

THE KURTZ LAW FIRM

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Office of General Counsel
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
1200 New Jersey Avenue SE
West Building
Washington, D.C. 20590

Re: Goodyear G159 275/70R 22.5 Medium Radial Truck Tire

Dear Counsel:

In accord with the Order of the Maricopa County Superior Court, this correspondence is provided by me independently, as an officer of the legal system, on behalf of my law firm, David L. Kurtz, P.C. It is not submitted on the behalf of any clients nor on behalf of my family. Its purpose is to set forth from what I discovered in my capacity as counsel for the Haeger Family during 12 years of litigation involving the Goodyear Tire & Rubber Company relating to the G159 275/70R 22.5 tire (G159).

I am submitting two separate versions for NHTSA's consideration. The first is a complete version of this correspondence and supporting exhibits. The second is a redacted version, which deletes any materials previously designated as confidential, pursuant to protective order, and references thereto. Goodyear is being provided a copy of both submittals.

On July 6, 2017, the Maricopa County Superior Court vacated the blanket protective order and Goodyear's confidentiality designations, made pursuant thereto. Goodyear is appealing that decision. Thus, to assure in the interim that Goodyear's right to assert its claims of confidentiality is protected, and in accord with the Court's order, I request NHTSA grant Goodyear 30 days to provide it an opportunity, as the owner of the information, to support its claims of confidentiality pursuant to 49 C.F.R. §512. Each of the documents for which Goodyear asserts claims of confidentiality are clearly marked as:

CONFIDENTIAL. THIS DOCUMENT IS PRODUCED FOR USE IN THE MATTER OF THE ESTATE OF LEROY HAEGER, ET AL., V. THE GOODYEAR TIRE AND RUBBER COMPANY, ET AL., SUPERIOR COURT OF THE STATE OF ARIZONA, MARICOPA COUNTY, CASE NO. CV2013-052753 AND IN ACCORDANCE WITH THE PROTECTIVE ORDER ENTERED IN HAEGER V. THE GOODYEAR TIRE AND RUBBER COMPANY (HAEGER I), CV05-2046-PHX-ROS. THIS DOCUMENT SHALL NOT BE USED FOR ANY PURPOSE INCONSISTENT WITH THE REFERENCED PROTECTIVE ORDER.¹

¹ Exhibits 9 and 12 are summaries prepared by staff. As they address materials Goodyear asserts are confidential, they too have been so designated.

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Goodyear knew too. In its 2000 annual report it commented about the Firestone recall:

Overnight tires became front page news. Journalists, attorneys, politicians, automakers and government officials scrutinized the entire industry and its products.

The brand damage suffered by Firestone is estimated to be well in excess of one billion dollars. As a primary replacement manufacturer for the recalled Firestone tires, it was no time for Goodyear to advance a recall for the G159. The decision to not recall a defective product is wrought with risks. The penalties become worse with each passing year and an untimely admission of a defect years after it was manifest, would expose Goodyear to unquantifiable publicity, brand damage, potential shareholder derivative litigation and an almost indefensible tire in the various suits which were filed. It was just simply cheaper to run the tire out than to comply with what the statutory scheme required. I found it uniquely offensive that Goodyear's top five officers received in excess of \$300 million in bonuses while the G159 continued to run on the roadway after it was, in my opinion, clearly evident the tire was defective. **(Exhibit 71)**

Handling this investigation over the last 14 years has caused tremendous personal sacrifice and financial loss for my family. It has required me to work exclusively on this single file since 2011, investing countless thousands of hours pursuing the job NHTSA would have performed if it had been appropriately informed. I am pleased to finally be able to hand it to NHTSA, as I have tirelessly performed the task of chasing the facts down so that the appropriate regulatory response would follow.

I believe that a Timeliness Query is appropriate to evaluate the timing of Goodyear's defect decision-making and reports to NHTSA. I believe the existing data provides a solid foundation to recall the G159. Regardless of expense, there is simply no reason to leave families exposed to unexpected crossover collisions or to the sudden tread separation of a motorhome from the G159. Each of these families is worth saving and protecting. It is certainly an expense that is appropriate for Goodyear to incur.

If NHTSA determines Goodyear failed to comply with applicable law, either by failing to report a defect in the G159 tires; or failure to comply with Early Warning Reporting; or misrepresenting failure data to NHTSA when requested; I ask that NHTSA address such deceptions and penalize Goodyear in accord with the agency's discretion.

Additionally, NHTSA should review Goodyear's approach and process regarding defect determinations to assure it is meeting its public safety obligation. There needs to be an actual standard at Goodyear where some kind of an investigation is mandated, whether it be for adjustments, property damage claims, injury and/or death claims. Goodyear has none.

Similarly, it seems inappropriate to me that only senior management sits on the Corporate Safety Committee. There is no system of checks and balances to assure the defect determinations are appropriately made. There is no methodology for a minority of the Corporate Safety Committee to disclose any disagreement amongst the membership regarding whether a product is defective.