



GBW | OUR METHOD FOR SUCCESS

HOW DID YOU
WIN THAT CASE?

\$73 MILLION VERDICT

Mauro vs. Ford Motor Company

Product Liability:

Tire Tread Separation



Christine Spagnoli

is a partner of Greene, Broillet & Wheeler specializing in product liability, personal injury and legal malpractice actions. She has obtained many multimillion-dollar verdicts, including a landmark \$4.9 billion verdict against General Motors in a case involving a defective fuel tank that was found responsible for the burn injuries of two adults and four children. Christine received the Consumer Attorneys of California's 2014 *Robert E. Cartwright Award* and its 2010 *Marvin E. Lewis Award* as well as the Consumer Attorneys Association of Los Angeles *Trial Lawyer of the Year Award* in 2012 and its *Ted Horn Memorial Award* in 2005.



Roger A. Dreyer

is a partner of Dreyer Babich Buccola Wood Campora, LLP who has represented hundreds of families and individuals who have suffered the loss of a family member or a catastrophic injury that impacted every aspect of that person's quality of life. He has obtained multimillion-dollar jury verdicts in wrongful death actions, catastrophic brain and spinal injury cases. Roger was named *Trial Lawyer of the Year* for the State of California in 2004 by the American Board of Trial Advocates as well as in 2010 by the Consumer Attorneys of California.

What This Case Was About

- Tread Separation of a Goodyear Tire on a 1993 Ford 15 Passenger Van



Timeline of Key Events

- 1993 Ford 15 Passenger Van purchased by Church
- 1999 Goodyear LRE Tire (no nylon) installed by Sears
- 2000 NHTSA opens defect investigation into GYtires
- 2001 Ford adopts new GY tire with nylon
- 2001 NHTSA Consumer Advisory re 15 passenger vans
- Jan. 2002: GY recalls LRE tires w/o nylon

April 5, 2004 – GY Tire tread separates on Church Van



Voir Dire Issues

Examining for Cause/Preemptory Challenges

- Loyal Ford customers
- Comparative fault - seat belt defense
- Fault of others – other defendants/non-parties
- Wrongful death damages
- Punitive damages

Ford Liability Issues







Was Ford Liable for Failing to Notify Dealers/Owners of GY Tire Recall?

E-350 Service Timeline

After Goodyear Tire Replacement Starts

01/28/02
**Goodyear Voluntary
 Replacement Program**

LEGEND

-  Folsom Lake Ford
-  Suburban Ford
-  Sears Auto Center
-  Wal-Mart
-  Touched Tires
-  Tires Replaced

06/20/02 | Mileage: 75,203
 INVOICE: #FTC425479
90,000 Mile Service, Rotated Tires
 Ex. 87



09/09/02 | Mileage: 77,493
 INVOICE: #FTCS433212
Lube, Oil, Filter
 Ex. 88



02/24/03 | Mileage: 79,369
 REFERENCE: #IN4629350
Installed Tire—Rotated Tires
 Ex. 1205



05/06/03 | Mileage: 81,543
 INVOICE: #FTCS453958
Brake Inspection
 Ex. 90



06/03/03 | Mileage: 81,918
 INVOICE: #FTCS456647
Replaced Headlight/Manifold
 Ex. 91

06/11/03 | Mileage: Unknown
 Wal-Mart SERVICE ORDER
Installed Tire
 Ex. 1200

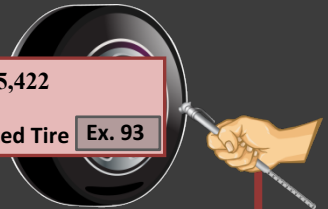


01/28/02
**Goodyear Voluntary
 Replacement Program**

07/11/03 | Mileage: 84,702
 INVOICE: #FTCS460188
90,000 Mile Service
 Ex. 92



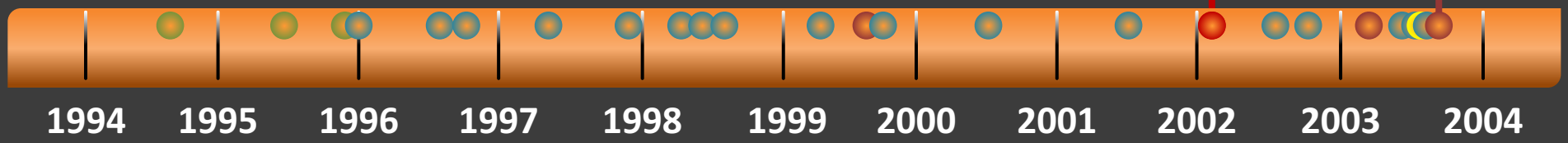
08/13/03 | Mileage: 85,422
 REFERENCE: #IN5323649
Installed Tire—Inspected Tire Ex. 93



Sears Auto
 Center

Suburban
 Ford

Wal-Mart



E-350 Service Timeline

After Goodyear Tire Replacement Starts

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Goodyear Voluntary
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LEGEND

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01/28/02
Goodyear Voluntary
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90,000 Mile Service
Ex. 92



08/13/03 | Mileage: 85,422
REFERENCE: #IN5323649
Installed Tire—Inspected Tire
Ex. 93



03/25/04 | Mileage: 86,480
INVOICE: #FTCS481587
Lube, Oil, Filter
Ex. 94

04/09/04
Date of
Rollover

03/25/04 | Mileage: 86,480
INVOICE: #FTCS481587
Lube, Oil, Filter Ex. 94

Sears Auto
Center
Suburban
Ford
Wal-Mart



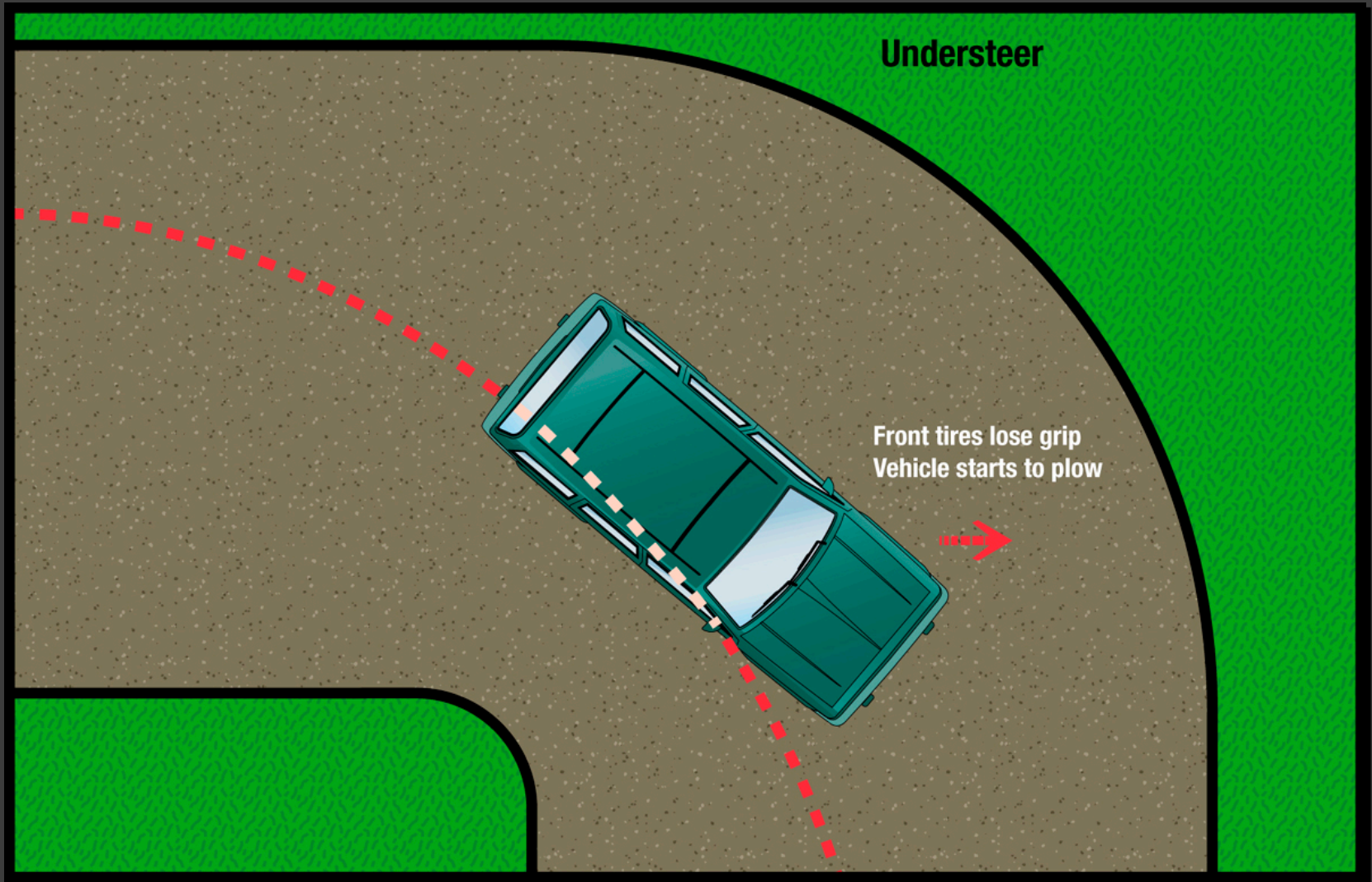
Ford Liability Timeline

- Ford knew old tire design defective
- Ford knew 15 passenger vans rolled over
- Ford knew combination of old tire and 15 passenger van was deadly
- Ford knew GY recalled tires in 2002
- Ford provided GY with VIN numbers for vans with old GY tires
- Ford did not give GY THIS VAN's VIN number
- Ford did not notify dealers of GY recall

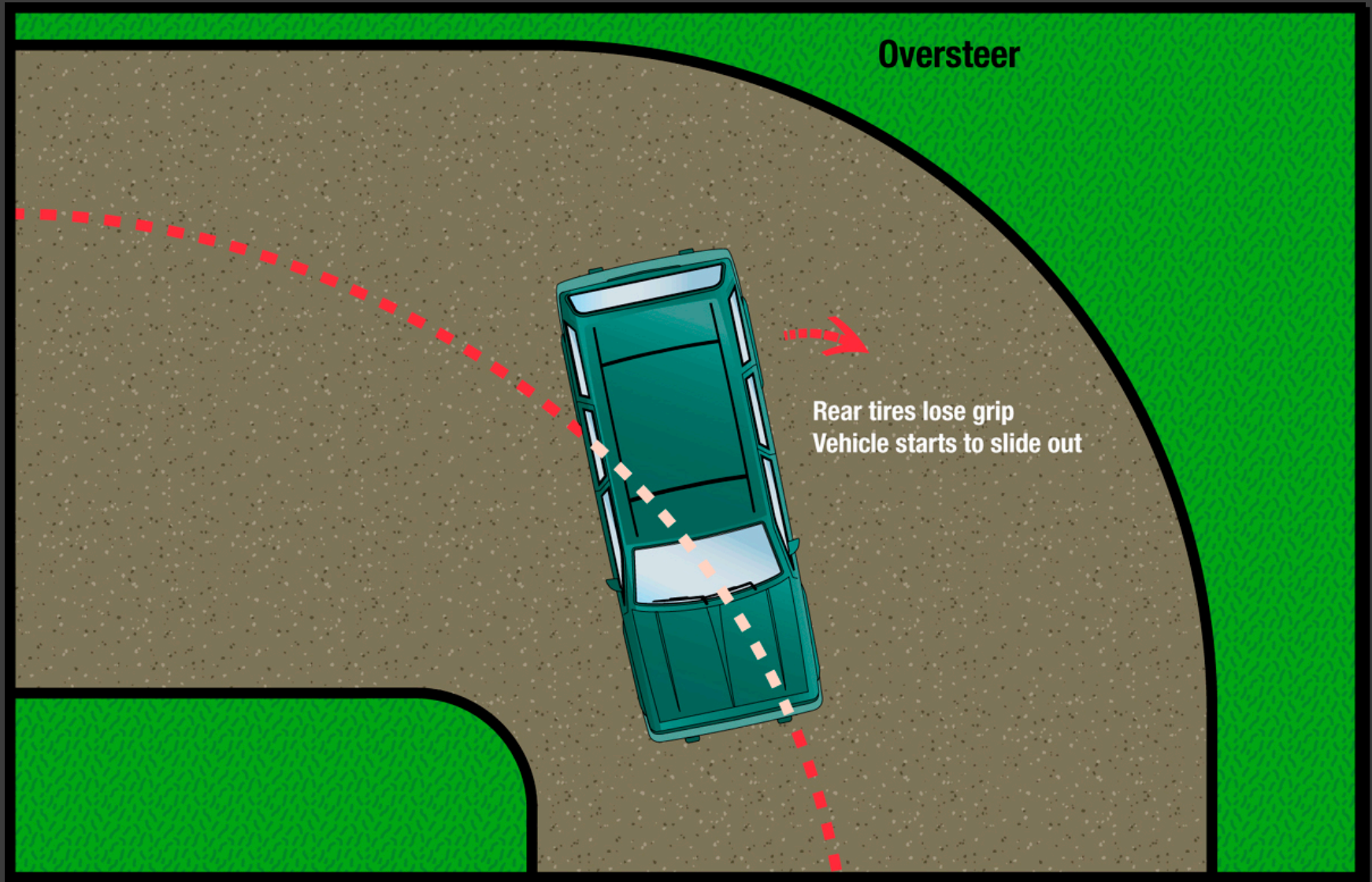
E350 15 Passenger Van Defect

- The Van has **oversteer** response in emergency limit handling maneuvers
- Reasonable Drivers are not able to maintain control in emergency maneuvers including a rear tread separation

Understeer



Fishtail (Oversteer)



15-Passenger Van: Ford's Design Choices 1974



Exhibit 146

LIGHT TRUCK STRATEGY REVIEW

Nantucket Extended Length Van/Bus

- 7 -

CONFIDENTIAL

LAI asked lots of questions about buses.

Background and Present Situation

- Ford, Chevrolet, and Dodge all offer short and long wheelbase van and bus models.
 - Long wheelbase models (77% of Ford sales) provide 9-1/2 feet of cargo space and 12 passenger seating capacity.
- Only Dodge offers an extended (rear overhang) version of its long wheelbase model, the Maxi Van/Bus.
 - Provides 11 feet of clear cargo space and 15 passenger seating capacity.
 - Dominates certain market segments, such as carpet installation and airport limousine service.
 - Accounts for about 20% of Dodge production.
- The 1975 Nantucket program includes short (124") and long (138") wheelbase van and bus models, but does not provide an extended model, except for the 158" cutaway.

Product Alternatives

- Two alternative configurations were studied:
 - A bustleback (18" longer rear overhang) version, fully competitive with Dodge's Maxi, providing 11 feet of cargo length and 15 passenger capacity.
 - A van/bus version of the 158" wheelbase cutaway providing 12 feet of cargo space and 15 passenger seating with luggage space.
- Annual volume projected at 25,000 and 31,000 units (including 6,000 and 12,000 incremental units) for the bustleback and cutaway derivatives, respectively.
- Preliminary product investment estimated at \$12 million for the bustleback and \$19 million for the cutaway derivative.
- Profits for the bustleback alternative are projected at about \$5 million annually, a 40% after tax return on investment versus \$9 million profits and 50% return for the cutaway derivative.
- The 158" cutaway derivative was selected as the preferred alternative since it is a superior product and is more profitable.
- Engineering resource priorities, however, require that this program be deferred to 1977, in order to implement the "MUST" programs (Club Cab, Bronco replacement, motor home chassis, and tandem rear axle Nantucket cutaway).
- To minimize future downtime and investment, \$0.9 million was approved by Mr. Innes for AAD to proceed with the necessary provisions in the base Ohio Truck Plant for later introduction of extended models based on the 158" cutaway.

Planned Action

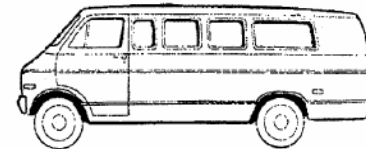
3rd Q/74 - Program approval (1977 model).

Exhibit 5

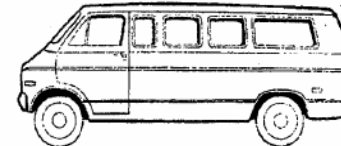
7825 22899

- 7a -

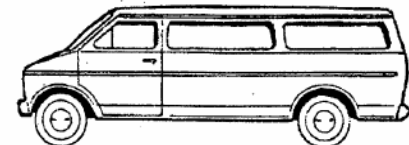
DODGE MAXI WAGON



DODGE WAGON



NANTUCKET ALTERNATIVES



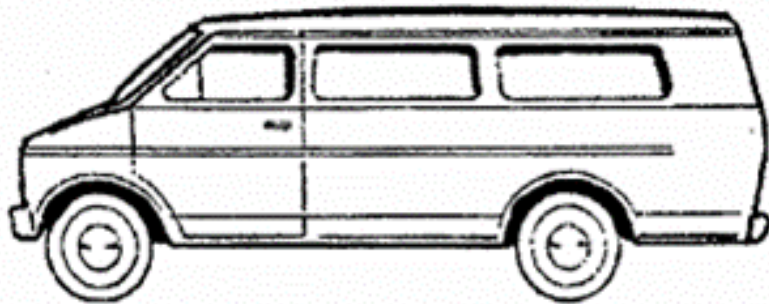
Bustleback (+18" Rear Overhang)

158" Wheelbase Cutaway Derivative

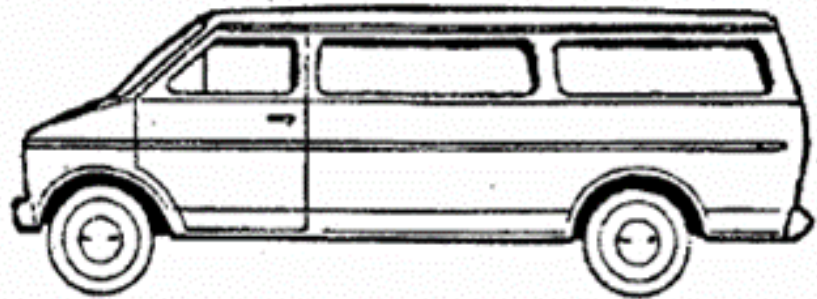
Exhibit 5

Ford's Bustleback Design Choice

NANTUCKET ALTERNATIVES



Bustleback (+18" Rear Overhang)



158" Wheelbase Cutaway Derivative

Ford's Safer Design - 1974

ORIGINAL

In order to meet the requirements of FMVSS 208 for model year 1976, the seat assemblies must have provisions for adding an occupant sensing switch in the 1976 models and pedestal provisions for adding a switch that will sense when the seat is positively locked in the forward position for 1976 models. Also a sensing switch will be added to the lap belt retractor on 1976 models. The seat will be structured internally to comply with the requirements of FMVSS 201 and 202.



158" WB Cutaway

A 158" wheelbase cutaway has been approved as an added starter and will require:

- . Increased capacity dual wheels - the riveted construction dual wheels must be rerated from 2050# to 2100# capacity.

The vehicle will retain the 4200 lb. front axle and 7400 lb. rear axle from the base E-350. The load center of the load area will be defined to prevent overloading of the axles and provide a reasonable weight distribution for acceptable handling.

High Capacity Heater

A new high capacity heater will be released. Heater core size will be 6x10x2" (replacing the base 6x8x2" core). The heater core case and seal will be larger than the base heater to accommodate the larger core. Identification of the heater as a "High Output" unit will be incorporated on the surface of the heater assembly.

5-4-2

7825 10332

Exhibit 143

15-Passenger Van Bustleback Design



Length Overall
231.8"
vs.
211.8"

Wheelbase = 138"

Ford's P6-101 Serpentine Test



Trial Exhibit 49D – Raw Footage of Ford P6-101 Testing
(Serpentine Test)

NHTSA Warning April 9, 2001

CONSUMER ADVISORY: Warning To Users Of 15-Passenger Vans



U.S. Department of Transportation
Office of Public Affairs
Washington, D.C.
<http://www.nhtsa.dot.gov>

News

FOR IMMEDIATE RELEASE

April 9, 2001

Media Calls: Rae Tyson (202) 366-9550

Consumer Calls: Auto Safety Hotline 1-888-327-4236

CONSUMER ADVISORY

The National Highway Traffic Safety Administration (NHTSA) is issuing a cautionary warning to users of 15-passenger vans because of an increased rollover risk under certain conditions.

The results of a recent analysis by NHTSA revealed that 15-passenger vans have a rollover risk that is similar to other light trucks and vans when carrying a few passengers. However, the risk of rollover increases dramatically as the number of occupants increases from fewer than five occupants to over ten passengers.

In fact, 15-passenger vans (with 10 or more occupants) had a rollover rate in single vehicle crashes that is nearly three times the rate of those that were lightly loaded.

The Evidence: Exhibit 31

March 1, 2002 NHTSA ODI Closing Resume

Re: GY Tires

MAR.11.2002

5:07PM

DOT NHTSA NSA ODI

NO.335

P.2



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

ODI RESUME

INVESTIGATION: PE00-046

DATE OPENED: 21-NOV-00

DATE CLOSED: 01-MAR-02

SUBJECT: Alleged Tire Failure

PROMPTED BY: IE00-085 (Peter Ong)

PRINCIPAL INVESTIGATOR: John Abbott

MANUFACTURER: The Goodyear Tire and Rubber Company (Goodyear)

MODEL(S): All Load Range "E" Light Truck Tires

MODEL YEAR(S): 1991 through May 2000

TIRE POPULATION: [CONFIDENTIAL]

PROBLEM DESCRIPTION: Separation of the tread belt from the carcass of the tire.

FAILURE REPORT SUMMARY

	ODI	MANUFACTURER	TOTAL
COMPLAINTS/ CLAIMS:	107*	[CONFIDENTIAL]	[CONFIDENTIAL]*
CRASHES:	0	87**	87**
INJURIES:	0	158	158
FATALITIES:	0	18	18
OTHER:	0	0	0

Exhibit 31

The Evidence: Exhibit 33

April 9, 2002 NHTSA ODI Closing Resume Re: Steeltex Tires

APR 15 2002 11:29AM DOT NHTSA MSA 001 10,515 P.5

PE00-040
Firestone Steeltex

Page 4

Tables 2 and 3 show the distribution of non-rollover crashes by vehicle group for all tire failure modes and for tread separation only. These crash events are much less severe than those that result in rollover. None of the non-rollover crashes resulted in a fatality, and only 20 percent alleged any injury.

TABLE 2. Non-Rollover Crash Distribution by Vehicle Group, All Tire Failure Modes¹

Vehicle Group	Total	Non-fatal Injury Crashes	Fatal Crashes	Injuries	Fatalities

As with prior ODI tire investigations, the crash data show that some classes of vehicles are more sensitive to loss of stability with catastrophic tire failures, particularly tread separations involving a rear tire. In this instance, full-size vans are disproportionately involved in the severe crashes. As has been previously noted in prior ODI tire investigations (PE90-025 Michelin LT225/75R16 Tread Separation/Blowout; PE00-046, Goodyear Load Range "E"), and other analytical work by NHTSA³, fully-loaded 15-passenger vans present a unique set of risks for loss of stability and roll-over, whether triggered by a tire failure or not. These vehicles

the injuries. Allegations of tread separation account for a higher portion of these crashes and related injuries. This may be attributed to the fact that tread separations occur at high speeds, where vehicle stability is a greater concern and loss of control is more likely to result in rollover if the vehicle leaves the road.

As with prior ODI tire investigations, the crash data show that some classes of vehicles are more sensitive to loss of stability with catastrophic tire failures, particularly tread separations involving a rear tire. In this instance, full-size vans are disproportionately involved in the severe crashes. As has been previously noted in prior ODI tire investigations (PE90-025 Michelin LT225/75R16 Tread Separation/Blowout; PE00-046, Goodyear Load Range "E"), and other analytical work by NHTSA³, fully-loaded 15-passenger vans present a unique set of risks for loss of stability and roll-over, whether triggered by a tire failure or not. These vehicles

¹ From Firestone claims data.

³ W. R. Garratt, B. Rhea, and R. Subramanian, "The Rollover Propensity of Fifteen-Passenger Vans," NHTSA Research Note, April 2001.

EXC3 0008573
PRODUCED BY FORD

FORMER BY EPA

12-5
FORMER BY EPA

Ford Corporate Rep Eric Kalis



Ford Agrees: Don't Blame Driver



Closing Arguments

Arguing Comparative Fault – Seat Belt Defense

“Was the Seatbelt Used” / “Would it Have Mattered”

712.

Ford claims Anthony Mauro and Plaintiff Marlene Shirley were negligent because they failed to use available restraints in the intended manner. To succeed, Ford must prove all of the following:

1. That a working seatbelt was available;
2. That a reasonably careful person in Ms. Shirley's and Mr. Mauro's situation would have used the seat belt in the intended manner;
3. That they failed to use the seat belt in the intended manner; and
4. That their injuries would have been less if they had used the seat belt in the intended manner.

In deciding whether a reasonably careful person would have used a seat belt, you may consider Vehicle Code section 27315(e), which states: A person 16 years of age or over shall not be a passenger in a motor vehicle on a highway unless that person is properly restrained by a safety belt.

Expert Testimony Provided by Ford on this Claim

- Pearson
 - No Witness Marks Found
- Piziali
 - No Evidence of Seatbelt Use
 - Ejected at the 7/8 Roll
 - Killed When Struck Ground
 - If Seat Belted He Would Have Survived the Rollover “Without Significant Injuries”
 - Admits Heads Go Out Windows When Belted
 - Admits Belted Killed With More Rolls Occupants
- Hayes
 - Cannot Say No Seat Belt
 - Cannot Say if it Was Used and Inadvertently Unlatched
 - Skull Fracture Happened in the First Roll
 - Head and Roof Met on Ground Contact
 - Was Ejected Between $\frac{3}{4}$ and $1\frac{1}{2}$ Rolls
 - If He Had Remained in vehicle Due to a Seatbelt he would have suffered mortal injuries regardless

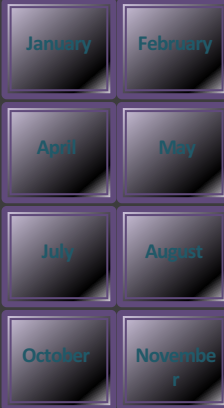
Arguing Wrongful Death Damages

Harms & Losses

2004



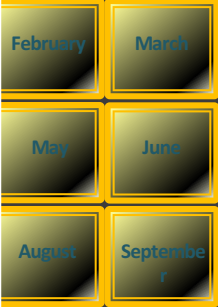
2008



2005

2006

2007



Evidence of Harms & Losses

Economic

Financial Support - Past

Financial Support - Future

Funeral Expenses

Household Services - Past

Household Services – Future

Non-Economic

Past – Loss of Tony’s love, companionship, comfort, care, assistance, protection, affection, society, moral support, training, and guidance

Future – Loss of Tony’s love, companionship, comfort, care, assistance, protection, affection, society, moral support, training, and guidance



Arguing Punitive Damages

“Factors for the Jury to Consider in Determining Whether Punitive Damages are Warranted”

There is no fixed formula for determining the amount of punitive damages, and you are not required to award any punitive damages. If you decide to award punitive damages, you should consider all of the following factors in determining the amount:

- (a) How reprehensible was Defendant's conduct? In deciding how reprehensible Defendant's conduct was, you may consider, among other factors:
 - 1. Whether the conduct caused physical harm;
 - 2. Whether Defendant disregarded the health or safety of others;
 - 3. Whether Plaintiffs were financially weak or vulnerable and Defendant knew Plaintiffs were financially weak or vulnerable and took advantage of them;
 - 4. Whether Defendant's conduct involved a pattern or practice;
- (b) Is there a reasonable relationship between the amount of punitive damages and Plaintiffs' harm?
- (c) In view of Defendant's financial condition, what amount is necessary to punish it and discourage future wrongful conduct? You may not increase the punitive award above an amount that is otherwise appropriate merely because Defendant has substantial financial resources.

Ford Motor Company Failed Tony Mauro's Family



James Vondale

Director of Automotive Safety Office

65:13-66:4

Expert Expenditures

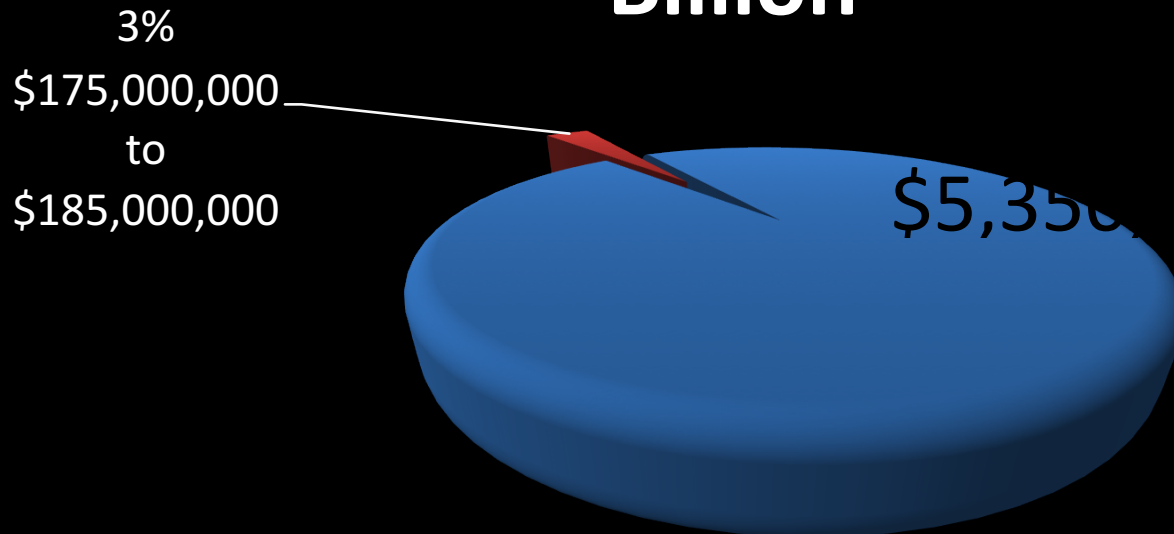
That We Are Aware of in the Past 10 Years

Expert	Litigation Cost to Ford
Lee Carr	\$10 - \$12 Million (50% Ford) (Yearly)
Robert Piziali	\$22 Million +
Exponent Engineering	\$88 Million +
Geoff Germane	\$10 Million
Jeffery Pearson	\$ 5 Million
TOTAL	\$175 - \$185 Million (Spent by Ford in the Past 10 Years on these Expert Alone)

Expert Expenditures

That We Are Aware of in the Past 10 Years

**Net Worth of Ford: \$5.35
Billion**




Ford's Stated "Duty of Care"

Professes Safety Protocols

- 1981 – Critical Product Problems Review Group
- 1982 – Guidelines for Professional Technical Conduct
- 1984 – Product Safety Planning and Implementation Letter
- 1986 – Limit Handling Objectives (Technical Report)
- 1987 – Light Truck Safety Guidelines
- Public Representation of Ford CEO Jasque Nasser
 - Customer Safety is Top Priority (Fall 2000)

Ford's Stated "Duty of Care" Professes Safety Protocols



Firestone Tire Recall Update

Fire recall. For additional information, refer to the sources listed on the reverse side.

Information

3,417,774
82.6% of target completed

3,082,226
Progress (through 12/31/2014)

Total Recalled Tires 6.5 million

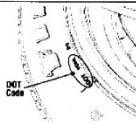
to monitor and improve performance for increased supplier production throughout the industry.

- Speed of this recall is unprecedented.

Recalled Firestone Tires:

Radial ATX P235/75R15 ALL included in recall	Wilderness AT P235/75R15 ONLY with DOT code V0-L
--	--

Locating Your Tire Code



- The DOT code is located on the inner sidewall of the tire.
- The DOT code can be inspected with vehicle on the ground.

Replacement Tire Centers

For tire replacement at no charge, customers can visit the following retailers:

- Authorized Firestone Replacement Centers
- Authorized Ford and Mercury Dealers
- Midas stores with tire service centers
- Sunoco Ultra Service Centers
- Monroe Muffler Brake with Tire Service Centers
- Cosco - (one day memberships available)

For tire replacement with reimbursement:

- All other North American tire retailers can replace the recalled tires. Customers pay for replacement tires, return the recalled tires to a Firestone outlet, and get reimbursed by Firestone.
- Customers should request Ford recommended replacement tires.

"The people of Ford Motor Company will not rest until the Firestone tire recall is complete."

Jac Nasser,
President and CEO,
Ford Motor Company

Ford's Responsibility

- Ford Motor Company
 - Designed Subject Van
 - Manufactured Subject Van
 - Distributed Subject Van
- Local Authorized Ford Dealers Sold and Maintained the Subject Van
 - Folsom Lake Ford
 - Suburban / Future Ford
 - Extended Warranty Purchased from Ford Motor Co.



Ex 146

The Verdict

The Verdict

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

**SUSAN MAURO, individually and as
Successor in Interest to Anthony
Robert Mauro, deceased, MICHAEL
MAURO, CODY MAURO, ALEXANDER
BESSONOV and MARLENE SHIRLEY,
Plaintiffs,**

Case Number: 06AS01246

JUDGMENT FOLLOWING JURY TRIAL

vs.

**FORD MOTOR CO., INC.,
Defendant.**

THE COURT HEREBY ENTERS JUDGMENT IN THIS MATTER AS FOLLOWS:

Apportionment of Fault

QUESTION NO. 13: What percentage of responsibility for the harm to Susan Mauro, individually and as Successor in Interest to Anthony Robert Mauro, deceased, Cody Mauro and Michael Mauro from the death of Anthony Mauro do you assign to:

Ford Motor Company	<u> 59 </u> %
Anthony Mauro	<u> 0 </u> %
William Brownell	<u> 0 </u> %
Goodyear Tire & Rubber Co.	<u> 41 </u> %
Sears	<u> 0 </u> %
Wal-Mart	<u> 0 </u> %
Suburban Ford	<u> 0 </u> %
TOTAL	100 %

Wrongful Death Damages

F. The loss of Anthony Mauro's love, companionship, comfort, care, assistance, protection, affection, society, moral support, and Anthony Mauro's training and guidance from April 9, 2004 to the present:

\$ 7,250,000

G. The loss of Anthony Mauro's love, companionship, comfort, care, assistance, protection, affection, society, moral support, and Anthony Mauro's training and guidance from today forward:

\$ 9,000,000

CONCLUSION / QUESTIONS

Chris Spagnoli– cspagnoli@gbw.law

Roger Dreyer– rdreyer@dbbwc.com

Bruce Broillet– bbroillet@gbw.law