

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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In re: BRIDGESTONE/FIRESTONE, INC.,)
TIRES PRODUCTS LIABILITY) Master File No. IP 00-9373-C-B/S
LITIGATION) MDL No. 1373
_____) (centralized before Hon. Sarah Evans
) Barker, Judge)
CARLOS RODRIGUEZ and RICARDO)
MORALES, Plaintiffs,)
V.) Individual Case No. IP 01-5179-C-B/S
BRIDGESTONE/FIRESTONE, INC., et al.,)
Defendants.)
)

ORDER DENYING STAY AND REMANDING ACTION

In its Order dated November 15, 2002, the Court granted the plaintiffs leave to file an amended complaint. Because the Amended Complaint added an apparently non-diverse defendant, the parties were ordered to SHOW CAUSE on or before December 6, 2002, why this action should not be remanded to the state court in Miami-Dade County, Florida for lack of federal subject matter jurisdiction.

Defendant State Farm Mutual Automobile Insurance Company (“State Farm”) responded to the Court’s show cause order by agreeing that the addition of Miami Tire, Inc.

as a defendant destroys diversity and requires the remand of the action to state court.¹

Defendant Sears, Roebuck and Co. (“Sears”) also responded to the show cause order. It apparently² agrees that the Court now lacks subject matter jurisdiction over this action but asks the Court to stay all proceedings, including remand, until it has ruled on Sears’s motion for summary judgment. Sears maintains that this court is familiar with the factual and legal issues presented by its summary judgment motion and that it is in the interests of “judicial economy and fundamental fairness” for the Court to rule on its dispositive motion before sending the case back to state court.

Sears’s position is flawed for at least three reasons. First, its summary judgment motion presents a case-specific factual issue regarding the mounting of the tire at issue; this court has no special familiarity with that issue, and there is no compelling reason for that motion to be litigated in the MDL. Second, all of the discovery taken to date, as well as the expert reports obtained and served, will be fully applicable to the action after it is remanded to state court. Third, and most important, Sears is asking this court to rule on a dispositive motion in a case over which everyone agrees it now has no jurisdiction. Its motion to stay is therefore DENIED.

This action is remanded to the state court in Miami-Dade County, Florida for lack of

¹State Farm also requests an enlargement of time, to and including twenty days from the date of remand, to respond to the Amended Complaint. That request is GRANTED.

²Sears actually does not mention the lack of federal subject matter jurisdiction but implicitly concedes it.

federal subject matter jurisdiction.

It is so ORDERED this ____ day of December, 2002.

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

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