UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

In re BRIDGESTONE/FIRESTONE, INC. ATX, ATX II, AND WILDERNESS TIRES PRODUCTS LIABILITY LITIGATION	) Master File No. IP 00-9373-C-B/S) MDL No. 1373) (Centralized before Hon. Sarah Evans Barker, Judge)
THIS DOCUMENT RELATES TO THE MASTER COMPLAINT	)

PLAINTIFFS REPLY MEMORANDUM IN SUPPORT OF EMERGENCY MOTION FOR A CONFERENCE AS TO WHETHER, PURSUANT TO RULE 23(d)(2), COURT APPROVAL OF DEFENDANT FORD S NOTICE TO PUTATIVE CLASS MEMBERS IS APPROPRIATE

TABLE OF CONTENTS

TABLE OF EXHIBITS

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Interestingly,Interestingly, both Ford and Bridgestone/Firestone, (Firestone)(Firestone) oppose a conference to determine whether cour supervisionsupervision of communications wisupervision of communication appropriate.appropriate. It is hard to imagine why either Defendant wou opposeoppose such a conference -- at least until one reads the June 4, 2001 declaration of Ford s employee, Joseph C. Bradley. Then the reasonreason for the opposition becomes crystal clear: Ford has shown the samesame arrogant disregard of the judicial process assame arrogant disregarc publicpublic safety. In the facepublic safety. In the face of the May 31, 2(up a procedure to determine if judicial involvement in the notice processprocess is required, Ford unabashedly hastened to act, on its own. AccordingAccording to its submission, on June 1According to its submissio commencedcommenced the unsupervised mailing of notice to putative class

members,members, and announced that the process will be complete by June 11.

AsAs explained in the accompanying declAs explained in the accompanyi noticenotice expert, Mr. Todd B. Hilsee, a nationally recognized communicationscommunications expert, Ford s notice is fundamentally fl ClassClass members are entitled to fair, plain-English, neutral communications.communications. Accordingly, it iscommunications. Accordi court-supervised corrective communication is now required.

I. This Court Is The Only Entity that Can Protect Putative Class Members From Unsupervised Communications.

Ford Ford s argument that court supervision is unnecessary Ford s argu NHTSANHTSA has reviewed its communications is a smokescreen. NHTSA has notnot exercised authority over Ford s communications because Ford has refusedrefused to institute a recall. Ford does not want to recall the tirestires and subject itself to the negative publicity and to the preciseprecise statutory and regulatory requirements that attend a recall conductedconducted under the National Motor Vehicle Safety Act. 49 U.S.C.A. §§ 30118-20.

Rather,Rather, FordRather, Ford has attempted to evade supervision byRa andand this Court. Providing NHTSA copies ofand this Court. Providing NHTS totto send to class members is no substitute for judicial supervision pursuant to Rule 23.

Curiously,Curiously, the letter to NHTCuriously, the letter to NHTS mememorandummemorandum imemorandum in support of this argument is dated th Plaintiffs Emergency Motion. In its entirety the letter states:

> EnclosedEnclosed is a revised draft of our letter to vehiclevehicle owners informing them of Ford s WildernessWilderness AT Tire Replacement Program. We have tried to capture all of NHTSA s thoughts and suggestions, which we found very helpful.

LetterLetter from Sue M. Cischke to Kenneth WeinsteinLetter from Sue M. Cisch (Tab(Tab 2 to Defendant Ford s Opposition Brief.) Ford makes no attemptattempt to detail what suggestions NHTSA provided, and what thoughts and suggestions Ford determined to include or exclude.

TheThe fact that Ford s letter to NHTSA is marked VIA HAND DELIVERY, DELIVERY, is two sentences long, and is dated on the same date a Plaintiffs Plaintiffs Emergency Motion is also curious. In fact, the addre on the letter is merely:

> Mr. Kenneth Weinstein
> NHTSA
> Washington, D.C.

OneOne might supposOne might suppose tOne might suppose that Ford sensed t EmergencyEmergency Motion and rushed a hastily drafted letter to NHTSA to supportsupport Ford s argument that it had NHTSA s endorsement and to bolster its argument that court supervision is unnecessary.

II. Ford s Communications to Putative Class Members Are Confusing and Misleading.

Ford attempts to convince the Court that it has provided the samesame protections to consumers that they would receive under a true recall,recall, but without labeling the action a recall. Ford repeatedly statesstates in its memorandum that it is generally foStates in its fundamentally fundamentally following recall procedures. Def. Opposition Brief at pp. 4, 5, 6 and 8. Ford even states that the letter letter [sent to putative class members] generally follows the formatformat for sformat for safety recall notifications . . . . D Opposition Brief at p. 5.

NothingNothing could be further from the truth. Nowhere in the letter to class members does Ford use the word recall. If this werewere a recall conducted under NHTSA supervision, Ford would have to specifyspecify clearly that it was a recall. 49 U.S.C.A. § 30119; see also 49 C.F.R. § 577.5-77.8. Indeed, Ford has not supplied other information mandated by the Safety Act. See Id.

EquallyEqually egregious is that Ford captions the letter to consumers:consumers: Fireconsumers: Firestoconsumers: Firestone Wil highlighting that its purpose is to replace potentially dangerous Tires.Tires. Further, in contravention of the Court s May 31Tires. Further, hashas not disclosed the procedure it is using to give notice. Nor hashas the Court been informed as to how the affected owner

populationpopulation has been identified, and what groups of persons are notifiednotified in it. The Court has not beennotified in it. The information as to how the letter was mailed or the exact class of personspersons to which it was sent. persons to which it was sent. For examp onon the outside that important safety information was enclosed? Or diddid it look like a piece of junk mail? This is essential information,information, for it is common knowledge, buttressed by sou marketingmarketing and communicationmarketing and communicationsmarket solicitationssolicitations are routinely discarded without being read by recipient.recipient. See Hilsee Dec. ¶8 (attached hereto as Exhibit A). Instead,Instead, inInstead, in response toInstead, in response to the Court CourtCourt with a 34 line Declaration -- virtually devoid of any meaningful information about the notification undertaken.

A. Ford s Letter and Advertisements Directed At Putative Class Members Fail to Advise that the Tires Installed as Part of Last Year s Recall Are Defective and Need to be Replaced.

NorNor does Ford s letter make clear that Tires installed as part ofof last year s voluntary recall are included in the current replacementreplacement drive. Defendant Ford nowreplacement drive. Defendan contended from the outset, that the very Wilderness AT Tires that DefendantsDefendants installed as replacements for the 6.5 million Tires recalrecalledrecalled last frecalled last fall need to be again replaced. failsfails to advise class members that even such replacement tires need

toto be replaced. On the contrary, Ford notes that Last year (Summer(Summer 2000), Firestone implemented a safety recall to replace certaincertain [Tires] due to elevated failure rates. Letter from Ann O Neil0 Neill to All Potential Affected Owners. (Exhibit B to Defendant Ford 8Ford s Opposition Brief.) What could be more confusing to class members?

AA plain statement that the replacement Tires also are defectivedefective is crucial to class member safety. Class members have beenbeen lulled into a false sense of security because they believe that their defective Tires have been replaced with safe Tires.

B. Ford s Notice is Not Neutral and Will Cause Confusion Among Putative Class Members.

InIn response to this Court s Order to Ford to produce an affidavitaffidavit detailing the communications that Ford has issued or plansplans to issue regarding the tire replacement program, Ford producedproduced a 34 line declaration of its own employee, Joseph C. Bradley.Bradley. Plaintiffs expert, Todd C. Hilsee, a nationally recognizedrecognized expert in class notifrecognized expert in class noti declaration,declaration, as well as the other materials related to Ford s ow notification program.

InIn his declaration, Mr.In his declaration, Mr. In his decl communicationscommunications are not neutral, may confuse, concern, or other

bebe ineffective, and do not convey abe ineffective, and do not convey a tires. See Hilsee Dec. ¶7.

Ford Ford s declarant Bradley states that he is responsible for implementingimplementing recalls and various otherimplementing recalls and conductedconducted by Ford . . . . Bonducted by Ford . . . . Br Hilsee,Hilsee, however, provides no indication to the Court that he has anyany experience in crafting neutral communications for members of thethe public. Hilsee stands ready to provide this Court with informationinformation about the proper content of a neutral class membe notification,notification, and to prepare a true corrective notice. Therenot evidenceevidence that Ford even consulted an expert in neutral class member notification.notification. Rather, Ford looks upon the advertisements letters as attempts to further its public relations image.

C. Ford s Attempt to End-Run this Court s Order of May 31 Should Not be Allowed.

FordFord has reFord has repeateFord has repeatedly attempted to exerciseexercise of its fiduciary responsibility to putative class members. InIn reality, Ford has hastened toIn reality, Ford has hastened to conta beforebefore any conference could be scheduled, so as to make court supervisionsupervision asupervision a nusupervision a nullity. Ford s de lettersletters will haveletters will have been mailedletters will have been m BradleyBradley Dec. ¶6. Despite Court-ordered procedures to consider courtcourt supervision of the notice to putative class members on an

expeditedexpedited basis, Ford forged ahead with the notice -- commenexped thethe mailing after and in the face of thethe mailing after and in the face underunder the belief that it is better to ask forgiveness than permission.

D. Ford Failed to Advise the Court that Ford Had Hired An Agent to Contact Putative Class Members.

OnOn June 7, PlaiOn June 7, PlaintiOn June 7, Plaintiffs filed a Ford s agent from contacting putative class members. As detailed ininin that motion, Ford hired an engineering firm to contact class membersmembers who have suffered a roll-over or tread separation. See LetterLetter from Leonard Wolf dated May 21, 2001 (attached hereto as ExhibitExhibit B). Although the letters to Explorer owners areExhibit B). thethe tire notification program,the tire notification program, and Ford is t to report these to the Court under the terms of the May 31 Order, FordFord has never informed the Court about these improper cFord has neve withwith putativewith putative cwith putative class members regard inspection.inspection. A truthful, honest and forthright response to th Court Gourt s May 31 order about Ford s contacts with putative class members would have indicated that Ford is separately conducting a programprogram to contact class members who were involved in Explorer accidents.accidents. These letters too are unilaterally being sent at Ford behest, without any Court authorization or supervision.

E. Prompt Corrective Notice is Necessary and Appropriate.

Ford Ford s refusal to submit its proposed class Ford s communicationscommunications to the Court for approval, and its rush to comp mailings to class members before the Court can act, cries out for correctivecorrective notice. Corrective notice is necessary and appropriate underunder Federal Rule of Civil Procedure 23(d)(2) because Ford s contactscontacts have been confusing and misleading. See Haffer v. Temple Univ., 115 F.R.D. 506, 512-13 (E.D. Pa. 1987)(ordering corrective noticenotice because defendants disseminated false and misleading informationinformation to plaintiffs.)information to plaintiffs.) As cla in his declaration:

> I am concerned that the Ford Letter and Ford Ad:
>
> a. DoDo not convey a sense of urgency to replace the tires.
>
> b. MayMay confuse, concern, or be ineffective in informinginforming Firestone tire and Ford owners becausebecause they are not consistent with widely reported public statements Ford and Firestone havehave issued since May 22, and do not address issues well-communicated to class members via newsnews reports and Defendant statements since August 9, 2000.
>
> c. MayMay seed non-neutral positions among class membersmembers causing potentially insurmountable communicationcommunication hurdles for the Court when the timetime comes to issue any class-wide noticetime comes to iss it may order in this case.

Hilsee Dec. ¶7.

Mr.Mr. HMr. Hilsee further states that Tire owners would be bettMr. informedinformed if the problems caused and exacerbated by Ford s communicationscommunications were corrected via an effectivcommunication ordered notice. Hilsee Dec. at ¶11.

While Ford s unilateral communications with Explorer owners, onon a classwide basis, are sound additional reasons to certify this groupgroup as a class (and Ford shoulgroup as a class (and Ford should be the group should be treated as a class only when it serves Ford s convenienceconvenience or advantage to do so), inconvenience or advantage to 23(d)(2)23(d)(2) are not23(d)(2) are not triggered by class certification, b triggeredtriggered when thetriggered when the classtriggered when the class NGKNGK Metals Corp. Nos. Civ. A. 00-1966, Civ. A. 00-24 Nos. Civ. A. 00-1 360151360151 at *2 (E.D. PA 2001) (The mere initiation of a class action extendsextends certain protections to potential class members, who have been characterized by the Supreme Court as passive beneficiaries ofof the action brought in their behalf. of the action brought in thei TheThe rule may be invoked, at anyThe rule may be invoked, at any stage in a action,action, for the protection of the proposed class members, or to preservepreserve the integrity of the proceedings under the exclusive controlcontrol of the court. See Fed.R.Civ.P. 23(d); See also Gulf Oil v. Bernard,, 452 U.S. 89, 100 (1981)(a district court has both the dutyduty and the broad authority to exercise control over a class

actionaction and to enter appropriate ordaction and to enter appropriate counsel and parties.)

The key question concerning Rule 23(d) notice is one of case management,management, a question each district court is well-equipped an empowered to answer: whether notice is needed for the protection ofof the class or for the fair conduct of litigation. When a defendant ddefendant s pre-certification contacts seek to intervene interfereinterfere with potential class members interests or claims, or influenceinfluence their behavior influence their behavior rinfluenc certification supervision of class certification is warranted and has been imposed. See e.g., Nagy v. Jostens, Inc., 91 F.R.D. 431 (D.(D. Minn. 1(D. Minn. 1981(D. Minn. 1981)[1]. This Court has jurisdiction makemake such case management orders as it deems appropriate to protect itsits authority in matters such as communicationsits authority in matters s regardingregarding the subject matter of the controversy. For this reason, the authorities cited in Plaintiffs opening brief addressing the

[1]As the Federal Rules Advisory Committee states, Rule 23(d)(2) notice is inherently discretionary: Subdivision (d)(2) does not require notice at any stage, but rather calls attention to its availability and invokes the court s discretion. There is no indication in the Advisory Committee Notes that dissemination of (d)(2) notice must await either the district court s certification order or its disposition on appellate review. Federal Rules Advisory Committee Notes to Fed.R.Civ.P. 23, 39 F.R.D., 69, 106-07 (1966).

pre-certification use of Rule 23(d)(2) confirms the propriety of the relief plaintiffs seek.

ThereThere are other examples of courts employing corrective notice requirements in the pre-certification phase of class actions when misleadingmisleading communicamisleading communicatiomisleading communicati proposedproposed class. Such commproposed class. Such communiproposed cl what they state or, more frequently, in what they omit -- such as pertinentpertinent information about the existence and status of related litigationlitigation or that the communicatorlitigation or that the communic adversadversariesadversaries inadversaries in such litigation. For inst IncomeIncome Partners Securities Litigation,, MDL No. 915 (D. Colo. 1992), JudgeJudge Zita L. Weinshienk issued a pre-certification SupplementSupplem CaseCase Management Order, pursuant to the court s inherent Case ManagementManagement Authority Under Fed.R.Civ.P. 23(d)(2) and (Managem requirerequire that corrective notice be sent to those members of the putativeputative class(es) and all others who received communications in writingwriting from defendant Larry H. Welch. [2] The court itself The cour thethe corrective notice, which appeared on District Court stationary, andand was signedand was signed by theand was signed by the judge.[3] The defe the costs of corrective notice, the need for which was occasioned

[2]The Alert Income Supplemental Case Management Order from which these quotations are taken is attached hereto as Exhibit C.

[3]The Corrective Notice is an attachment to the Alert Income Supplemental Case Management Order, attached hereto as Exhibit D.

byby defendant Welch s prior, unauthorized communications with putativeputative class members on the subject matter of the litigation, in whichwhich he was a named defendant. Among other inaccuracies, the communicationscommunications from defendant Welch did not disclose the exist ororor status of the class action or status of the class action litigatio WelchWelch was being sued by representatives of the communications recipients.recipients. In Alert Income, an investment fraud suit, only mone waswas at stake; nonetheless, the defendant s unilateral and direct writtenwritten commuwritten communiwritten communications to putative cla undertakeundertake to redress their investment claims by suing others, withoutwithout accurate disclosure of Welch swithout accurate disclosure classclass action litigation against him, resulted in a ban on all furtherfurther unapproved communications, and the dissemination, at defendant s expense, of a corrective notice.

InIn anotherIn another example of MDL Transferee Court involvementIn ano regulationregulation of, litigation-related communications between a defendant and potential class members, Judge Sam C. Pointer, Jr., TransfereeTransferee Judge in Silicone Gel Breast Implants Products Liability Litigation,, MDL No. 926, issued Order NoOrder No. 8 on Oct on October 14, shortlyshortly after the implant cases were transferred toshortly after the truetrue copy of Order No. 8 is attached hereto is attached hereto as Ex OrderOrder regulates the terms and conditions of communications between defendantdefendant Baxter and members of a proposed class of breast implant

recipients,recipients, in connection with an informal settlement program tha
BaxterBaxter wished to conduct withouBaxter wished to conduct wi
certificationcertification or court approval. Judge Pointer allowed t
programprogram to proceed, on conditions that did not prejudice the legal
rightsrights of the breast implant recipients as potential individual
plaintiffsplaintiffs or class members, apprisedplaintiffs or class member
stastatusstatus of the litigation, provided them with access to cstatu
counsel,counsel, and required plaintcounsel, and required plaintiffcouns
draftingdrafting of Baxter s written communications to the recipients with
ultimateultimate court resolution of any disputes. The court reserved
ultimateultimate control over the communications. Because many of the
communicationscommunications occurred orally, the Order provided for
recording of these communications as an additional protection for
plaintiffs.[4]

Here,Here, more than money is at stake. Furthermore, Ford has
actedacted at least as irreacted at least as irrespoacted at least as irre
AlertAlert Income defendant in going forward with communications to
classclass members regardingclass members regarding itsclass members re

[4]At the time Order No. 8 was entered, Judge Pointer had not certified any plaintiff class. The Dante case referred to in the Order had been conditionally certified by a transferor court, but it was not co-extensive with the classes alleged in MDL 926. No plaintiff class was certified in MDL No. 926 until 1994 when a nationwide class was certified for purposes of approval and implementation of a comprehensive settlement program.

FiFirestone Firestone s products. In so doing, Ford sought to de
atattattention,attention, accountability, and ultimate liability from itse
itsits co-Defendant. Ford went forward with, and possibly
accelerated,accelerated, its notification program, notwithstanding this Court
MMayMay 31May 31 Order (which made it clear that this matter would be
consideredconsidered by the Court on an expedited basis). Ford, thus,
compoundedcompounded the problem that led to the present motion and this
Court Court s May 31 Order and should be required to send additional,
correctivecorrective notice, at its expense, to appriscorrective notice, a
membersmembers with whom it has communicated of all pertinmembers with
circumstances,circumstances, and allegations surrounding the Firestone/
controversy, this litigation, and its role therein.

IInIn addition, Ford has refused to notify owners of noIn addition,
vehiclesvehicles equipped with Wilderness AT tires. Again, because this is
notnot a recall, Ford has unilaterally decided who should be notified
aboutabout the dangerous Tiabout the dangerous Tiresabout the dangerc
vehicles,vehicles, however, are at serious risk of tire failurevehicles, howe
Ford plans to do nothing about it.

AsAs the Manual for Complex Litigation, Third, provides, at
§ 30.213, discussing notice under Rule 23(d)(2):

> The type and contents of the notice and who should bear
> thethe cost depend on the circumstanthe cost depend on the circumstan
> thethe need for it what prompted it, who should be
> notified,notified, whose duties it discharges, and when it is
> given.given. Thus, the cost of a nogiven. Thus, the cost

misstatementsmisstatements made by defense counsel should be borne by defendants.

F. Ford Should Be Required to Inform Consumers of the Court s Website

FordFord is inFord is in constant communication withFord is in constant ford.comford.com website, which currently features a piece on "Ford ExplorerExplorer and the Tire Replacement Program: Myths & Facts". (Attache(Attached(Attached (Attached as Exhibit F)[5]. This contains, in dangerously misleading and one-sided misinformation regarding the safetysafety of Ford's Explorer SUVs,safety of Ford's Explorer SUVs, as furt MemorandumMemorandum of Points and Authorities in Support of Plaintiffs MotionMotion for Preliminary InjMotion for Preliminary InjuncMotion for CompanyCompany filedCompany filed on June 7, 2001. Ford is thus exercising AmendmentAmendment right of commercial speech on a continuous basis, to the publicpublic atpublic at large. At this stage in the proceedings, Plaintiff notnot requesting Cnot requesting Cournot requesting Court intervention as communication.communication. Ford, however, is sending one-sidedcommunicati directlydirectly to a targeted group, which in part, directs class members to the Ford website for information on their vehicles, and tires. However,However, the recipients of this communication are members of a proposedproposed class that isproposed class that is represented by counsel i

[5]Indeed, in Ford s 2000 Annual Report, it enthusiastically proclaims that its website is the top global auto company website, with more than 124 million visitors last year producing nearly $1 billion in revenue. (Relevant pages of Ford s 2000 Annual Report are attached hereto as Exhibit G).

before this Court -- litigation that alleges wrongdoing on Ford's partpart and the necessity of corrective action for both Firestone Tires and Ford Explorers.

ItIt is well settled that First Amendment commercial speech rightsrights do not extendrights do not extend to the communicationrights do n inaccurate messages by a class action defendant to the members of aa potential class, and that the Court may, and should, act to bar, regulate,regulate, or correct such communications. Kleiner v. First NationalNational Bank of Atlanta, 7, 751 F.2d 1193, 1201-1204 (11th Cir 1985).[6] It It is certainly proper and appropriate for this Court to

[6]In Kleiner, the Eleventh Circuit upheld the district court s authority and duty to protect both the absent class and the integrity of the judicial process by monitoring the actions before it, 751 F.2d at 1202, including the district court s order prohibiting the defendant bank from contacting potential class members during the opt-out period to solicit their withdrawal from the class. Interestingly, the bank made its decision to contact class members after plaintiffs counsel raised concerns with such contacts, and after the district court entered an order taking the question of unsupervised defendant contacts with potential class members under advisement. Id. at 1197. The bank went ahead with its campaign while the judge was on vacation, apparently intending to present the district court with a fait accompli before it could act to resolve the dispute regarding the content and nature of communications with the class. Id. Once apprised of the bank s unilateral opt-out campaign, the district court found that defendant had acted in bad faith, that the written briefing documents used in the campaign had contained misleading portrayals of fact, and disqualified the bank s counsel from further representations, issued monetary sanctions, and declared the exclusion requests voidable. Id. at 1198. The Eleventh Circuit affirmed the district court s orders in all respects, save for its order disqualifying the bank s general counsel. 751 F.2d at 1207-1211.

taketake action with respect to litigation-related communications of a party before this Court, over whom the Court has jurisdiction, by requiring,requiring, atrequiring, at the least, that any communications dire membersmembers include informationmembers include information on the address ClassClass members may informClass members may inform themsClass members litigation,litigation, to the claims that are being asserted on their behalf totto this Court's Entries and Orders, and to the postto this Court's Entri sidessides in the controversy.sides in the controversy. Fordsides in the con providingproviding notification about this source of information to those Class members.

CONCLUSION

Ford Ford s actions and response to the Court s Order of May 31, 2001,2001, make clear tha2001, make clear that Ford2001, make clear th supervisiosupervision.supervision. supervision. Ford could easily have re itsits proposed notits proposed notifiits proposed notification program, o communicationscommunications with class members until the Court had opportunityopportunity to consider the issue. Instead, Ford chose toopportu thethe Courtthe Court andthe Court and co-opt NHTSA, as evidenced by Ford s rush a last-minute letter to NHTSA stating that Ford incorporated NHTSA NHTSA s thoughts and suggestions (whatever that means). Further compoundingcompounding the problem is Ford s rush to complete its progr beforebefore the Court can determine whether court-supervision of the notice program is appropriate.

Ford was well aware that putative class members are entitled toto certain protections under Rule 23. And Ford also knew that the properproper scope and implementation of tire replacement is a key issue ininin this litigation. in this litigation. Ratherin this litigation. Rather putativeputative class members through the Court, Ford demonstrated its arrogantarrogant disregard for this MDL proceeding by doing unilaterally whatwhat it might not have obtained what it might not have obtained permis asked.

Instead,Instead, the Court and ClassInstead, the Court and Class Plaint mediamedia that Ford intended to contact putative class members. Ford s attemptattempt to avoid court supervision under Rule 23(d)(2) battempt to thethe class member contact a fait accompli should not be condoned. CorrectiveCorrective notice isCorrective notice is required,Corrective notic aa conference to discussa conference to discuss Ford s contact witha conferen asas well asas well as to consideras well as to consider the most appropriate correctivecorrective notice to assure that class mecorrective notice to a informed by any communication directed to them by a party to this litigation, rather than further imperiled and confused.

PlaintiffsPlaintiffs respectfully submit that a neutral, informative, correctivecorrective letter, written and designed to come to the attention of classclass members, with an emphasis on the main message: Get your tires replaced, should be mailed to all those who received prior letters.letters. The letter should be disseminated by Ford, at its

expense,expense, pursuant to this Court s directives and under its ongoing control, and should include, at a minimum, the following:

- A succinct statement of the pendency and status of this litigation, the claims asserted by Plaintiffs and Defendants defenses thereto.

- AA description of motions pending, and any significant rulings made by the Court to date.

- TheThe definitions of the proposed classes and subclasses.

- Plaintiffs Plaintiffs position on the appropriate scope TireTire replacement, including the model and size designationsdesignations claimed by the Plaintiffs todesignat tread separation defect.

- TheThe address of the Court The address of the Court s webs and a summary of the contents of the website.

- WebsiteWebsite access (via inclusion on the Court s websitewebsite or otherwise) to the master complaint awebsi otherother significant briefs and pleadings of the parties.

- AA statement that the Court has not yet made any determinationdetermination on the merits determination o defensesdefenses regardingdefenses regarding thedefenses rega

- InIn addition, Plaintiffs respectfully submit that FordFord should undertake a corrective advertising campaigncampaign that mirrors icampaign that mirrors in sca adsads on the subject thaads on the subject that Fads or 2001.

DATED: June 8, 2001

Respectfully submitted,

COHEN & MALAD, P.C.

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

In re: BRIDGESTONE/FIRESTONE, INC. ATX, ATX II and WILDERNESS TIRES PRODUCTS LIABILITY LITIGATION	)))))	MDL NO. 1373 Master File No. IP 00-9373-C-B/S

This Document Relates to the Master Complaint

CERTIFICATE OF SERVICE

TheThe undersignThe undersigned PlaThe undersigned Plaintiffs Liaison Counsel certifies that a copy of the for servedserved via hand delivery oserved via hand delivery or fserved via hand delivery or facsimile upon the following loc in this MDL Proceeding, this _____ day of June, 2001:

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