

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

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

**ENTRY REGARDING FORD’S MOTION FOR RECONSIDERATION AND  
MODIFICATION OF SECOND ENTRY REGARDING PLAINTIFF’S MOTION TO  
COMPEL PRODUCTION OF DOCUMENTS BY FORD MOTOR COMPANY ON  
GROUND OF WAIVER**

Defendant Ford Motor Company (“Ford”) seeks reconsideration of the magistrate judge’s ruling that two of the documents on its privilege log, which have been denominated documents 9130 and 9197, are not privileged and therefore must be produced to the plaintiffs. This motion is **DENIED**.

Ford believes that the magistrate judge’s order to produce document 9130 should be reconsidered because Ford voluntarily withdrew its claim of privilege as to that document and produced it to the plaintiffs prior to the magistrate judge’s order. The magistrate judge is at a loss as to why Ford believes this is the proper subject of a motion to reconsider. The magistrate judge found that the document is not privileged, and apparently Ford agrees with that determination. The most up-to-date privilege log submitted to the magistrate judge prior to her ruling does not indicate that the privilege had been withdrawn as to document 9130, but rather indicated that Ford had removed it from its privilege log because it believed it to be irrelevant.<sup>1</sup> This position was consistent with that taken in the affidavit of John Mavis submitted by Ford in opposition to the plaintiffs’ motion to compel. Frankly, the magistrate judge is at a loss to

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<sup>1</sup>Subsequent to the magistrate judge’s order, Ford submitted another updated privilege log on which it noted that it had withdrawn its privilege claim as to document 9130.

understand why Ford asks her to “reconsider” an order that was entirely consistent with all of the information available to her at the time, and is even more confused to learn that she spent time reviewing and considering a document which, unbeknownst to her, Ford already had produced to the plaintiffs.

Ford seeks reconsideration of the magistrate judge’s order to produce document 9197 on the ground that it was created after August 9, 2000, and therefore should not have been included on Ford’s privilege log to begin with pursuant to the January 30, 2001, Case Management Order in this MDL. Ford’s argument is misplaced, however. The Case Management Order does not deem any document privileged, even if it was created after August 9, 2000; rather it simply provides that “[d]ocuments that were created or generated subsequent to August 9, 2000, *and which are privileged communications or work product*” need not be included on a privilege log. Document 9197 was included on Ford’s privilege log; Ford provided it for in camera review and submitted an affidavit in support of its claim of privilege for it.<sup>2</sup> After reviewing the document the relevant affidavit, the magistrate judge determined that the document is not privileged, and accordingly ordered it produced. Ford now argues that it never should have included it on its privilege log, which is correct, but not for the reason Ford puts forth. Rather, document 9197 should never have been included on Ford’s privilege log for the simple reason that it is not privileged. It should have been produced to the plaintiffs, just as all other non-privileged relevant and responsive documents should have been, regardless of the date they were created.

Ford’s motion for reconsideration is **DENIED**. Document 9197 shall be produced to the

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<sup>2</sup>In fact, Ford submitted the affidavit of Cynthia Hodges for the sole purpose of supporting its claim of privilege as to document 9197.

plaintiffs **within 3 days of the date of this Entry.**

ENTERED this \_\_\_\_\_ day of August 2002.

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

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