

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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In re: BRIDGESTONE/FIRESTONE, INC.,) Master File No. IP 00-9373-C-B/S
TIRES PRODUCTS LIABILITY) MDL No. 1373
LITIGATION) (centralized before Hon. Sarah Evans
_____) Barker, Judge)
)
THIS DOCUMENT RELATES TO ALL)
ACTIONS)

**ORDER ON PROCEDURES FOR
DAUBERT HEARINGS**

The Court hereby establishes the following procedures for the hearings on defendants' motions to limit expert testimony ("Daubert motions"), to be held beginning March 11, 2003, as provided in the Court's order issued February 3, 2003.

General procedures

1. The Daubert motions will be heard in the order set out in the Court's February 3, 2003 order.
2. Counsel have advised the Court that they anticipate the hearings of the two "specific opinion motions" will require more time than the two "missing tire motions." The Court will not at this time establish a rigid schedule for each motion, but based on the information from counsel and as a guideline, the Court expects to devote no more than a total of three days to the "specific opinion motions," leaving one day for hearing the two "missing tire

motions.” Notwithstanding these guidelines, the parties shall be prepared to proceed to the next motion immediately after hearing on the prior motion has concluded.

3. Plaintiffs will proceed first in the presentation of argument and evidence with respect to each of the four motions.

4. The Court expects that the legal arguments of the parties have been fully set forth in the briefs counsel have filed. Argument at the hearing should therefore be limited and should focus on the evidence and the application of specific legal standards to that evidence and not on general explications of the Daubert standards.

5. Plaintiffs and defendants¹ will each be given ten minutes for opening statements for each of the four motions and twenty minutes for closing argument on each motion (a portion of which may be allocated to rebuttal).

6. Counsel shall have Mr. Baumgardner and Mr. Pearl present and available for examination during the hearings applicable to each of them.

7. The parties are ordered to stipulate to the extent possible to the facts and to the admissibility of exhibits. Counsel will be permitted to draw the Court’s attention to the stipulations throughout the presentation of evidence.

Witness and Exhibit Lists

1. By prior agreement of the parties, all witnesses who may offer live testimony at the hearings were to have been disclosed by February 21, 2003. All other witnesses, and the

¹The provisions of this order apply to “plaintiffs” and “defendants” in the collective sense.

order in which the parties intend to call them, shall be disclosed by March 3, 2003.

2. The parties shall exchange lists of exhibits they intend to offer at the hearing for substantive purposes by February 28, 2003, and on that date shall overnight to opposing counsel copies of any such exhibits not previously produced. Rebuttal exhibit lists shall be exchanged by March 5, 2003, and copies of rebuttal exhibits not previously produced shall be shall be provided as set forth above. All exhibits counsel reasonably anticipate that they will use for impeachment purposes shall also be disclosed according to these procedures.
3. By prior agreement, the parties were to have exchanged by overnight mail complete transcripts for any non-MDL deposition previously cited or relied upon in the written submissions to the Court by February 17, 2003.
4. All disclosures and exchanges provided for above (except for copies of exhibits and deposition transcripts) shall be served so as to be received by counsel on the specified date (e.g., by facsimile, e-mail, or hand-delivery) and shall be filed with the Court on or before the next business day.

Deposition Testimony

1. All deposition testimony that any party intends to offer at the hearing for substantive purposes shall be designated by page and line no later than March 3, 2003. Counter-designations shall be made by March 10, 2003.
2. Presentation of deposition testimony at the hearings will proceed as follows:
 - a. The Court expects the parties to limit their use of deposition testimony and to extract from the depositions only the necessary testimony on contested issues.

Other matters should be the subject of stipulations. The parties are also ordered to enter stipulations in advance of the hearing and to the extent possible as to the admissibility of the designated portions of the deposition transcripts.

b. Deposition transcripts will not be read into the record at the hearing. Rather, counsel will summarize at the hearing the pertinent portions of the transcripts to be offered into evidence, and such testimony admitted will be reviewed by the Court outside the hearing.

c. Testimony by videotaped deposition will also be limited to that necessary to present on contested issues, and counsel shall avoid playing repetitive, overlapping testimony or testimony on matters that can be covered by stipulation. Counsel shall summarize for the Court the portions of the videotaped deposition to be played at the hearing. Counsel may offer portions of the videotaped depositions in transcript form in lieu of playing those portions in Court, as provided above.

It is so ORDERED this ____ day of February, 2003.

SARAH EVANS BARKER, JUDGE
United States District Court

Southern District of Indiana

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