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Tire Blowouts, Explosions, and Defects: Successful Strategies From Demand to Trial

WEDNESDAY, FEBRUARY 12, 2020

1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

Today's faculty features:

John Gsanger, Attorney, **Ammons Law**, Houston

Bruce Kaster, Attorney, **Kaster Lynch Farrar & Ball**, Ocala, Fla.

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Tire Blowouts, Explosions, and Defects: Successful Strategies from Demand to Trial

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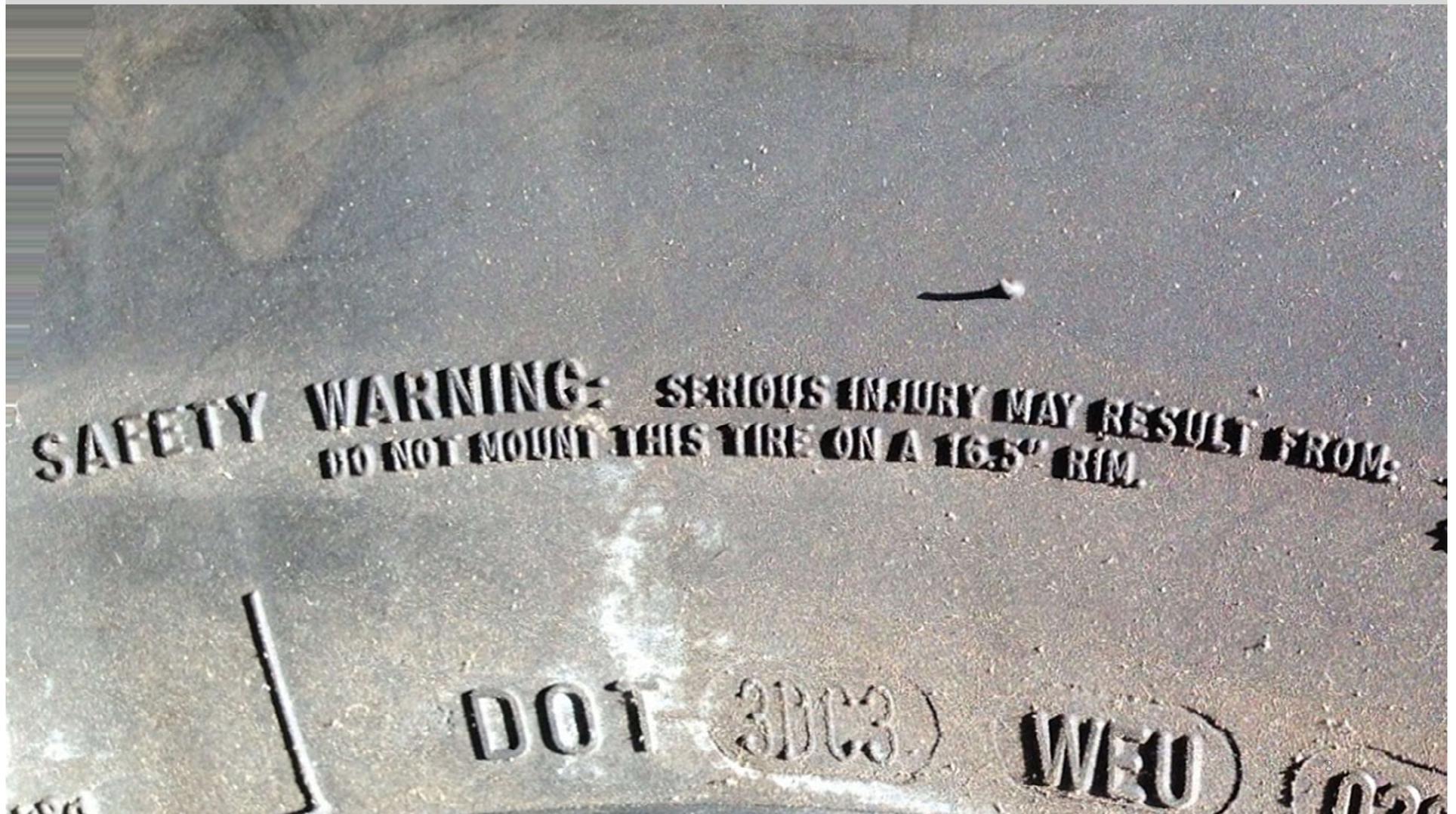


Tire Mounting Failures

Multi-Piece Rims

- Multi-piece rim wheel means the assemblage of a multi-piece wheel with the tire tube and other components.
- Multi-piece wheel means a vehicle wheel consisting of two or more parts, one of which is a side or locking ring designed to hold the tire on the wheel by interlocking components when the tire is inflated.
- Restraining device means an apparatus such as a cage, rack, assemblage of bars and other components that will constrain all rim wheel components during an explosive separation of a multi-piece rim wheel, or during the sudden release of the contained air of a single piece rim wheel.

Old-School Bead-to-Rim Mismatch Litigation



Mismatch Tire and Rims



⚠ DANGER

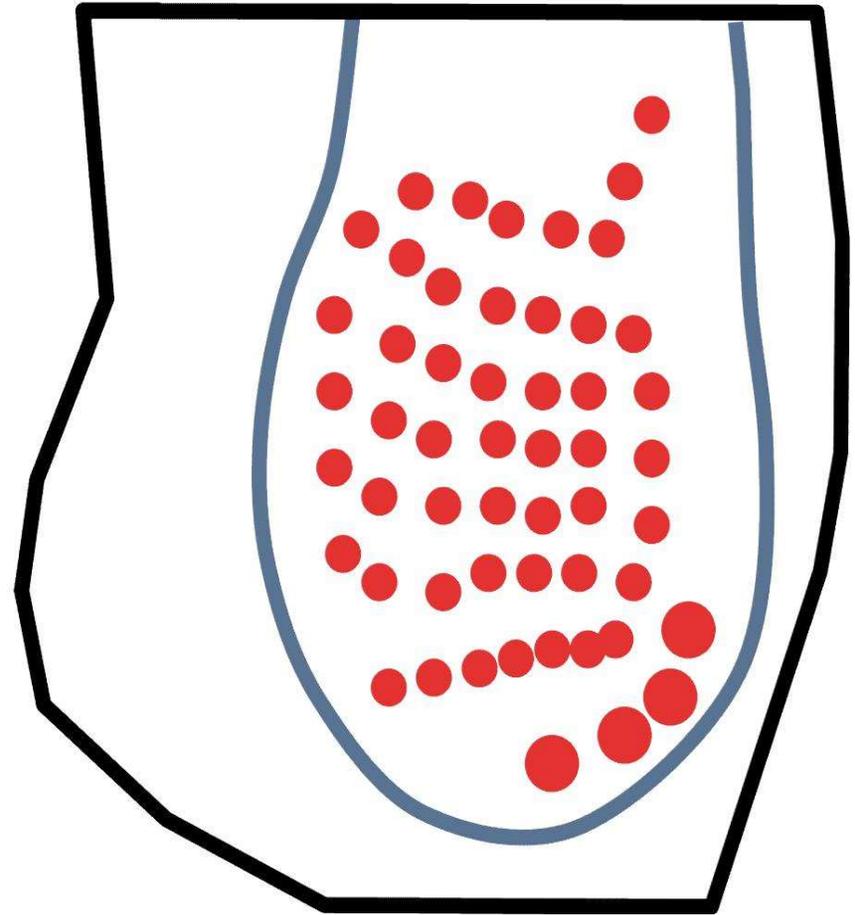
IF YOU TRY TO MOUNT A 16" TIRE ON A 16-1/2" RIM, IT WILL EXPLODE AND CAUSE SEVERE INJURY OR DEATH

A 16" TIRE WILL FIT ON A 16-1/2" RIM BUT WILL NOT SEAT AND THE BEADS WILL BREAK

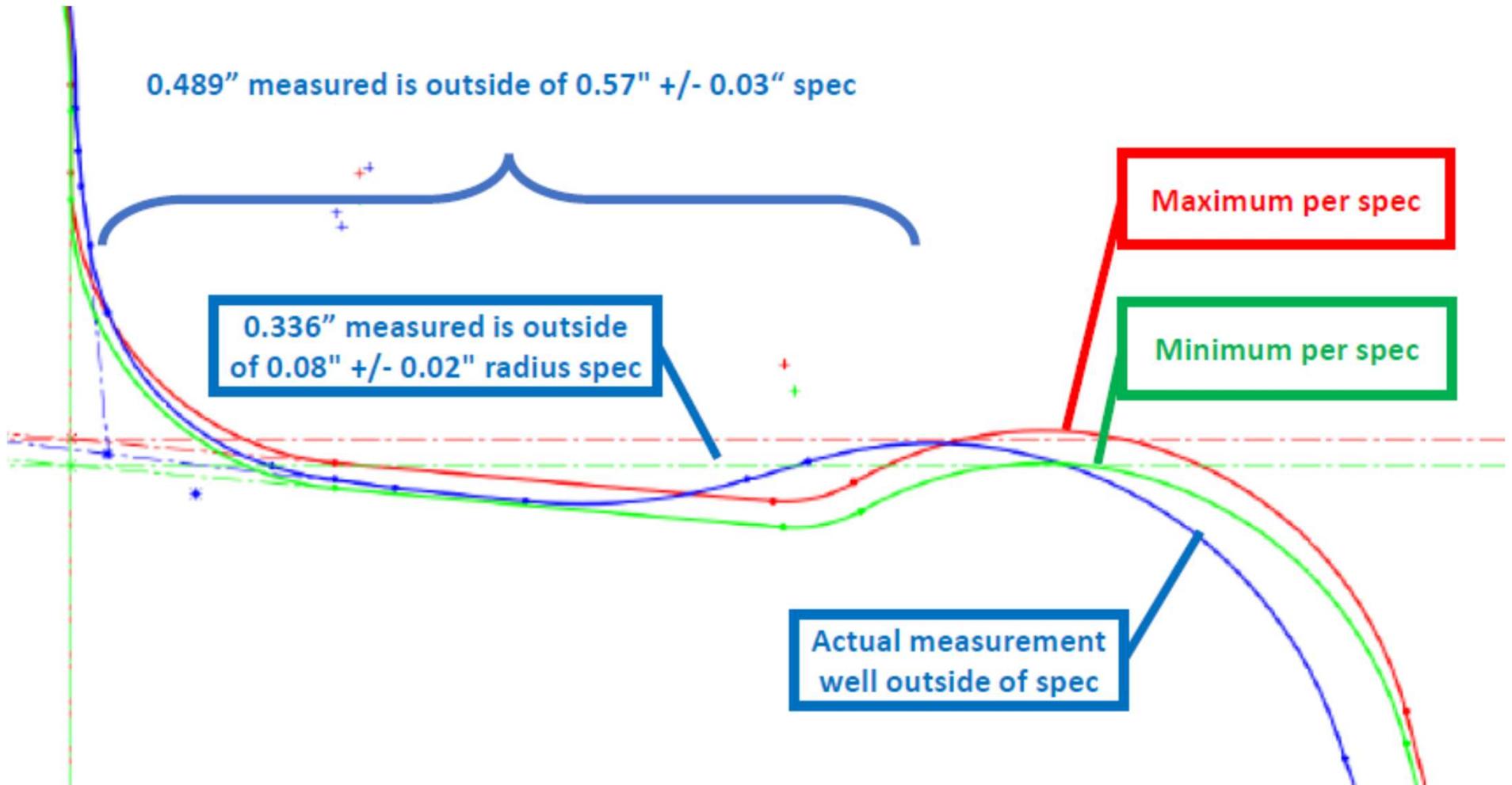
WHEN YOU MOUNT THIS TIRE, MAKE SURE THE RIM IS A 16"

The illustration shows a stick figure being thrown into the air by a tire that has just exploded on a rim. The tire is shown in a cross-section view, with jagged lines representing the explosion. The rim is shown as a circular metal structure with a tire mounted on it.

The Misuse of 50-Year-Old Bead Designs



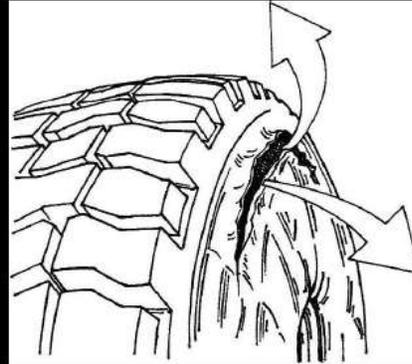
The New Bead-to-Rim Mismatch Litigation





“ZIPPER RUPTURE”

INSPECTION PROCEDURES TO IDENTIFY POTENTIAL SIDEWALL “ZIPPER RUPTURES” IN STEEL CORD RADIAL TRUCK, BUS AND LIGHT TRUCK TIRES



Any tire suspected of operating underinflated and/or overloaded must be approached with caution. A trained tire technician must remove the valve core and completely deflate the tire before removing the tire/rim/wheel assembly from the vehicle. Once removed from the vehicle, the tire should be identified as suspect and be carefully inspected by the technician to determine the cause of underinflation or any other tire damage resulting from underinflation and/or overloading.

The purpose of this wall chart is to describe the inspection procedures for identifying potential sidewall circumferential ruptures — also known as “zipper ruptures” — on truck, bus and light truck tires of steel cord radial construction.¹

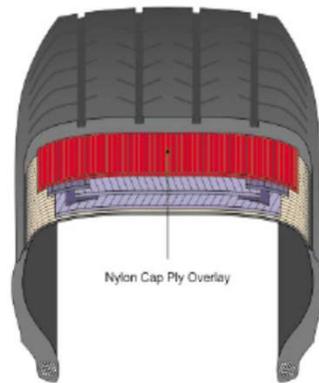
Zipper Rupture



Building a Successful Tire Case



Cap Ply

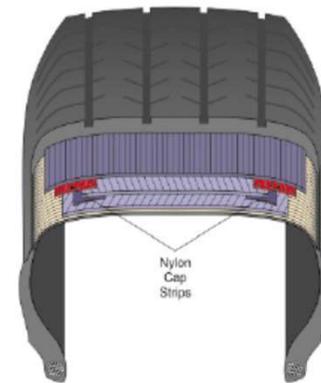


**Case
Screening**

Spiral Wound

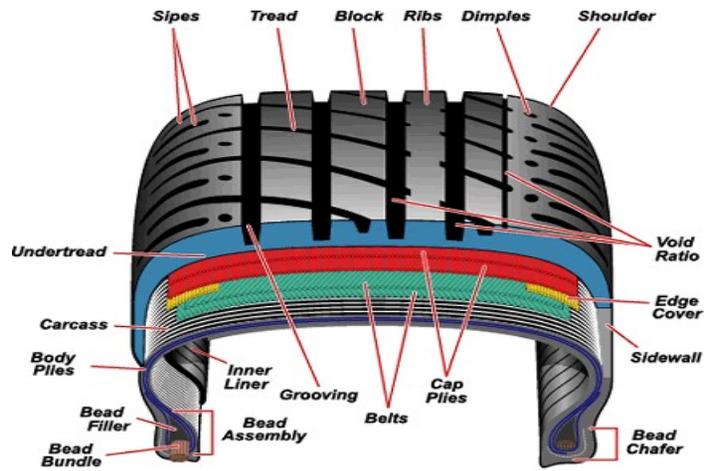


Edge Strips

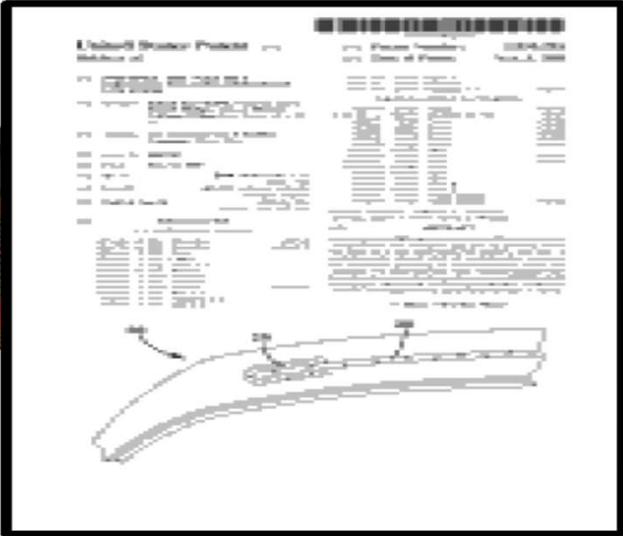
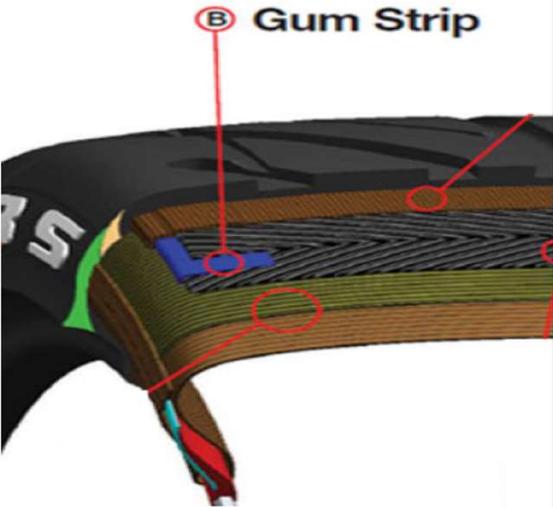


**Identifying
The Defect**

You Need Evidence of a Defect



Building a Successful Tire Case



**Case
Screening**

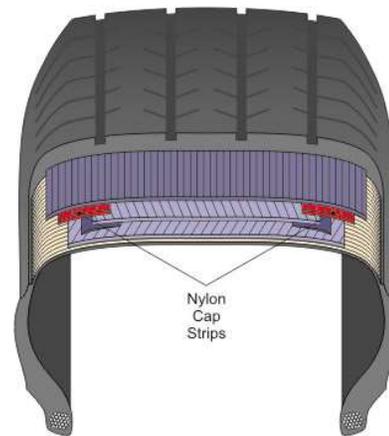
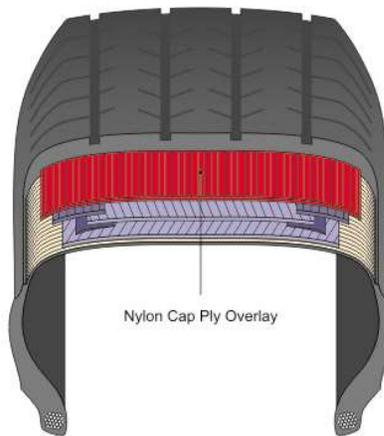
**Design
Defects**

Nylon Reinforcement of the Steel Belt Package

Cap Ply

Spiral Wound

Edge Strips

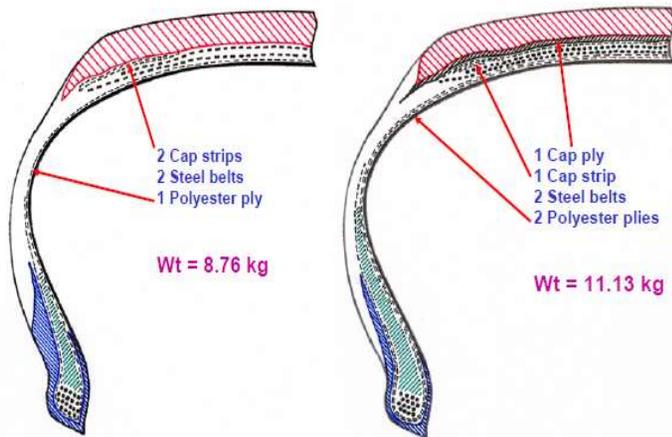


Tires are Being Designed Better



Tyre Construction

10th Worldwide Tyre Survey:
Replacement Market



13 tyres have 2 cap plies, 35 have 1 ply, and 10 have no cap plies

17 tyres have 2 cap strips, 28 have 1, and 13 have no cap strip

- 25 tyres have both 1 cap ply and 1 cap strip
- 6 tyres have 1 cap ply and 2 cap strips
- 3 tyres have 2 cap plies and 1 cap strip
- 1 tyre has 2 cap plies and 2 cap strips

Continental

Jointless cap plies

NEWS

- Car Tyres
- Aut Tyres
- Original Equipment
- Extended Mobility
- About M&A
- About Continental

SPORT

- Trainer
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- For Your Safety
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Press & media

- News
- Continental Corporation
- Automotive Group
- Rubber Group

Find us on Facebook

Jointless cap plies

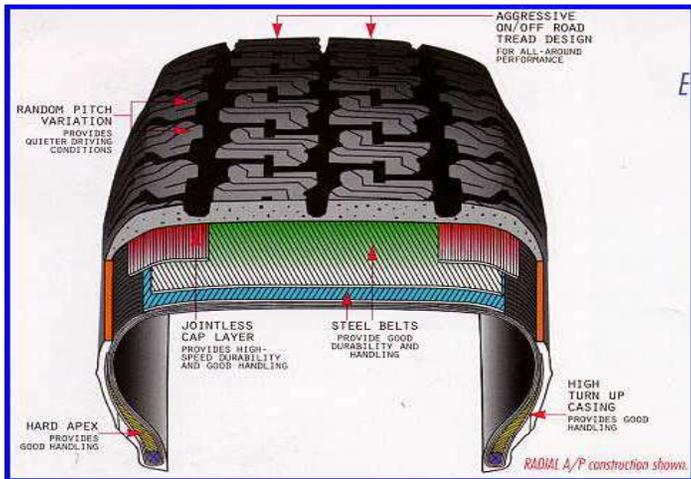
Material: Nylon, embedded in rubber

Function: Enhances high-speed stability

Tires are Being Designed Better

So how do we question the improved designs?

- Focus on the tire designer training materials that discuss variations for better implementing the improved design (cap edge strips, full cap ply, spirally wound jointless strip)**



[SilentArmor Technology](#) [Features & Benefits](#) [Driver Package / Warranty](#)

Added Layer Made With DuPont™ Kevlar®
Helps provide rugged toughness and helps soak up road noise for a smooth and quiet ride

Mountain Snowflake Designation For Outstanding Winter Traction

DuPont™ and Kevlar® are trademarks or registered trademarks of E.I. du Pont de Nemours and Company.

Tire Information

SUV TRUCK

WRANGLER
Featuring SILENTARMOR Technology

Wrangler SilentArmor
Rugged Tire With A Smooth, Quiet Ride
Premium on-off-road tire that helps deliver great traction and ruggedness. This tire emulates the hard-working capability of your truck, providing strength and toughness, as well as a smooth, quiet ride. To visit the Goodyear Wrangler featuring SilentArmor Technology website.

FEATURES	BENEFITS
Armor Zone - two high-tensile steel belts and a layer made with DuPont™ KEVLAR®	Helps provide strength for rugged toughness
Durawall™ Sidewall Reinforcement	Helps resist punctures and cuts in the sidewall area
Shaped Rim Guard	Helps protect expensive wheels against accidental curb damage
Quiet Zone - layer made with KEVLAR®	Helps absorb road noise for a smooth, quiet ride
Traction Ridges	Rugged tread pattern provides off-road traction in wet, muddy conditions
Aggressive tread design	Delivers on-off-road traction

DuPont™ and Kevlar® are registered trademarks or trademarks of DuPont and its affiliates. All rights reserved.

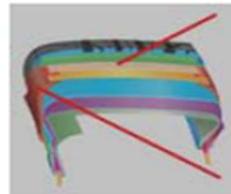
Tire Size	Load Range/Inflation	Service Temperature	Skidpad	Approved Tire Width	Max. Rim Width	Section Diameter	Outside Diameter	Max. Load
L7265-78R17	D	121R	OWL	7.5 - 8.5	8.50	11.5	32.8	3,195 @ 65

GOODYEAR
Wrangler SilentArmor

An Extra Layer Made with DuPont™ Kevlar® Enhances Toughness and Soaks Up Road Noise
Durawall™ Technology Helps Resist Cuts and Punctures to Sidewalls

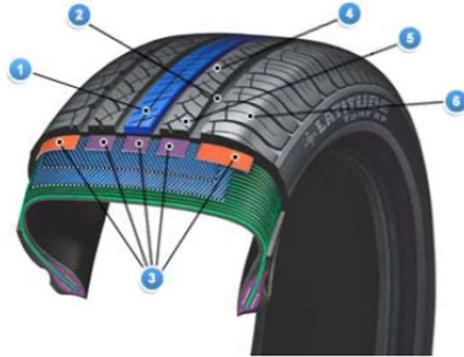
Traction Ridges Help Provide Off-road Traction in Wet, Muddy Conditions

Open Tread Pattern Helps Deliver Enhanced Off-road Traction



S.N.O.W

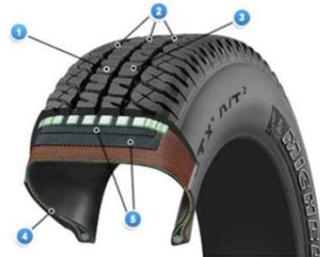
The SNOW (Spiral Nylon Over Wrap) structure improves durability, and it makes the tread area of the tyre as flat as possible to create the best contact patch with the road in order to help ensure stability at high speeds.



- 1 Stiff Center Tread Blocks provide precise steering.
- 2 Wide circumferential grooves provide resistance to hydroplaning.
- 3 Precisely placed polyester and nylon/aramid filaments under the tread provide crisp steering at higher speeds.
- 4 Special tread compound provides exceptional wet handling and balancing while reducing fuel costs.
- 5 2D active sipes provide improved handling in wet and dry conditions by locking together for greater rigidity.
- 6 Tapered shoulder provides more grip in turns.

-- Click play to listen to this page

Our toughest longest lasting all-season on-off road tire offers excellent off-road traction and durability with uncompromising on-road comfort and handling.



1. Upgraded tread compound for tough off-road endurance and a long tread life.
2. Three circumferential grooves to prevent hydroplaning.
3. Deep tread with Michelin biting edges for exceptional traction.
4. Spiral nylon wrap for high speed endurance.
5. Two super high tensile steel belts

The Toyo Extensa A/S construction may vary based on tire size, and/or speed rating.

Looking at the tire cut-a-way diagrams here, notice that the speed-rated "S" tires are sealed with a Spiral-wound Jointless Edge Ply, while the speed-rated "T" and "H" tires are sealed with a Spiral-wound Jointless Cap Ply.

Here are some customer benefits from these features:

JOINTLESS BEAD WIRE
Contributes to a tighter, more uniform fit on the vehicle's wheel

HIGH BEAD FILLER
Improves responsive handling by absorbing bumps and vibrations – minimizing overall tire flex

HIGH-MODULUS POLYESTER CASING
Delivers a comfortable, quiet ride and offers durability and long tire wear

TWO FULL-WIDTH STEEL BELTS
For durability and long tire wear

SPIRAL WOUND JOINTLESS EDGE PLY (SPEED RATING S)
Improves uniformity for a better balanced tire

SPIRAL WOUND JOINTLESS CAP PLY (SPEED RATING T&H)
Improves uniformity and high-speed stability for a better balanced tire

HIGH-WEAR CAP/BASE TREAD COMPOUND
For long tread wear, all-season and snow performance

MULTI-WAVE SIPES
Full depth multi-wave sipes minimize irregular wear for longer tread life, assisting in wet and snow traction and noise reduction

[PREVIOUS](#) | [CONTENTS](#) | [NEXT](#)



[PREVIOUS](#) | [CONTENTS](#) | [NEXT](#)

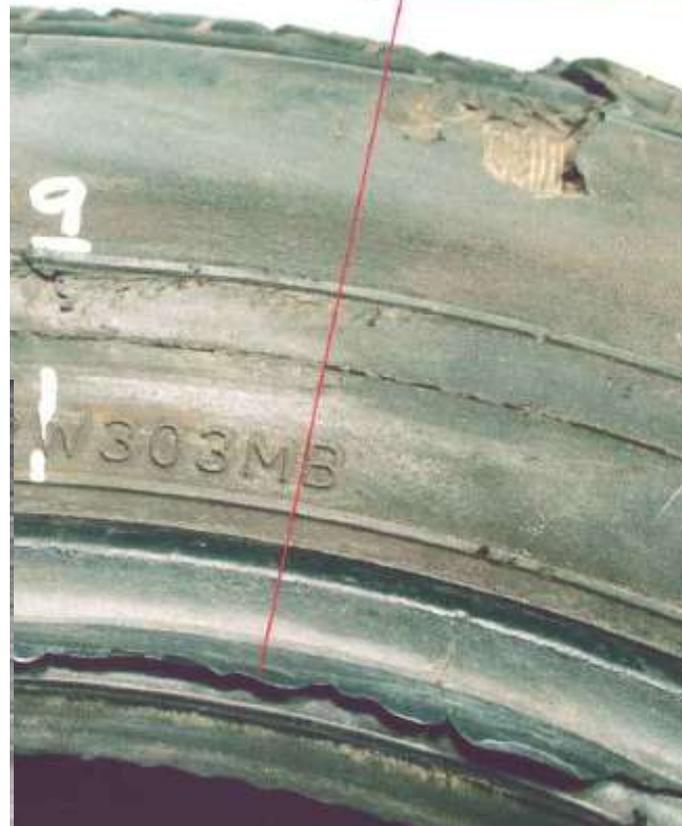
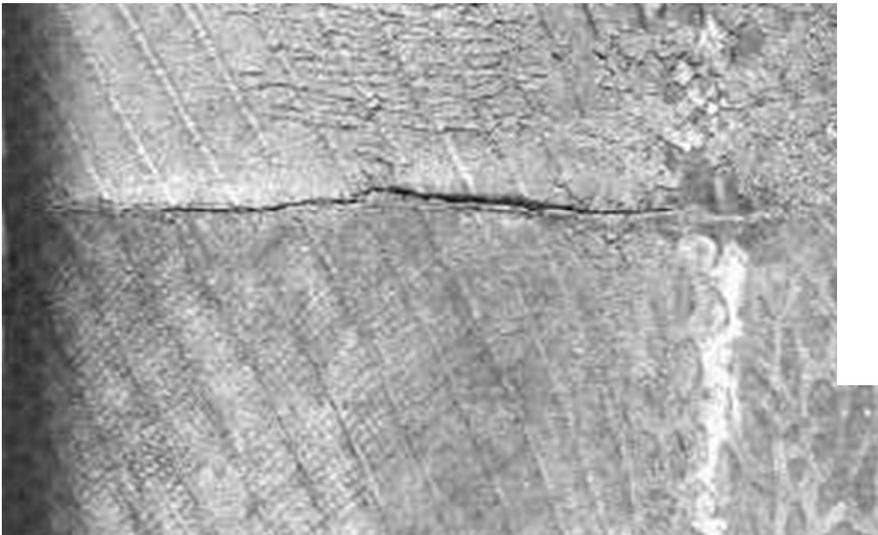
Tires are Being Designed Better

So how do we question the improved designs?

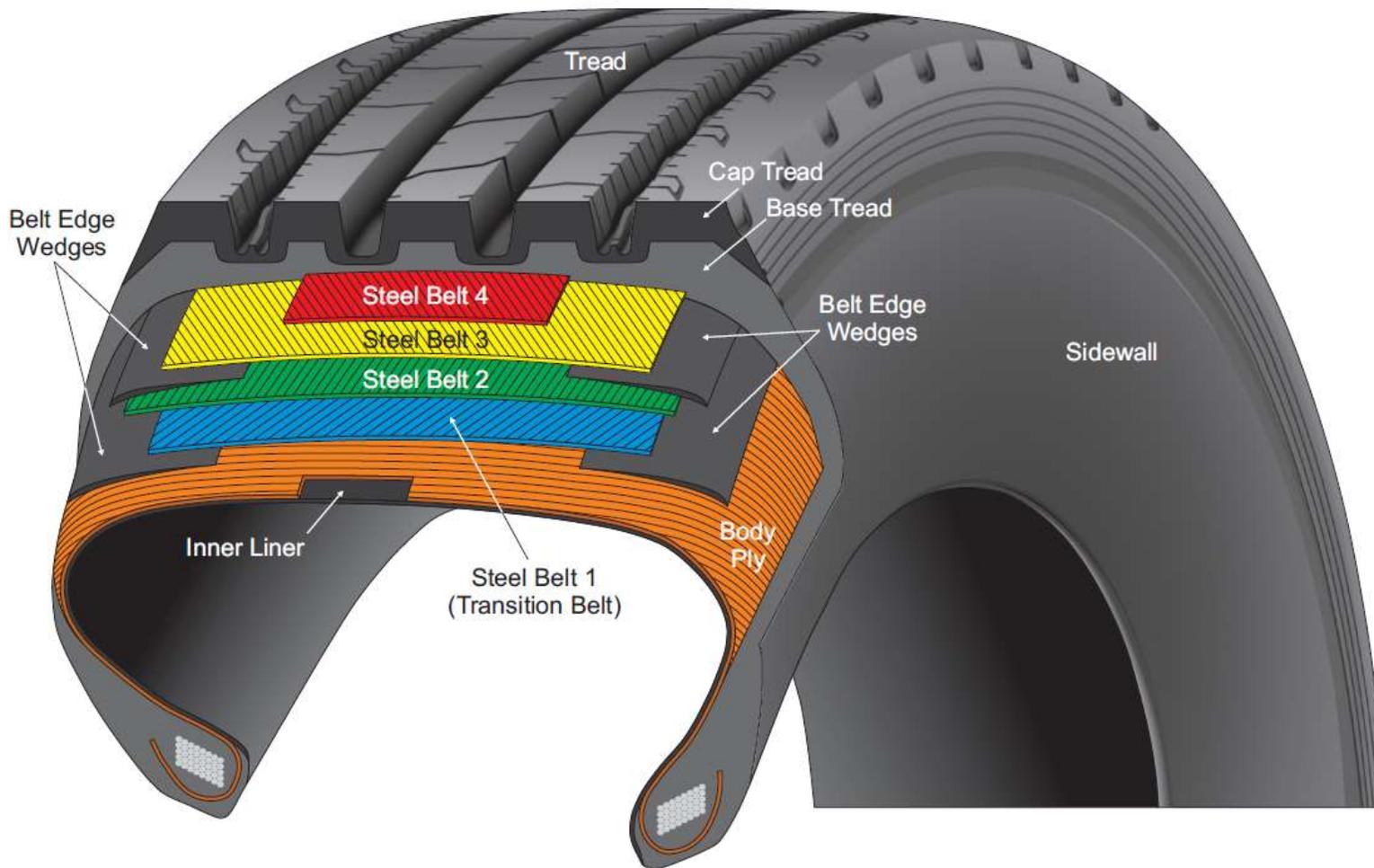
- Focus on the tire builder training materials which acknowledge that the improved design was intended to prevent your client's tragedy**

Manufacturing Defects

Toe Ring Flash



Tread Separations





A close-up, high-angle photograph of a tire tread pattern, showing the grooves and sipes. The image is dark and moody, with the tread pattern highlighted by a soft light source from the right, creating a sense of depth and texture. The background is a solid dark color.

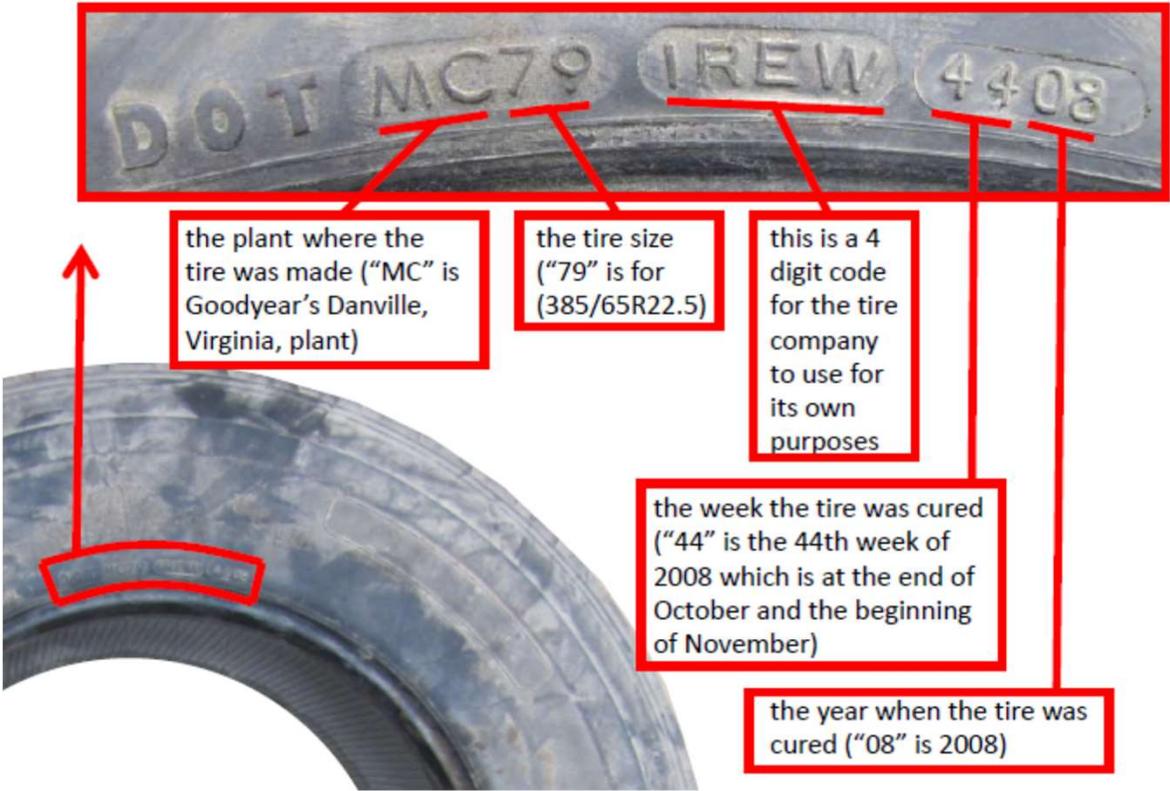
TIREFAILURES.COM
(352) 622-1600

VISIT US ONLINE FOR MORE
INFORMATION ABOUT TIRE DEFECTS,
BLOWOUTS AND TREAD SEPARATIONS.

First Step: Collect the Tire Evidence

- the tire carcass (measure the air pressure, if any – if none, document that fact; photographically record the oxidation at the earliest opportunity)
- any separated pieces (search the crash site and the area up road from the crash to record where the pieces were gathered; again, record the oxidation)
- the wheel rim
- the companion tires (including the spare; measure the air pressure)

First Step: Collect the Tire Evidence



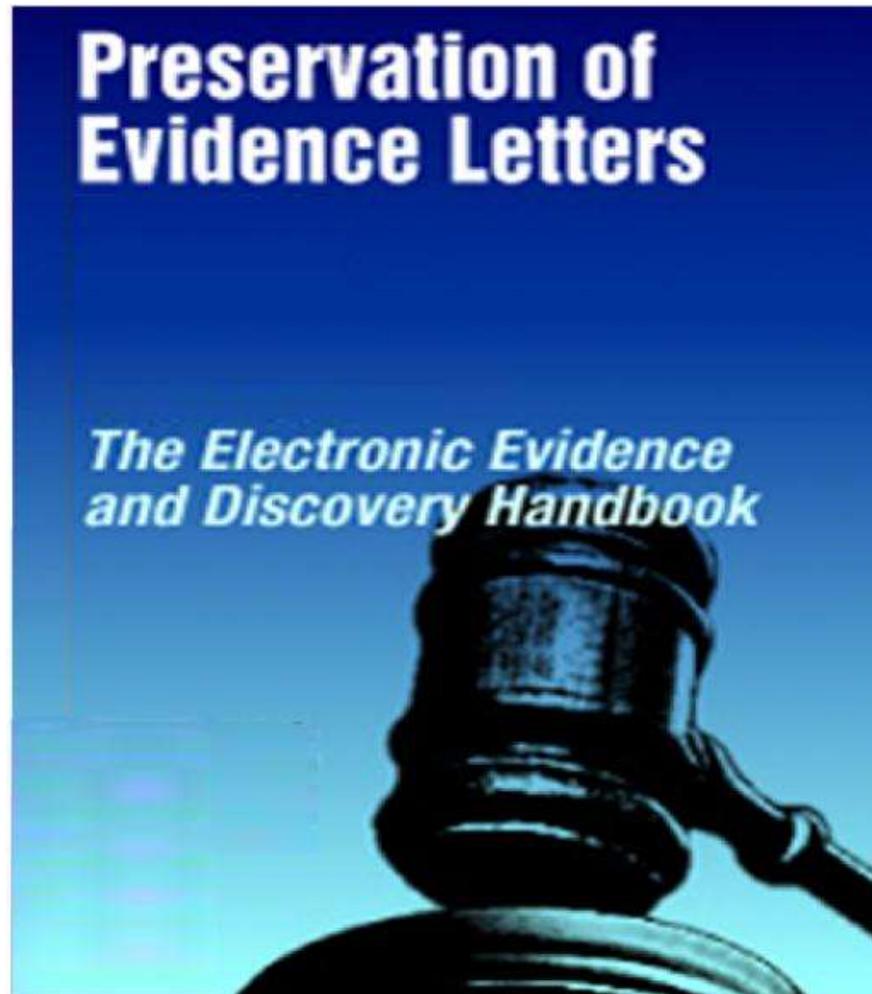
where and when was the tire was made?

(to get plant misconduct whistleblowers and weather reports for the plant that leak)

First Step: Collect Related Evidence

- the vehicles (target and bullet vehicles)
- any separated pieces (including fluid and glass debris)
- biologic and fragmentary evidence (blood, hair, glass)
- the scene evidence (especially marks in dirt and foliage)
- the bodily evidence (especially bruises and autopsies)
- black box data (including target and bullet vehicles)
- witness identification and statements (memories fade)

Second Step: Preservation of Evidence Letter



Second Step: Preservation of Evidence Letter

- the research and development file for the tire line,
- the revision history for changes to the tire line's specifications and tolerances,
- the testing used to validate the changes in the specifications for the tire line,
- the training and work procedure materials for the tire designers,
- the designs for other contemporaneously made tire lines offered in the same size,
- the design failure modes analysis available to those or revised the tire design,
- the architectural analysis and verification the tire line was meeting specifications,
- the tire building machines used to assemble the tire,
- the tire building machines set up processes and settings, the tire assembly manuals and specifications and tolerances and limits,
- the training and work procedure materials for tire builders and tire inspectors,
- the standards for repairing or scrapping green tires and green tire components,
- the process or manufacture failure analysis,
- the documentation of final finish inspection and repair processes and standards,
- the x-ray standards and tolerances and procedures,
- the contact information for tire builders and inspectors who worked at the plant,
- the documentation of the plant's state of disrepair when the tire was built there,
- the recorded statements of those with knowledge of the conditions at the tire plant, the marketing materials for the tire line,
- the training and work procedure materials for warranty return center personnel,
- the documentation of tire condition standards used at the warranty return center,
- the documentation comparing the in-field performance of the tire line,
- the documentation linking tire conditions with potential causes or consequences,
- the failure modes and effects analysis documentation,
- the early warning data for the tire line, the files for property damage claims and lawsuits involving the tire line, and
- the adjustment data for the tire line and the reports generated with that data.

Second Step: Preservation of Evidence Letter

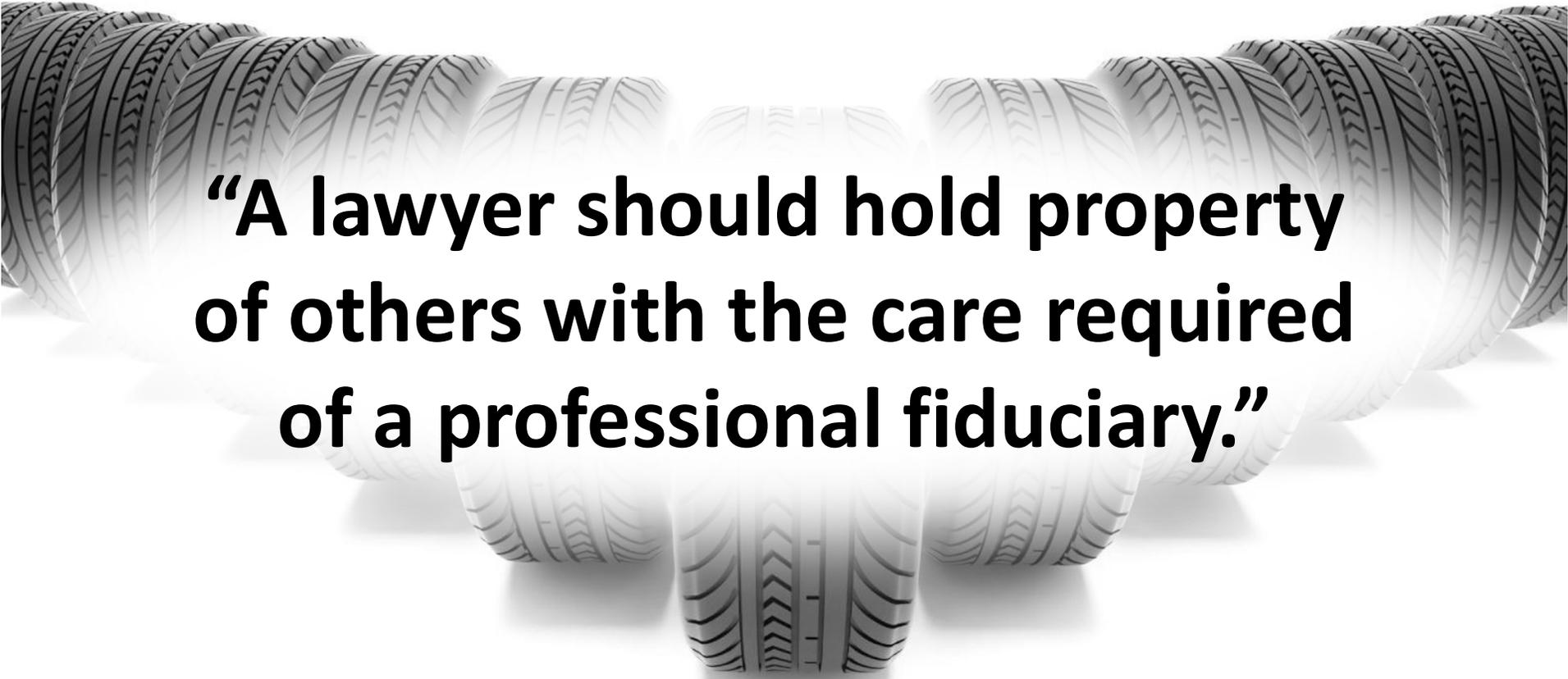
This same letter can also

- give notice of consumer protection act and warranty claims
- begin the process of inviting the defendant to inspect the tire

Third Step: Safeguard the Tire



Third Step: Safeguard the Tire

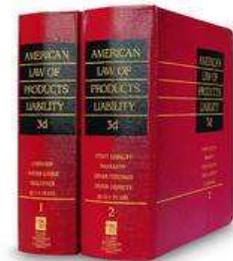


“A lawyer should hold property of others with the care required of a professional fiduciary.”

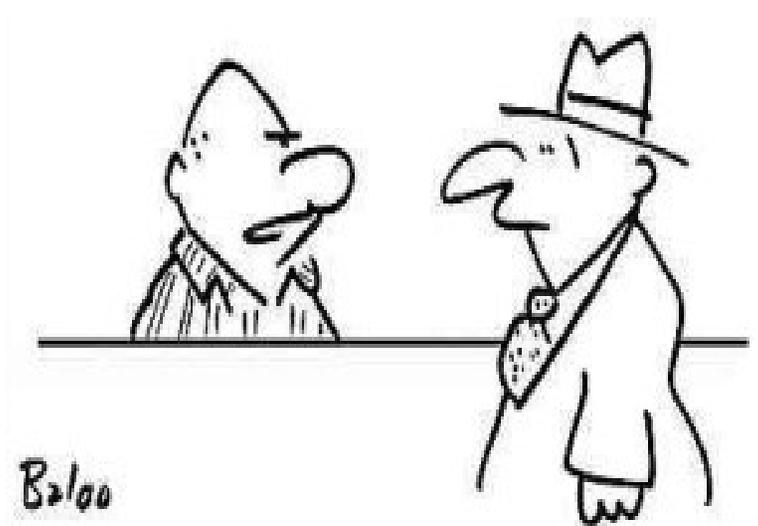
Third Step: Safeguard the Tire

“one of the most common conditions imposed is that the party with custody and control of the product be given the opportunity to be present during the inspection or testing of the product by the opposing party”

American Law of Products Liability 3d Treatise



Third Step: Safeguard the Tire



Baloo

"Look, pal, we lose a *lot* of packages -- what makes *yours* so special?"

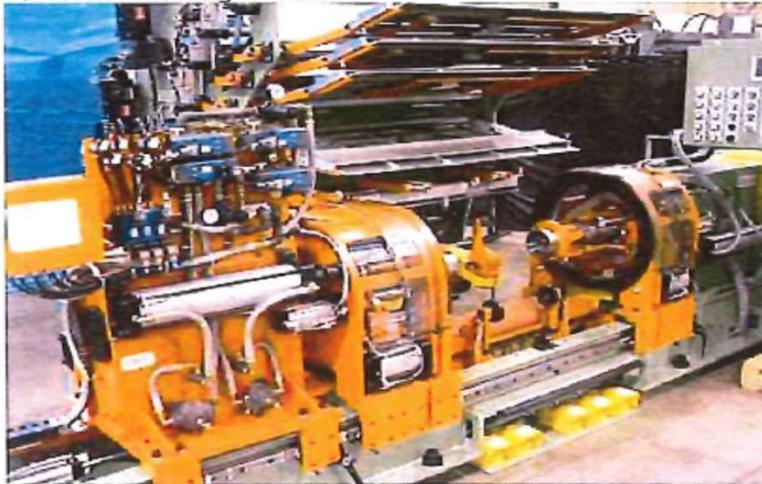


I need a really good excuse...
Do you think you can eat 200,000
pages of discovery?

Fourth Step: Equivalent Access to Evidence

Yeah, that's all down in mixing which is it's own far end separate section of the plant. Crappy job, you get FILTHY, but pays about \$22/hr and is easy to move into if you want the quick move up for the money.

This is a tire building machine:



You manually put the beads on to each end, then the machine closes, and the trays up above feed the ply material to it which the machine automates rolling around for an even roll every time. Depending on the tire there could be 1 ply, there could be 3 or more plies. Some you manually cut the plies, some the machine does it. THEN the machine rolls the material around the bead, sidewall material is added, and it's off to another machine to form the tire and add tread.

You Need an Expert







You Need a Good Expert



Dare I ask the topic of her 'expert' testimony?



Excellent health statistics - smokers are less likely to die of age related illnesses.'



Discovery and Confidentiality

Tires are Being Designed Better

So how do we question the improved designs?

- Focus on marketing literature that brags about the improved designs and raises the bar for safe performance**

You Need the Tire Company's Documents



Use Their Own Documents against Them

Adjustment Procedure Manual



COVERED CONDITIONS

- Blisters
- Cracking
- Delamination

GOODYEAR
DUNLOP

United States Patent [19] Patent
Maathuis et al. [45] Date of

ADJUSTING BELT FOR TIRES WITH CASING

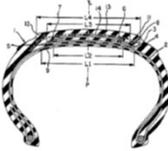
Antonis G. Maathuis, Fozhren; Anthony W. Parsons, Schieren, both of Luxembourg
The Goodyear Tire & Rubber Company, Akron, Ohio
468,255
Feb. 22, 1983
Application Priority Data
[LU] Luxembourg 83980
B60C 9/20; B60C 9/08
152/356 R; 152/359;
152/361 DM
Search 152/361 R, 361 DM, 354 R, 152/356 R, 330 R, 355, 359, 374, 209 R
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125886 6/196
143758 7/196
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78719 6/197
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1410035 10/197
204381A 5/197
207038 10/197
1575027 9/198
157627 10/198
206445A 6/198

Primary Examiner—Assistant Examiner—Attorney, Agent, or i

[57]
A radial tire has im because of a layer o the tread and strips; edges of the belt pl

4 Claim



BF Goodrich **UNIROYAL**

NHTSA Recall Number 12T-019 July 26, 2012

SAFETY

defect which relates to motor vehicle safety

You are receiving this letter because our records indicate that you may have purchased one or more of the recalled tires. It is possible that any one of the affected tires may exhibit a loss of tread, and in some cases rapid air loss resulting from tread belt separation, thereby presenting a risk to motor vehicle safety.

rapid air loss resulting from tread belt separation, thereby presenting a risk to motor vehicle safety

DOT production periods on the affected tires. The DOT marking on the tire and the DOT sequence correspond to the week and year of production, which are given in the DOT production period information.

Tire Description	MSPN	DOT Sequence	DOT Production Periods (Inclusive)
L7230/85 R16 120Q LRE BF Goodrich Commercial T/A A/S	49678	BF0R JD11	1310 to 2912
L7245/75 R16 120Q LRE BF Goodrich Commercial T/A A/S	89586	BE11 JD11 BF11 JD11	1310 to 0312 1311 to 5211
L7230/85 R16 120Q LRE Uniroyal Laredo HDH	49627	BF0R JDUU	1310 to 2912
L7245/75 R16 120Q LRE Uniroyal Laredo HDH	50810	BE11 JDUU BF11 JDUU	1310 to 0312 1311 to 5211

Only tires matching these descriptions and DOT sequences and DOT production periods, are part of this safety recall. To determine if you have received tires that are included in this safety recall, please check the DOT marking found on the sidewall of the tire.
As a result of this safety recall, you are required to take the following Dealer actions:

Radial tires with such a belt package possess good performance and durability characteristics both at high speed and at low speed.

If something is really wrong at the plant,
why can't I go into the plant and see it?



**SHHH!
IT'S A
SECRET.**

But what if it's not really a secret?

So how do I show that it's not a secret?



But what if it's not really a secret?

So how do I show that it's not a secret?

- **If you can find it on the internet, it's not a secret**

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- If they show it to the media and cub scouts, it's not a secret

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- If it is disclosed in the patent literature, it's not a secret
- If they show it to the media and cub scouts, it's not a secret
- If you can reverse engineer it, it's not a trade secret
- If it is an unintended deviation, it's not a trade secret
- **If they deny that it occurs, it's not a trade secret**

Building a Successful Tire Case

Win Critical Discovery Battles

- Whistleblowers
- OSIs (Other Similar Incidents)
- In-Plant Evidence



**Pretrial
Development**



If the tire design is really better, then
the tread would not separate unless ...
Something is really wrong at the plant



Something is really wrong at the plant

So how do we prove the problem at the plant?



Something is really wrong at the plant

So how do we prove the problem at the plant?

- **Before filing suit, research prior problems at the plant
(news stories, labor disputes, recalls, witness statements)**

Something is really wrong at the plant

So how do we prove the problem at the plant?

- Before filing suit, research prior problems at the plant (news stories, labor disputes, recalls, witness statements)
- Look for links between known problems at the plant and observable defects in the tire, and raise those issues in your pleadings (roof leaks = trapped air = defect in the tire)

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- Look for links between known problems at the plant and observable defects in the tire, and raise those issues in your pleadings (roof leaks = trapped air = defect in the tire)
- **Focus discovery on the links between the observable defects in your tire and the known problems at the plant**

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So what discovery links defects to the plant?



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- **Documents training tire builders to avoid known defects**

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- Documents training tire builders to avoid known defects
- Documents training tire inspectors to find known defects

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- **Failure Modes and Effects Analysis (“FMEA”) documents**

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So what discovery links defects to the plant?

- Documents training tire builders to avoid known defects
- Documents training tire inspectors to find known defects
- Documents governing defects honored under the warranty
- Failure Modes and Effects Analysis (“FMEA”) documents
- **Testimony from the tire builders, tire inspectors, and adjustment center personnel who inspect returned tires**

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So how do I get testimony from plant workers?



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- **Ask for the prior depositions and statements of those who have testified about conditions at the plant**

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- Ask for the prior depositions and statements of those who have testified about conditions at the plant
- Call the local labor lawyers who handle cases of those who are injured or mistreated while on the job at the plant

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- Ask for the prior depositions and statements of those who have testified about conditions at the plant
- Call the local labor lawyers who handle cases of those who are injured or mistreated while on the job at the plant
- **Ask for the identity of tire builders and inspectors who worked at the plant the week your tire was made, and then call these witnesses and learn what they have seen**

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So what can I learn from ex-plant workers?



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So what can I learn from ex-plant workers?

- **What “forbidden practices” were nevertheless routine**

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- What “forbidden practices” were nevertheless routine
- What effect did poor plant maintenance have on the tires

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- **Did the tire inspectors have enough time to do a good job**

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So what can I learn from ex-plant workers?

- What “forbidden practices” were nevertheless routine
- What effect did poor plant maintenance have on the tires
- Did the tire inspectors have enough time to do a good job
- **What were they trained about causes of tread separation**

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- What effect did poor plant maintenance have on the tires
- Did the tire inspectors have enough time to do a good job
- What were they trained about causes of tread separation
- **What are examples of putting profit over safe products**

Something is really wrong at the plant

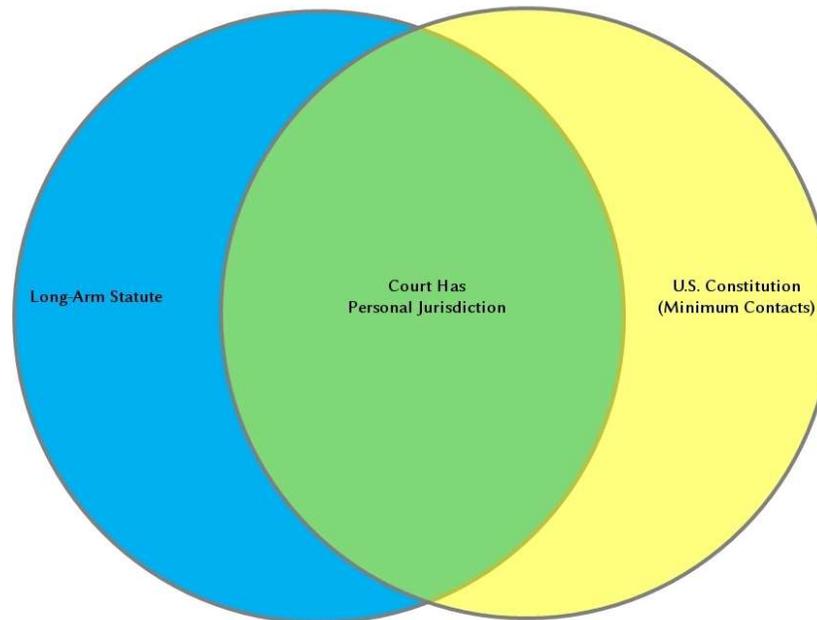
So what can I learn from ex-plant workers?

- What “forbidden practices” were nevertheless routine
- What effect did poor plant maintenance have on the tires
- Did the tire inspectors have enough time to do a good job
- What were they trained about causes of tread separation
- What are examples of putting profit over safe products
- What effect did drug use at the plant have on tire building

**If something is really wrong at the plant,
why can't I go into the plant and see it?**

You May Need to Establish Jurisdiction (and Venue)

Personal Jurisdiction:
Statutory Grant & Constitutional Limit



Personal Jurisdiction

Is there a connection or affiliation between the forum, defendant, and episode-in-suit (subject of the action)?

YES

NO

Are contacts from that affiliation in, directed at, or related to the forum?

Is the defendant "at home" in the forum?

YES

NO

NO

YES

Is it fair to exercise jurisdiction based on the total forum contacts?

Was there consent to jurisdiction?

YES

NO

NO

YES

Specific Jurisdiction

No Jurisdiction

General Jurisdiction

SCOTUS's Most Recent Tire Jurisdiction Decision

- “The stream-of-commerce cases ... relate to exercises of specific jurisdiction in products liability actions, in which a nonresident defendant, acting outside the forum, places in the stream of commerce a product that ultimately causes harm inside the forum.”
- “The episode-in-suit, the bus accident, occurred in France” where the crash occurred, not where the tire was designed, made, or sold
Goodyear Dunlop Tires v. Brown, 564 U.S. 915, 131 S.Ct. 2846 (2011)

SCOTUS's Two Pending Jurisdiction Cases to Watch

- *Ford Motor Co. v. Bandemer*, No. 19-369, and
- *Ford Motor Co. v. Montana Eighth Judicial District Court*, No. 19-368



A “manufacturer” includes those engaged in “(A) manufacturing or assembling motor vehicles or motor vehicle equipment; or (B) importing motor vehicles or motor vehicle equipment for resale.”

49 U.S.C. § 30102(a)(5)

NHTSA, “*Recommended Best Importer Practices To Enhance the Safety of Imported Motor Vehicles and Motor Vehicle Equipment*”

U.S. importers are responsible for ensuring the safety of regulated products they import into the United States and should follow best practices to assure safety through methods that include:

- (1) selecting foreign manufacturers to produce their products;**
- (2) inspecting foreign manufacturing facilities;**
- (3) inspecting goods before distribution in the United States;**
- (4) creating and maintaining records of a product’s:**
 - certification data;**
 - design changes or changes in the production process;**
 - supporting technical documentation;**
 - test reports;**
 - manufacturing process (work orders, operation and inspection and repair logs, and testing checklists, etc.).**

Building a Successful Tire Case

Jurisdictional Challenges



**Pretrial
Development**



- Know general vs. specific jurisdiction
- Know stream of commerce vs. s.o.c. plus
- Plead the factual basis for jurisdiction
- Obtain discovery of the forum contacts
- Benefits purposefully obtained in forum
- Websites, forum marketing/advertising
- Forum agents and corporate subsidiaries

Settlement

Trial