

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS, INDIANA

IN RE BRIDGESTONE/FIRESTONE, INC.)	Master File No. IP 00-9373-C-B/S
ATX, ATX II and WILDERNESS TIRES)	MDL Docket No. 1373
PRODUCTS LIABILITY LITIGATION)	
)	
)	
)	
THIS DOCUMENT RELATES TO ALL)	
ACTIONS)	

**ORDER REGARDING FIRESTONE'S
PRESERVATION OF ELECTRONIC DATA**

This Order supplements the portion of the Court's November 22, 2000, Order on Organizational Structure and Discovery Related to Preservation of Documentary Evidence:

1. During the pendency of this litigation, the parties shall maintain electronic document and data retention policies designed to ensure the retention of electronic documents consistent with Federal Rule of Civil Procedure 34(a), including, but not limited to, email, word processing documents, spreadsheets, databases and other electronic data items which are likely to contain or lead to the discovery of information relevant to the facts at issue in this litigation ("discoverable electronic information"). In connection therewith, defendant Bridgestone/Firestone, Inc. ("Firestone") shall maintain its routine back-up procedures designed to maintain its network storage devices and implement procedures to secure such information that is not backed up in the ordinary course of business. Firestone shall further suspend existing programs, if any, through which electronic mail is automatically deleted from its email servers (e.g, automatic deletion of mail older than 60 days or automatic deletion of mail when users' mailboxes exceed a certain size).

2. Since approximately September 2000, Firestone has maintained daily back-ups of its network servers likely to contain discoverable electronic information. Except as otherwise set forth herein, upon entry of this Order, Firestone will be relieved of any requirement, to the extent it may exist, to continue to retain such daily back-ups. These historical back-up tapes of the network servers likely to contain discoverable electronic information shall be hereinafter referred to as the “Historical Litigation Back-up Tapes.” Within three weeks of the date of this Order, plaintiffs will select not more than fifteen data points (dates the back-up tapes were created) from the Historical Litigation Back-up Tapes that they wish Firestone to secure and preserve pending the outcome of this litigation. After such designation, Firestone shall be relieved of any further burden or obligation to maintain the balance of the Historical Litigation Back-up Tapes.

3. Upon entry of this Order, Firestone will determine what, if any, electronic information or data has been archived or backed up as part of a special back-up, whether due to a system upgrade, transition planning, system migration, disaster recovery planning, or Y2K testing. In connection therewith, Firestone will ask its employees to identify any such back-ups that are likely to contain discoverable electronic information, report to the requesting party the results of the search, and ask that all such back-ups be retained pending further instruction. Within thirty days of the date of this Order, Firestone will tender to the Court, with a copy to plaintiffs’ counsel, a report identifying any such electronic information or archived data. Within two weeks thereafter, plaintiffs and Firestone will attempt to agree as to what portion, if any, of such back-ups or archived electronic information shall be retained pending the outcome of this litigation. If the parties are unable to agree, they shall submit this matter to the Court for resolution.

4. Prospectively with respect to Firestone’s email servers, on the fifteenth day of each thirty-day cycle Firestone will make a copy of the back-up tapes for its email servers that Firestone creates in the ordinary course of its business on that day. Prospectively with respect to Firestone’s

print/file server and any network servers likely to contain discoverable electronic information, Firestone will, on a quarterly basis, make a copy of the back-up tapes prepared in the ordinary course of business that captures the data on such servers. The foregoing duplicate back-up tapes are meant to be entire copies of the information contained on such network servers as it exists in that point in time and not an incremental back-up. Firestone shall retain these duplicate back-up tapes for the pendency of this litigation and may return to normal rotation any other back-up tapes for such servers.

5. Firestone will maintain the technological capability to retrieve and read such electronic information during the pendency of this litigation. If Firestone believes that the burden and cost in maintaining such software and hardware is unreasonable, Firestone shall meet and confer with plaintiffs. If the parties are unable to reach a mutually satisfactory agreement, the parties shall brief the issue to the Court.

6. Upon entry of this Order and semi-annually thereafter, Firestone will re-notify and encourage its employees who may possess discoverable electronic information to search their electronic storage devices and make reasonable and duly diligent efforts to determine if they possess discoverable electronic information. The notice shall further instruct the employees that, if they possess discoverable electronic information, they are to report to the requesting party that they possess such information and take reasonable steps to preserve the same, without alteration, on a network storage device. Firestone, in the course of gathering potentially discoverable information, has and/or will conduct searches of the electronic storage devices of employees who are likely to have discoverable electronic information and take reasonable steps to preserve that information on a network storage device without alteration.

7. Firestone shall use its best efforts to obtain certifications from its employees that may possess discoverable electronic information. These certifications will state that the employees have made a reasonable and duly diligent effort to determine if they possess discoverable electronic

information and, if they possess such information, that they informed Firestone's counsel of that fact and took reasonable steps to preserve that information on a network storage device without alteration. Firestone will use its best efforts to obtain such certifications within 90 days of the date of this Order, and semi-annually thereafter. Firestone shall retain these certifications until the conclusion of the litigation and shall not be required to provide the certifications to plaintiffs except upon order of the Court.

8. The entry of this Order is directed to the preservation of electronic data and is not to be deemed a determination by the Court or admission by any party as to the relevancy or discoverability of such electronic data.

IT IS SO ORDERED.

Dated this 15th day of March, 2001.

V. SUE SHIELDS
United States Magistrate Judge
Southern District of Indiana

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