

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2013-052753

04/03/2018

HONORABLE JOHN R. HANNAH JR

CLERK OF THE COURT

W. Tenoever

Deputy

ESTATE OF LEROY HAEGER, et al.

DAVID L KURTZ

v.

GOODYEAR TIRE AND RUBBER COMPANY, KERRY L HOLMAN  
et al.

LISA G LEWALLEN  
RICHARD P TRAULSEN  
SUSAN M FREEMAN  
D&C MATERIALS-CSC

**UNDER ADVISEMENT RULING**

Intervenor Center for Auto Safety's Motion to Unseal Court Records and Vacate Protective Order has been under advisement. The Court has read all of the filings in connection with the motion, and considered the oral arguments of counsel, in the context of the record in this case. The Court has also had the opportunity to review the documents that are subject to the protective order.

The Court now enters findings of fact concerning relevant factors, and conclusions of law including application of law to the facts. Based on these findings and conclusions, the Center for Auto Safety's motion to vacate the protective order is granted with minor exceptions. The motion to unseal the court records is granted in part and denied in part.

**FINDINGS OF FACT**

**Background and Procedural History**

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1. The complaint in this case (Docket No. 1) was filed on May 20, 2013. An amended complaint (Docket No. 62) was filed on September 3, 2013. The case centered on the plaintiffs' allegation that the defendants committed fraud in connection with the agreement to settle *Haeger v. The Goodyear Tire and Rubber Company*, D. Ariz. No. CV05-2046-PHX-ROS ("*Haeger I*").

2. Early in the case, Goodyear and co-defendant Deborah Okey filed motions to dismiss to which they attached affidavits that incorporated the *Haeger I* settlement agreement. Deborah Okey's Motion to Dismiss for Lack of Personal Jurisdiction (Docket No. 29); [Goodyear's] Motion to Dismiss and Alternative Motion to Stay (Docket No. 30). Over the plaintiffs' objection, Judge Duncan made the findings required by Maricopa County Local Rule 2.19 and ordered the settlement agreement sealed pending the stay in effect at that time. Order filed January 17, 2014 (Docket No. 79). She added, however, that she would reconsider if the lawsuit went forward. Reporter's Transcript of Proceedings, January 17, 2014 at 99.

3. The protective order at issue (the "Protective Order") was entered on November 25, 2015, in the course of a ruling that granted Plaintiffs' Motion to Require Goodyear to Seek Relief from Protective Orders Entered in the G159 Cases (Docket No. 111). Order (Docket No. 161) at 14. The authority for the order was Arizona Rule of Civil Procedure 26(c)(1). *Id.* at 9.

4. The November 25, 2015 ruling incorporated the protective order that the United States District Court had entered in *Haeger I*. The *Haeger I* order is attached to Defendant The Goodyear Tire and Rubber Company's Opposition to the Center for Auto Safety's Motion to Unseal Court Records and Vacate Protective Order (Docket No. 432) as Exhibit F.

5. In the course of the ruling adopting the Protective Order, the Court found that "Goodyear has a legitimate interest in keeping its trade secrets and other confidential research, development and commercial information confidential from business competitors." Order filed November 25, 2015 (Docket No. 161) at 9.

6. The Court did *not* find that any of the information that Goodyear sought to protect was *in fact* a trade secret or commercially sensitive information. The plaintiffs did not object to the proposed protective order, *id.* at 6, so specific findings on that point were unnecessary.

7. The Protective Order permits Goodyear and its lawyers to decide unilaterally what information will be kept confidential, subject only to the opposing party's right to challenge a "confidential" designation by filing a motion "under seal within thirty (30) days of the receipt of the Confidential Document or Information." *See* Order filed November 25, 2015 (Docket No. 161), Protective Order, ¶¶ A, 1, 7 and 18. It prohibits the plaintiffs from sharing information