

TEXAS LAWYER

TRIAL BY TIRE

by BRENDA SAPINO JEFFREYS

The dogged persistence of Tyler lawyer **Randell C. Roberts** exposed documents revealing hundreds of complaints about Bridgestone/Firestone Inc. tires, an effort that played a key role in the recall of 6.5 million tires this summer.

The significance of **Roberts'** effort became apparent in the spring after he shared some of the documents with the National Highway Traffic Safety Administration, which is investigating complaints linking deaths to the tires. "It was a wake-up call," says Tab Turner, a Little Rock, Ark., plaintiffs lawyer who has a heavy docket of tire suits.

But **Roberts** gives credit to the judge who allowed him to give copies of the documents to other plaintiffs lawyers, and to his clients, who could have agreed to a large monetary settlement instead of making sure the documents got to the public.

"The judge is the real hero in that case," says **Roberts**, who practices with his brother Bruce and sister Karen in Roberts & Roberts. "The other real hero is my clients. Once I had seen all the documents, Firestone let my clients know they were interested in settling the case and one of the stipulations to settling was . . . we would have to return all the documents to Firestone."

"They [his clients] made it clear to me in no uncertain terms that their goal was to get the word out. There was no debate about it," he says.

Other factors, including reports on tire tread-separation complaints that aired on Houston television station KHOU in 2000, prompted consumers to bring their complaints to NHTSA. And other Texas plaintiffs lawyers, like Richard Mithoff, a partner in Mithoff & Jacks in Houston, fought against protective orders in tread-separation suits this year.

But other lawyers with tread suits against Firestone give **Roberts** more credit than he gives himself in getting the word out to the public.

Thomas Dasse, a solo in Scottsdale, Ariz., who specializes in tire litigation, says the discovery **Roberts** got his hands on is significant because it was the first indication hundreds of people were complaining of tire problems when driving their Ford Explorers.

"It was big news at the time," says Dasse. "Now everybody says, 'Oh, yeah.' But at the time, nobody knew."

Robert Patterson, of Patterson & Associates in Corpus Christi, says **Roberts'** persistence put a collection of several hundred com-

plaints, property damage estimates and Firestone responses in the hands of plaintiffs lawyers. "Without **Randy's** early efforts and the wisdom of his judge in allowing 'sharing' with other plaintiffs attorneys, I don't think the recall would have occurred when it did," Patterson says.

One of the nation's leading tire lawyers, Bruce Kaster, says the order **Roberts** received, along with an order he got in July



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— **Randell C. Roberts**

2000 from a Florida judge allowing him to share depositions he took of Firestone employees, helped break down an "iron curtain" of secrecy.

"I don't think the efforts of **Randy Roberts** can be underestimated, but I want to add to that the whole group of Texas lawyers who had these cases came together in a very unified way and shared information," says Kaster, a partner in Green, Kaster & Falvey in Ocala, Fla.

Settlement Talks

Roberts landed in the Firestone firestorm by accident. In March 1999, he filed a products liability suit against the tire maker and Ford Motor Co. on behalf of Cathy and Jim Taylor, the parents of 14-year-old Jessica LeAnn Taylor, who was killed

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in an accident in October 1998. She was a passenger in a Ford Explorer that flipped after the tread on the left rear tire allegedly separated from the tire.

It's not like Roberts was specializing in tire litigation. It was his first suit against Firestone. A lawyer from Mexia, Benjie Reed, referred it to him.

"At that time, I had no idea as to the breadth of the problem," he says.

During discovery, Roberts asked lawyers for Firestone for information about other complaints involving ATX tires and about other suits filed over alleged problems with similar tires. He claims defense attorneys, by narrowly defining the tire, weren't turning over all the information he knew was out there from talking with other plaintiffs lawyers with tire suits.

"They would define a tire by specifications so narrow that there could be no other incident," says Roberts.

(Firestone's defense lawyer, Vernon Hartline, a partner in Hartline, Dacus, Dreyer & Kern of Dallas, did not return a telephone message by press time on Dec. 13. Neither did the lawyer for Ford, Bill Fountain, a partner in Brown McCarroll & Oaks Hartline in Austin.)

By November 1999, Roberts persuaded 87th District Judge Sam Bournias of Limestone County to enter an order that required Firestone to expand its definitions. "The judge entered an order that broadly defined the problems and the tire so that Firestone couldn't continue playing games with the definition of the tire," he alleges.

Bournias gave Firestone three months to comply. By February, the tire maker turned over information about 1,100 consumer complaints, 57 suits and produced some depositions, but Roberts says defense attorneys did not produce depositions of corporate employees taken in similar suits in other states on the ground they were subject to protective orders. Roberts says he went back to court armed with releases from plaintiffs in those other suits.

He says Bournias ordered Firestone to produce the depositions, and he imposed a \$100-a-day fine until they were produced. Roberts' firm was paid about \$9,000 in fines before the lawyers produced the documents, Roberts says.

But more significantly, in Roberts' view, he got Bournias in May to enter another order allowing him to share the information broadly with plaintiffs lawyers. Roberts says he didn't want Firestone to have any ground to complain about

his information sharing.

Beginning in April, he also shared some of the information with the NHTSA, which was alerted to his find by another one of his Firestone clients.

In August, Nashville-based Firestone, which is owned by Japan's Bridgestone Corp., voluntarily recalled 6.5 million ATX, ATX II and Wilderness AT tires in the wake of reports of deaths in accidents involving vehicles with the tires. By NHTSA's latest count, it has received reports of 148 fatalities allegedly involving tire-tread separations and more than 4,300 complaints involving 525 injuries.

Roberts says he's been sending documents to so many plaintiffs lawyers that sometimes he feels like a "delivery man" instead of a lawyer. But he says he wouldn't have it any other way. He's disturbed when he hears about plaintiffs lawyers who treat critical discovery information as proprietary and a means of marketing.

"The single most important message is lawyers who refuse to share information with other lawyers are no better than defendants who hide information from the public," he says.

Meanwhile, Roberts isn't sure when — or if — the suit he filed on behalf of the parents of Jessica LeAnn Taylor against Firestone and Ford will go to trial in 2001. Because they reached their objective of getting the word out to the public, his clients have authorized him to start settlement talks.

But if not Roberts, it's likely another Texas lawyer will get the first verdict in the litigation, setting parameters for the value of the suits. While plaintiffs lawyers have settled a number of suits with Firestone and Ford, no one has gotten a verdict since the recall.

Corpus Christi plaintiffs lawyer Mikal Watts, a partner in Harris & Watts, might be the lawyer who helps write the next chapter in the saga. He and Turner, of Turner & Associates, are set for trial Jan. 8, 2001, before 28th District Judge Nanette Hasette of Corpus Christi in a suit filed on behalf of a Portland woman who has been a quadriplegic since an accident in a Ford Explorer equipped with recalled tires.

Notes Watts, "It's a dangerous suit for Ford and Firestone." 

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