

# THE KURTZ LAW FIRM

**David L. Kurtz**  
Telephone: (480) 585-1900  
Facsimile: (480) 585-9910

Email: [dkurtz@kurtzlaw.com](mailto:dkurtz@kurtzlaw.com)

July 10, 2017

Office of General Counsel  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION  
1200 New Jersey Avenue SE  
West Building  
Washington, D.C. 20590

Re: Goodyear G159 275/70R 22.5 Medium Radial Truck Tire

Dear Counsel:

In accord with the Order of the Maricopa County Superior Court, this correspondence is provided by me independently, as an officer of the legal system, on behalf of my law firm, David L. Kurtz, P.C. It is not submitted on the behalf of any clients nor on behalf of my family. Its purpose is to set forth from what I discovered in my capacity as counsel for the Haeger Family during 12 years of litigation involving the Goodyear Tire & Rubber Company relating to the G159 275/70R 22.5 tire (G159).

I am submitting two separate versions for NHTSA's consideration. The first is a complete version of this correspondence and supporting exhibits. The second is a redacted version, which deletes any materials previously designated as confidential, pursuant to protective order, and references thereto. Goodyear is being provided a copy of both submittals.

On July 6, 2017, the Maricopa County Superior Court vacated the blanket protective order and Goodyear's confidentiality designations, made pursuant thereto. Goodyear is appealing that decision. Thus, to assure in the interim that Goodyear's right to assert its claims of confidentiality is protected, and in accord with the Court's order, I request NHTSA grant Goodyear 30 days to provide it an opportunity, as the owner of the information, to support its claims of confidentiality pursuant to 49 C.F.R. §512. Each of the documents for which Goodyear asserts claims of confidentiality are clearly marked as:

**CONFIDENTIAL. THIS DOCUMENT IS PRODUCED FOR USE IN THE MATTER OF THE ESTATE OF LEROY HAEGER, ET AL., V. THE GOODYEAR TIRE AND RUBBER COMPANY, ET AL., SUPERIOR COURT OF THE STATE OF ARIZONA, MARICOPA COUNTY, CASE NO. CV2013-052753 AND IN ACCORDANCE WITH THE PROTECTIVE ORDER ENTERED IN HAEGER V. THE GOODYEAR TIRE AND RUBBER COMPANY (HAEGER I), CV05-2046-PHX-ROS. THIS DOCUMENT SHALL NOT BE USED FOR ANY PURPOSE INCONSISTENT WITH THE REFERENCED PROTECTIVE ORDER.<sup>1</sup>**

---

<sup>1</sup> Exhibits 9 and 12 are summaries prepared by staff. As they address materials Goodyear asserts are confidential, they too have been so designated.

7420 East Pinnacle Peak Road, Building D, Suite 128  
Scottsdale, Arizona 85255

Though this letter will focus upon what has been discovered during *Haeger II*, much of the other information discovered in the Federal Court proceedings (*Haeger I*), is set forth in my Amended Complaint filed in Maricopa County Superior Court in May 2013. **(Exhibit 4)** It sets forth a complete index of the contents and a 400-paragraph tutorial of what we discovered during *Haeger I* regarding Goodyear's conduct. I have not provided the supporting documents regarding the factual expressions contained in the Amended Complaint, but there are hundreds of available documents which substantiate the claims which are available, if requested.

The following pages document the recent *Haeger II* discoveries including, actual G159 failure data and varied Goodyear deceptions.

On June 8, 2017, Goodyear represented to the Maricopa County Superior Court that the G159 is still on the road. NHTSA is well familiar with the serious risks associated with tread separations on motorhomes. The motorhomes which utilize the G159 generally weigh approximately 31,000 pounds. The failure data reveals that the tread separations occur at highway speeds when the tires experience the greatest operational temperatures. The drivers are regularly retired; not trained commercial drivers who face these sudden emergencies. When these motorhomes crash, they literally explode.

It is my opinion that Goodyear has failed to disclose the defective nature of the G159 to NHTSA as otherwise contemplated by the statutory scheme and I ask that NHTSA initiate a Timeliness Query to determine whether Goodyear has complied with applicable law, including Early Warning Reporting, and consider appropriate civil penalties in accord with NHTSA's discretion to address Goodyear's omissions and related deceptions.

### **G159 FAILURE HISTORY**

The appropriate place to begin is to detail what we have only discovered within the last year regarding the G159. You should be advised that I requested disclosure of litigation, adjustments, property damage claims, bodily injury and death claims at the commencement of my lawsuit in 2006 (*Haeger I*). Goodyear did not disclose this information. Rather, Goodyear's practice was to define its own world of relevance. Goodyear limits its discovery responses to the "subject vehicle." In the *Haegers'* case, that was a Gulf Stream Scenic Cruiser motorhome. Goodyear would then direct its efforts to persuading the court that the only relevant failure data would be on other Gulf Stream Scenic motorhomes. The same tactic was utilized in related G159 cases by Goodyear with great success. In *Haeger I*, Goodyear disclosed 14 property damage claims and one injury, when responding to discovery.

In July 2016, Goodyear finally disclosed what was expected to be a complete list of lawsuits, adjustments, property damage claims, bodily injury and death claims in litigation regarding the G159 tire. **(See Exhibits 5 through 7.)** There have been at least 41 G159 lawsuits. There were 3,484 adjustments and hundreds of property damage claims. The "light" highlights on Exhibit 6 represent death and injury claims that were settled outside of litigation. The "dark" highlights represent injury and death claims settled during the course of litigation. According to our estimate, based upon a review of that data, I believe that the exhibit reveals 98 injury or death claims arising out of alleged G159 failures.<sup>5</sup> 26 of the

---

<sup>5</sup> The injury and death claims are estimated as Goodyear continues to refuse to precisely quantify the claims from the documents disclosed in July 2016. In September 2016, Goodyear disclosed a new combined list of property damage, injury and death claims, expanding the prior disclosure by revealing