation on Explorers.

As set forth below, tire manufacturers often argue that consumers are to blame for tread separation because they drove on underinflated tires. According to the manufacturers, driving on underinflated tires generates excessive heat and results in tread separation.

If Ford recommended an excessively low tire pressure, it may share liability with Firestone for tread separation failures. Indeed, it would be disingenuous for Firestone or Ford to blame

consumers for driving on underinflated tires when Ford effectively recommended that they do just that.

Common Defenses

In lawsuits involving tread separation, tire manufacturers often assert defenses within the following three categories: improper maintenance,⁴⁰ impact damage,⁴¹ and improper handling by the driver after tread separation.⁴² All these defenses relate to an alleged misuse of the product.

In the first category, manufacturers often argue that the tire in question was underinflated or overloaded, which can lead to tread separation.

Specifically, manufacturers argue that driving on underinflated or overloaded tires can lead to “overdeflection,” a process that generates heat inside the tire, which in turn causes tread separation.⁴³

A qualified expert often can determine whether underinflation or overloading was the sole cause of, or contributed to, [tread separation](#). But even if it is determined that underinflation or overloading caused the tread separation, if Ford is in the case it may face liability based on its recommendation of excessively low tire pressure.

Manufacturers also assert the improper-maintenance defense in connection with conduct occurring after the incident. For example, defendants have asserted that plaintiffs’ experts damaged tires during the inspection process.

Defense attorneys also often assert that the tread separation was caused by impact damage, such as driving through a pothole or over a curb. Plaintiff counsel should point out that impact damage is foreseeable. Further, impact damage may simply exacerbate preexisting tread separation in a tire, which is also a foreseeable event.

Again, the role of experts in these types of cases cannot be overemphasized. A properly qualified expert should be able to determine whether a tire sustained impact damage and, if it did, whether it contributed to the tread separation.

Finally, manufacturers usually claim that the driver failed to properly control the vehicle after the tread separation. These defendants have spent large sums of money on testing intended to show that an individual should be able to bring a vehicle to a safe stop after a tire tread separates.

In responding to this defense, plaintiff counsel should generally rely on the jury’s common sense (that is, it is unreasonable to expect a person to react calmly to a tread separation and bring a vehicle to a stop without incident). The sheer numbers of drivers who have been unable

to control a vehicle after tread separation should effectively convince a jury to reject this defense.

In light of the Firestone recall, juries will most likely hold tire manufacturers to a high standard when they assert these defenses. Information on poor manufacturing practices and quality control and the thousands of other similar tread separation incidents is strong evidence that these tires are defective.

Investigating a Case

Before taking on a [tread separation case](#), plaintiff counsel should thoroughly investigate the history of the allegedly defective tire. Since manufacturers usually argue that a tire was abused or improperly maintained, plaintiff counsel must be able to prove that there was no abuse or improper maintenance.

Since many vehicles are purchased used, it is also important to contact all previous owners and users of the vehicle to determine whether any abuse or improper maintenance occurred. In addition, counsel should have a tire expert examine the tire to determine whether it suffered any abuse before the accident. It is also important to preserve the tire itself and make sure the expert does not damage the tire during his or her examination.

Expert issues

In *Kumho Tire Co. v. Carmichael*,⁴⁴ coincidentally a tire tread separation case, the Supreme Court held that the requirement set forth in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*⁴⁵ that all expert testimony be relevant and reliable applies to all types of experts, including tire experts.

Some courts applying the general holdings of *Kumho* and/or *Daubert* have held that plaintiffs' causation experts must eliminate alternative causes of the accident and injuries.⁴⁶ This is especially important in tire tread separation cases because, as noted above, tire manufacturers often point to various potential alternative causes of the tread separation. Under today's line of cases on admissibility of expert testimony, it is important that, to the extent possible, these experts analyze and eliminate all potential alternative causes, even if they are not raised as defenses by the tire manufacturer.

Evidentiary issues

Plaintiff counsel should offer into evidence as much information on the recall as possible. Many jurisdictions have specifically addressed the admissibility of recall campaigns, and the majority authorize the admission of recall information, at least for limited purposes.⁴⁷ One common requirement for the admissibility of recall information is that the plaintiff establish that the defect addressed by the recall existed in the product involved in the lawsuit.⁴⁸

In jurisdictions that have not specifically addressed the admissibility of recall information, the recall may be characterized as a subsequent remedial measure. Unfortunately, the overwhelming majority rule excludes such measures as evidence of negligence or culpable conduct. However, there are some exceptions.

For instance, under Federal Rule of Evidence 407, such evidence may be admitted to prove “ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.” In addition, a minority of jurisdictions—including Texas, under Texas Rule of Evidence 407(A)—allow evidence of subsequent remedial measures in strict products liability cases.

The tire recall also raises the issue of the admissibility of the 2,000 (and ever increasing) other incidents caused by tire tread separation.⁴⁹ Evidence of other similar incidents involving identically designed products are generally admissible in strict products liability cases to prove that the product was defective and that the manufacturer knew this. With the growing number of accidents caused by Firestone tires, such evidence will certainly assist in convincing a jury that the tires were defective.

The final chapter on the [Firestone recall](#) is yet to be written. It is clear, however, that the recall will change the nature of products liability litigation involving tread separation for years to come.

If you or a loved one has been injured due to the negligence of others, call or **visit** www.spinalcordinjurylawyer.com to contact the attorneys at The Ammons Law Firm and receive a free consultation.

Notes

1. NHTSA Defect Investigation No. PE00-020 (May 2, 2000).
2. *Id.*
3. *Id.*
4. Robert L. Simison et al., *Ford Says It Knew of Venezuelan Tire Failures in 1998*, WALL ST. J., Aug. 30, 2000, at A3.
5. Amy Merrick, *Sears Stops Selling Some Firestone Tires Amid Government Safety Investigation*, WALL ST. J., Aug. 7, 2000, at A3.
6. Timothy Aepfel, *Firestone Will Replace 6.5 Million Tires*, WALL ST. J., Aug. 10, 2000, at A3.
7. NHTSA Consumer Advisory (Sept. 1, 2000).
8. Robert L. Simison et al., *Pressure Points: Tension Between Ford and Firestone Mounts Amid Recall Efforts, Tire Plant in Venezuela Brings Latest in a Long String of Snags and Clashes*, WALL ST. J., Aug. 28, 2000, at A1; Francisco Toro & Frank Swoboda, *Venezuela Puts Blame on Ford, Firestone*, WASH. POST, Sept. 1, 2000, at A1.
9. Simison et al., *supra* note 8, at A1.
10. *Id.*
11. Caroline E. Mayer & Frank Swoboda, *"I Come . . . to Apologize,"* WASH. POST, Sept. 7, 2000, at A1.
12. *Id.*
13. *Id.*
14. Federal Motor Vehicle Safety Standards, 49 C.F.R. §571.109 (2000).
15. *See generally* REX J. GROGAN, THE TIRE INVESTIGATOR'S GUIDE TO TIRE FAILURES 7 (2) (1999).

16. Federal Motor Vehicle Safety Standards, 49 C.F.R. §571.109 (2000).
17. See GROGAN, *supra* note 15, at 12 (2).
18. *Id.* at 7 (2)-8 (2).
19. *Id.* at 8 (2).
20. *Id.* at 8 (2)-9 (2).
21. *Id.* at 103 (11)-112(11).
22. *Id.* at 104 (11).
23. *Id.*
24. *Id.* at 105 (11)-106 (11).
25. *Id.* at 106 (11)-107(11).
26. *Id.* at 107 (11).
27. Deposition of Joe Roundtree at 16-17, *Giles v. Bridgestone/Firestone*, No. 99-447-CA (Fla., Columbia County Cir. Ct. Aug. 23, 2000).
28. *Id.* at 25-26.
29. See Depositions of Gerald D. Burke, Richard G. Tucker, Darrell Batson, and Joe Roundtree, *Giles*, No. 99-447-CA [hereafter Decatur depositions]; see also Timothy Aeppel, *Ex-Firestone Workers to Testify in Suit*, WALL ST. J., Aug. 23, 2000, at A3.
30. See Decatur depositions, *supra* note 29.
31. *Bridgestone/Firestone Announces Voluntary Recall of 3.85 Million Radial ATX and Radial ATX II Tires, and 2.7 Million Wilderness AT Tires*, PR NEWSWIRE, Aug. 9, 2000.
32. *Id.*
33. Stephen Power & Clare Ansberry, *Bridgestone Aims Probe at Design of "Bad Tires,"* WALL ST. J., Sept. 13, 2000, at A3.
34. See GROGAN, *supra* note 15, at 107 (11).
35. *Id.* at 109 (11).

36. *Id.* at 115 (11).

37. *Id.*

38. Stephen Power & Robert L. Simison, *Memo Shows Bridgestone and Ford Considered Recall over a Year Ago*, WALL ST. J., Sept. 6, 2000, at A3.

39. NHTSA Defect Investigation Action No. PE00-020, *supra* note 1.

40. *See, e.g.*, Ryan v. General Tire, Inc., 103 F.3d 145 (10th Cir. 1996).

41. *See, e.g.*, Korando v. Uniroyal Goodrich Tire Co., 637 N.E.2d 1020 (Ill. 1994).

42. *See, e.g.*, Diaz v. Uniroyal Tire Co., 618 So. 2d 505 (La. Ct. App.), *writ denied*, 620 So. 2d 879 (La. 1993).

43. Deposition of Richard James Grogan, at 66-68, Jackson v. Bridgestone/Firestone, No. 97-CV-0618 (Tex., Galveston County Dist. Ct. Oct. 6, 1998).

44. 526 U.S. 137 (1999).

45. 509 U.S. 579 (1993).

46. *See, e.g.*, Michaels v. Avitech, Inc., 202 F.3d 746, 753 (5th Cir.) *reh'g denied*, 213 F.3d 640 (5th Cir), *and petition for cert. filed*, 69 u.s.l.w. 3087 (U.S. July 12, 2000) (No. 00-67).

47. *See, e.g.*, Harley-Davidson Motor Co. v. Carpenter, 350 So. 2d 360 (Fla. Dist. Ct. App. 1977); Holmquist v. Volkswagen of America, 261 N.W.2d 516 (Iowa Ct. App. 1977); TEX. R. CIV. EVID. 407(b).

48. *See, e.g.*, *Carpenter*, 350 So. 2d 360; *Holmquist*, 261 N.W.2d 516.

49. For a good discussion of using other similar incidents evidence at trial, see Tab Turner, *Proving Design Defects with Other Similar Incidents Evidence*, TRIAL, Mar. 1999, at 42.

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