

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

<b>In re: BRIDGESTONE/FIRESTONE, INC.,</b>	) <b>Master File No. IP 00-9373-C-B/S</b>
<b>TIRES PRODUCTS LIABILITY LITIGATION</b>	) <b>MDL NO. 1373</b>
_____	)
<b>THIS DOCUMENT RELATES TO ALL</b>	)
<b>ACTIONS</b>	)

**ENTRY ON FORD'S MOTION TO RECONSIDER AND CLARIFY  
THE COURT'S DECEMBER 3, 2001, ENTRY ON  
PLAINTIFFS' MOTION TO COMPEL**

On December 6, 2001, Ford filed a Motion to Reconsider and Clarify the Court's December 3, 2001, Entry on Plaintiffs' Motion to Compel. The issues raised in this motion, which involve discovery by the class action plaintiffs, have been discussed and addressed by the magistrate judge and the parties during two telephonic status conferences, and the parties continue to work to resolve those issues among themselves, with guidance from the magistrate judge as needed. Indeed, the magistrate judge expressly has instructed that the plaintiffs need not file a response to Ford's motion to reconsider, and therefore they have not done so.

The parties have informed the magistrate judge that they have been unable to resolve one particular issue raised by Ford's motion: whether the plaintiffs are entitled to discover documents, other than those Ford has already agreed to produce, relating to the profits made by Ford on its sales of Explorers. The magistrate judge has considered this issue, and determines that the additional profit-related documents sought by the plaintiffs are not relevant to the claims remaining in the Master Complaint in this case, as the magistrate judge understands those claims. Specifically, it is the magistrate judge's understanding that the relevant damages inquiry for each of the class plaintiffs' remaining claims against Ford is to what extent the plaintiffs' paid too much for their Explorers in light of their alleged defects. The plaintiffs propose to calculate this amount by determining the difference between the wholesale price actually obtained by Ford for the Explorers and the price they would have obtained had the defects been

known. As plaintiffs' counsel explained at the hearing on class certification, "Warranty claims, the unjust enrichment, the potential claims for consumer trade practices, all involve the defendant's [sic.] misconduct at the time they had sold a new vehicle. Therefore, they all relate to the overpayment for a new vehicle." Transcript of November 16, 2001, Hearing on Plaintiffs' Motion for Class Certification at 65.

It is unclear to the magistrate judge how the additional profit information sought by the class plaintiffs is relevant to this inquiry. If, after obtaining and reviewing the profit information that Ford has agreed to produce, the plaintiffs believe they can establish the relevance of specific additional categories of profit documents, they may move to compel the production of those specific additional categories. Any such motion shall be filed no later than March 1, 2002.<sup>1</sup>

ENTERED this \_\_\_\_\_ day of December 2001.

---

V. Sue Shields  
United States Magistrate Judge  
Southern District of Indiana

---

<sup>1</sup>This should not be construed as an extension of the discovery deadline in this case. However, the magistrate judge believes it is appropriate to hold any further briefing on this issue in abeyance to permit the parties to address more pressing discovery matters and to give the plaintiffs the opportunity to process the information that they have and will be receiving from Ford in order to determine whether they still believe they are entitled to additional information on the profits issue.

Copies 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