

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

In re BRIDGESTONE/FIRESTONE, INC.,)
ATX, ATX II AND WILDERNESS TIRES)
PRODUCTS LIABILITY LITIGATION)
)

Master File No. IP 00-9373-C-B/S
MDL No. 1373

(centralized before Hon. Sarah Evans
Barker, Judge)

CARLOS RODRIGUEZ and RICARDO
MORALES,

Plaintiffs,

v.

Individual Case Number:
IP 01-5179-C-B/S

BRIDGESTONE/FIRESTONE, INC., f/k/a
THE FIRESTONE TIRE AND RUBBER
CO., SEARS, ROEBUCK AND CO., and
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Defendants.

ORDER ON MOTION FOR LEAVE TO AMEND

Before the Court is the motion of defendant Sears, Roebuck and Co. (“Sears”) for leave to amend its amended answer to add a cross-claim against its co-defendant Bridgestone/Firestone, Inc. (“Firestone”). Having considered the submissions of Sears in support of its request for leave to amend,¹ the Court now GRANTS leave to amend and ORDERS that Sears’s Second Amended Answer and Affirmative Defenses and Cross-Claim attached as Exhibit A to its motion for leave to amend (docket number 399) is deemed filed and served as of the date of this Order.

¹Firestone did not file any response to the motion.

Discussion

In allowing amendment, the Court determines that: (1) Sears has not unduly delayed in seeking this amendment; (2) its request for leave to amend has not been motivated by bad faith or dilatory purpose; (3) there has been no repeated failure by Sears to cure deficiencies by prior amendments; (4) Firestone will not be unduly prejudiced by allowance of the amendment; and (5) amendment would not be futile. Moreover, the Court is mindful of the directive that leave to amend should be freely accorded. See Foman v. Davis, 371 U.S. 178, 182 (1962).

For all of these reasons, leave to amend to add a cross-claim against Firestone is hereby GRANTED.

It is so ORDERED this _____ day of February, 2001.

SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

Copy to:

Irwin B Levin
Cohen & Malad
136 North Delaware Street
P O Box 627
Indianapolis, IN 46204

William E Winingham
Wilson Kehoe & Winingham
2859 North Meridian Street
P.O. Box 1317
Indianapolis, IN 46206-1317

Randall Riggs
Locke Reynolds LLP
201 N. Illinois St., Suite 1000
P.O. Box 44961
Indianapolis, IN 46244-0961

Daniel P Byron
McHale Cook & Welch Pc
320 N Meridian St
1100 Chamber of Commerce Bldg
Indianapolis, IN 46204