

1 IN THE UNITED STATES DISTRICT COURT  
 2 EASTERN DISTRICT OF ARKANSAS  
 3 EASTERN DIVISION

4 NELLIE BROWNLEE, SPECIAL  
 5 ADMINISTRATRIX OF THE ESTATE  
 6 OF SCHARLOTTE A. HERVEY,  
 7 DECEASED; GLORIA HERVEY JOHNSON  
 8 AND JANICE JAMES, SPECIAL  
 9 CO-ADMINISTRATRIXES OF THE ESTATE  
 10 OF EDWARD L. HERVEY, DECEASED;  
 11 NELLIE BROWNLEE, SPECIAL  
 12 ADMINISTRATRIX OF THE ESTATE OF  
 13 ONTERIO JAMAR MILLER (HERVEY),  
 14 DECEASED; AND NELLIE BROWNLEE,  
 15 GUARDIAN OF THE PERSONS AND  
 16 ESTATES OF DEMARIO HERVEY AND  
 17 RASHOD AKEEM HERVEY, MINORS PLAINTIFFS

18 VS. NO. 2:99CV-212 GH

19 COOPER TIRE & RUBBER COMPANY DEFENDANTS

13 \*\*\*\*\*

14 ORAL AND VIDEOTAPED DEPOSITION  
 15 OF WILLIAM DOUGLAS EATON

16 \*\*\*\*\*

17 TAKEN AT THE INSTANCE OF THE PLAINTIFFS  
 18 IN THE LAW OFFICES OF JAK M. SMITH  
 19 115 NORTH BROADWAY STREET, TUPELO, MISSISSIPPI  
 20 ON MARCH 22, 2000, BEGINNING AT 1:00 P.M.

21 APPEARANCES NOTED HEREIN

22 Reported by: PHYLLIS K. McLARTY, RMR, CSR #1235

23 \_\_\_\_\_

24 McLARTY-WHITE COURT REPORTING  
 25 P.O. BOX 4051  
 TUPELO, MS 38803-4051  
 (662) 844-7831

1 APPEARANCES

2 Cause No. 2:99CV-212 GH, In the United States  
 3 District Court of the Eastern District of Arkansas,  
 4 Nellie Brownlee, et al vs. Cooper Tire & Rubber  
 5 Company

6 ON BEHALF OF PLAINTIFF NELLIE BROWNLEE:

7 BRUCE R. KASTER, Esquire  
 8 Green, Kaster & Falvey, P.A.  
 9 125 N.E. First Avenue  
 10 Ocala, FL 34470

11 PAUL BYRD, Esquire  
 12 Law Offices of James F. Swindoll  
 13 212 Center Street, Suite 300  
 14 Little Rock, AR 72201

15 ON BEHALF OF DEFENDANT COOPER TIRE & RUBBER COMPANY:

16 W. WRAY ECKL, Esquire  
 17 Drew, Eckl & Farnham  
 18 P.O. Box 7600  
 19 Atlanta, GA 30357-7600

20 KIRK DOUGHERTY, Esquire  
 21 Hardin, Jesson & Terry  
 22 P.O. Box 10127  
 23 Ft. Smith, AR 72917-0127

24 Cause No. 2:99CV00220 GH, In the United States  
 25 District Court of the Eastern District of Arkansas,  
 Donald W. Whitaker vs. Cooper Tire & Rubber Company  
 vs. The Estate of Scharlotte A. Hervey

19 ON BEHALF OF PLAINTIFF DONALD W. WHITAKER:

20 SANDY HUCKABEE, Esquire  
 21 JERRY KELLY, Esquire  
 22 Kelly & Huckabee  
 23 P.O. Box 1323  
 24 Cabot, AR 72023

25 ON BEHALF OF DEFENDANT COOPER TIRE & RUBBER COMPANY:

26 W. WRAY ECKL, Esquire  
 27 Drew, Eckl & Farnham  
 28 P.O. Box 7600  
 29 Atlanta, GA 30357-7600

1 KIRK DOUGHERTY, Esquire  
 2 Hardin, Jesson & Terry  
 3 P.O. Box 10127  
 4 Ft. Smith, AR 72917-0127

5 Cause Numbers 98-2770 CA and 98-2791 CA, In the  
 6 Circuit Court of Florida, Gladfelter and Phommachanh  
 7 vs. Cooper Tire & Rubber Company, et al

8 ON BEHALF OF PLAINTIFFS GLADFELTER AND PHOMMACHANH:

9 BRUCE R. KASTER, Esquire  
 10 Green, Kaster & Falvey  
 11 125 N.E. First Avenue  
 12 Ocala, FL 34470

13 ON BEHALF OF DEFENDANTS COOPER TIRE & WESTERN AUTO:

14 FREDERICK J. FEIN, Esquire  
 15 Thornton, Davis & Murray  
 16 Brickell Bayview Centre  
 17 80 S.W. 8th Street, Suite 2900  
 18 Miami, FL 33130

19 Cause Number 99-15272, In The District Court of  
 20 Harris County, Texas, Dozier, et al vs. Ford Motor  
 21 Company, et al

22 ON BEHALF OF THE PLAINTIFFS MICHAEL A. DOZIER AND  
 23 ELIZABETH DOZIER:

24 STEPHEN W. HANKS, Esquire (Via Telephone)  
 25 KIMBERLY W. BROWN, Esquire  
 Helm, Pletcher, Bowen & Saunders  
 2929 Allen Parkway, Suite 2700  
 Houston, TX 77019-2157

RUSSELL L. COOK, JR., Esquire  
 Cook, Doyle & Bradshaw  
 1221 Lamar Street, Suite 1300  
 Houston, TX 77010

22 ON BEHALF OF DEFENDANT FORD MOTOR COMPANY VIA  
 23 TELEPHONE:

24 ANDREW ASHWORTH, Esquire  
 25 Snell & Wilmer  
 One Arizona Center  
 400 East Van Buren  
 Phoenix, AZ 85004

1 ON BEHALF OF DEFENDANTS SEARS ROEBUCK D/B/A NTB,  
 2 ADVANCE STORES COMPANY, AND COOPER TIRE & RUBBER  
 3 COMPANY:

4 ARTHUR M. GLOVER, JR., Esquire  
 5 Glover, Anderson, Lewis & Prebeg  
 6 5599 San Felipe  
 7 Suite 1600  
 8 Houston, TX 77056

9 ON BEHALF OF COOPER TIRE & RUBBER COMPANY:

10 SCOTT R. PINZONE, Esquire  
 11 Cooper Tire & Rubber Company  
 12 Lima & Western Avenues  
 13 Findlay, OH 45840

14 ON BEHALF OF DEFENDANT BASTROP TIRE & AUTOMOTIVE:

15 STEPHEN L. HODGSON, Esquire  
 16 Werstein & Associates  
 17 5225 Katy Freeway  
 18 Suite 620  
 19 Houston, TX 77007

20 ALSO PRESENT: MR. LEONARD SANDERS, Video Operator  
 21 MR. ANDY YORK

22

23

24

25

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25	(No Exhibits)	

1 WILLIAM DOUGLAS EATON, after being  
2 duly sworn, testified as follows:

3

## EXAMINATION

5 BY MR. KASTER:

6 Q Would you tell us your full name, please,  
7 sir.

8 A William Douglas Eaton.

9 Q And where do you live, Mr. Eaton?

10 A 807 West Main Street, Okolona, Mississippi.

11 Q I wonder if you would tell us a little bit  
12 about your -- your background, Mr. Eaton. Where did  
13 you go to school? Where did you grow up, sir?

14 A I grew up around Okolona, Mississippi.

15 Graduated from Okolona High School in 1961. Two  
16 months later, I enrolled in the United States Marine  
17 Corps, and I spent 20 years with them. Retired in --  
18 I believe it was September of '81, and I went to work  
19 for Cooper in 19 -- February 1985.

20 Q What did you do in the Marine Corps, sir?

21 A Started out as an infantry. Spent seven  
22 and a half years in the infantry, and then I was  
23 transferred into administrative supply, that line of  
24 work.

25 Q Did you ever serve overseas?

1 A Yes, sir. I spent a tour -- a couple of  
2 tours in Vietnam.

3 Q And you retired in what year, sir?

4 A 1981.

5 Q When you went to Cooper Tire in 1985, what  
6 did you do, sir?

7 MR. HUCKABEE: Yes

8 A I started out working in the -- the curing  
9 department and worked as -- on the curing presses,  
10 the spray booth area; then went into the finishing  
11 department, worked as a -- a classifier and would  
12 help running the TUGs. And that was at -- at the  
13 time when we were just starting the factory up out  
14 there, and they just -- you know, wherever they  
15 needed us is where they put us.

16 I went from there to a -- they -- I got promoted  
17 as supervisor over the curing department. I worked  
18 in that capacity for a couple of years and then bid  
19 out to a second stage builder in tire assembly.  
20 Worked at that for about a year, I guess, and then  
21 went into first stage, and then went into technical  
22 services.

23 Q. (Mr. Kaster) Were you familiar with all  
24 aspects of tire construction at the plant here in  
25 Tupelo, sir?

1 A Yes, sir.

2 Q How long were you -- were you at Cooper?

3 A I was there for 13 years, sir.

4 Q So you would have left in approximately  
5 1998?

6 A Yes, sir, February 1998.

7 Q During the course of your employment at  
8 Cooper, did you work on or deal with the Trendsetter  
9 line of tires?

10 A Yes, sir.

11 Q How about the Cornell and the Patriot  
12 lines, were you familiar with them as well?

13 A Yes, sir.

14 Q Was there any tire that Cooper made that  
15 you did not have direct dealings with?

16 A No, sir.

17 Q In the actual tire construction, either  
18 stage one or stage two, were you familiar with a  
19 substance referred to as 12101?

20 A Yes, sir, I was.

21 Q Can you tell us what that was, sir?

22 A It was a gas or solvent that -- rubber-type  
23 solvent that was used -- well, it -- basically what  
24 it does is it melts the rubber down or -- and they  
25 used it in different areas for different things.

- 1 Q. Did you ever use it to restore tack or  
2 stickiness on an old or dry piece of stock material?
- 3 A. Yes, sir, I did.
- 4 Q. Was that common practice during your  
5 tenure?
- 6 A. Yes, sir, it was.
- 7 Q. Do you know what would cause the stock to  
8 dry out or --
- 9 A. Mostly old age.
- 10 Q. How would it appear?
- 11 A. It would be a sulfidized -- yellow-like  
12 sulfur pores on the outside of the rubber.
- 13 Q. And when the -- the stock would have sulfur  
14 on the rubber, what would you do to get the sulfur  
15 off?
- 16 A. I just used the 12101 to make it adhere, if  
17 I -- if necessary.
- 18 Q. Tell me how the 12101 would be applied.
- 19 A. With a brush. Usually a paintbrush.
- 20 Q. Was -- was this a common practice among all  
21 tire builders in your experience?
- 22 A. Yes, sir.
- 23 Q. Ever told not to do that?
- 24 A. No, sir.
- 25 Q. Just so everybody understands, in what

- 1 stage of tire building would this happen?
- 2 A. First and second. Primarily first.
- 3 Q. What happens in first stage?
- 4 A. Well, the first stage, if a man got his  
5 wing on a little bit crooked or something, he had to  
6 remove it to straighten it out, he would use the  
7 12101 to put underneath it to break it loose, so he  
8 could then put it back in the proper position.
- 9 Q. And what about in second stage?
- 10 A. Second stage, it was used to -- if you had  
11 tread that was dried out or wouldn't -- wouldn't  
12 stick down good, stitch down good, you would use it  
13 there, hold a brush underneath each -- as it was  
14 stitching down with the 12101 on it, and it would  
15 cause the rubber to stitch down.
- 16 Q. What was your last job at Cooper, sir?
- 17 A. Technical services.
- 18 Q. And what would you do in technical  
19 services?
- 20 A. Projects -- experimental-type projects of  
21 different types. I also ran -- kind of a  
22 troubleshooter for problems that would come up in --  
23 during this shift, like conicity, lateral, radial, or  
24 if some material that they thought was not too good  
25 or wasn't in spec, I would be called out. I would

- 1 check it and determine if it was in spec according to  
2 their -- you know, the company's technical guidebook.
- 3 Q. Were you ever called upon to look at  
4 material to determine whether it should have been  
5 scrapped?
- 6 A. Yes, sir.
- 7 Q. Are you aware of whether any material that  
8 should have been classified as scrap was not so  
9 classified?
- 10 A. Well, sir, I will say that I -- we have  
11 hung restriction tickets on the material saying that  
12 it is not -- that it should not be used, and it  
13 would -- the tickets would be pulled off and the  
14 material would be used.
- 15 Q. Who would make the decision to pull off  
16 this ticket indicating the material was scrapped and  
17 go ahead and use it?
- 18 A. Foremans or the lead people.
- 19 Q. Were tires that should have been scrapped  
20 ever repaired?
- 21 A. Yes, sir.
- 22 Q. Can you tell us how?
- 23 A. Well, primarily in second stage, if the  
24 tires would be distorted or messed up, they would  
25 take the 12101, break it loose, repair it. If they

- 1 had a blowout on the -- on it where the plies  
2 separated and it blew out, they would take a hot  
3 knife, smooth that down, put it back on the pan, cure  
4 it.
- 5 Q. Were tires that should have been scrapped  
6 in final finish ever attempted to be repaired or  
7 repaired?
- 8 A. Yes, sir.
- 9 Q. Can you give us an example of that?
- 10 A. Blisters. Where the tread was punctured  
11 with an awl to release the pressure on the blister  
12 and they were put into production, things like that.
- 13 Q. Can you demonstrate for us what you're  
14 talking about of blisters being punctured?
- 15 A. Yes, sir.
- 16 Q. Would you do that, sir?
- 17 A. Sure will. They would locate the blister  
18 inside the tire with their hands, and then they  
19 would take an awl, and they would insert the awl  
20 through the tread, the two belts, and the ply,  
21 feeling with their finger until they penetrated down  
22 to the blister without going through the liner. And  
23 the air would escape, and they would retract the  
24 awl, smooth it over with their fingers, and let it  
25 go. (Indicating)

1 Q. Was there any guideline or practice as to  
2 how many punctures, as you just demonstrated, could  
3 be accomplished on any one tire?

4 A. Yes, sir. The first time they started out,  
5 I believe it was five blisters. And then they  
6 dropped it down to three was my last knowledge. It  
7 was three. And as far as I know, the practice was  
8 still going on when I was there -- as long as I was  
9 there.

10 Q. Was this awling practice utilized  
11 throughout your tenure at Tupelo?

12 A. Yes, sir.

13 Q. Were the supervisors aware of that?

14 A. Yes, sir. Management was aware of it also.

15 Q. Mr. Hogan Cooper, did he know about it?

16 A. Oh, yes, sir.

17 Q. How do you know Mr. Cooper knew about it?

18 A. Because I seen him demonstrate -- show one  
19 of his classifiers how to do that.

20 Q. Other management also aware that -- that  
21 the classifiers would actually do this?

22 A. Yes, sir.

23 Q. Anybody other than classifiers awl tires as  
24 you've just demonstrated to us?

25 A. Yes, sir. The repair people -- the repair

1 personnel that did the repair on, you know, blemishes  
2 and things like that that was on the tires, they also  
3 did it.

4 Q. You can set the tire back down, if you  
5 would, sir. Well, why is it that repairmen would be  
6 called upon to do this awling procedure?

7 A. Because they would have so many of them,  
8 the classifier couldn't -- couldn't do all of them,  
9 so they just had the repair people doing them also.  
10 There was normally one to two repair people per shift  
11 and a classifier, and then, of course, you had your  
12 inspectors and everybody else. But the repair people  
13 and the classifiers are the ones that I have seen  
14 doing it.

15 Q. Did that include all brands of steel belted  
16 radial tires produced by Cooper at Tupelo?

17 A. Yes, sir.

18 Q. While you were at Cooper, did you ever  
19 express any concern about the consequences of using  
20 this X-tag materials or the awling of tires?

21 A. Yes, sir. I brought it to the foreman's  
22 attention, and I brought it to Mr. George Green's  
23 attention, the fact that we shouldn't be using  
24 material that was tagged as being, you know, unfit  
25 for use. And the -- several different times

1 throughout my career there, I did, brought this to  
2 their attention.

3 Q. Did you ever discuss it with your fellow  
4 employees?

5 A. Yes, sir. We would sit around the break  
6 room many a times talking, and, you know, the subject  
7 would come up, and everybody would say, you know, you  
8 know, this company is in for some big trouble one of  
9 these days if we don't change some of our practices.  
10 And this was just, you know, people sitting around in  
11 the break room talking.

12 Q. Did they ever change the practices?

13 A. No, sir.

14 Q. Based on your experience at Cooper, did  
15 management put most of their emphasis on the quality  
16 of their product or the quantity of their production?

17 MR. FEIN: Object to the form.

18 MR. ECKL: Objection.

19 Q. (Mr. Kaster) Go ahead, sir.

20 MR. EATON: Beg your pardon?

21 Q. (Mr. Kaster) That's -- that's --

22 A. Oh.

23 Q. Just go ahead and answer.

24 A. Basic -- basically, they put it on  
25 performance and getting the tires into the warehouse

1 and on the trucks and getting them out of there.  
2 When we first opened that plant up, we had a quality  
3 orientated plant, but as time went on and they got  
4 started pushing more and more for production, then  
5 quality went to the wayside.

6 Q. Had quality deteriorated by 1992?

7 A. Yes, sir.

8 MR. KASTER: Thank you. That's all  
9 the questions I have, sir. Thank you.

10 EXAMINATION

11 BY MR. ECKL:

12 Q. Okay. Mr. Eaton, my name is Wray Eckl, and  
13 I represent Cooper Tire.

14 A. Yes, sir.

15 Q. And I'm going to ask you some questions,  
16 and if I ask you one that you don't understand, don't  
17 answer it, okay?

18 A. All right, sir.

19 Q. Just tell me you don't understand it, and  
20 we'll make sure we're talking about the same thing.  
21 Okay. Now, when I'm asking you questions, if you  
22 need to take a break for any reason, all you have to  
23 do is say, I want to take a break.

24 A. All right, sir.

25 Q. Okay. Now, you first went to work with

- 1 A. I went to work for Day-Brite about, I  
2 think, six months after I left Cooper.
- 3 Q. Where is Day-Brite? I don't know what that  
4 is.
- 5 A. That's an industrial lighting plant here in  
6 Tupelo, sir.
- 7 Q. Okay. All right, sir. And you still  
8 reside in Tupelo?
- 9 A. No, sir. I reside in Okolona.
- 10 Q. Oh, that's right. You told me that.
- 11 A. But I work here in Tupelo.
- 12 Q. Okay. Well, where are you working now?
- 13 A. At Day-Brite.
- 14 Q. Okay.
- 15 A. Gen Lyte Thomas. It's Day-Brite.
- 16 Q. Okay. And what do you do there?
- 17 A. Inventory control.
- 18 Q. Okay. All right. Now, as far as the  
19 repair procedures that were done at Cooper on tires,  
20 there wasn't anything secretive about those repair  
21 procedures, were there?
- 22 A. Not that I know of, sir.
- 23 Q. Okay. All right, sir. Now, can -- can you  
24 tell me, sir, what is your educational background?
- 25 A. High school graduate.

- 1 Q. (Mr. Eckl) This is the name that was used  
2 for --
- 3 A. Yes, sir.
- 4 Q. -- 12101?
- 5 A. Yes, sir.
- 6 Q. All right. Well, but the fact that you  
7 called it that didn't mean it was benzene, does it?
- 8 A. Sir, like I said, I'm not a chemist. I  
9 don't know what that is.
- 10 Q. Okay. All right. Do you know whether or  
11 not you're allowed to use benzene in -- in plants  
12 like this?
- 13 A. No, sir, you're not -- not as far as I  
14 know, you're not allowed to use it, sir.
- 15 Q. I see. And you're not testifying to this  
16 jury that during the period of time that you worked  
17 at Cooper in Tupelo they actually did use benzene,  
18 are you?
- 19 A. No, sir.
- 20 Q. Okay. All right. Now, one of the things  
21 that you use 12101 for is -- is like the example you  
22 gave. If you had at first stage something that  
23 wasn't put down --
- 24 A. Uh-huh.
- 25 Q. -- right there on it and you got -- you

- 1 Q. Okay. All right. Have you ever had any  
2 training in either chemistry or tire engineering?
- 3 A. No, sir.
- 4 Q. Okay. All right, sir. And -- and -- and  
5 do you -- is it your claim that you are a tire expert  
6 or a chemistry expert?
- 7 A. No, sir, I don't claim to be that.
- 8 Q. Okay. All right. Do you know whether or  
9 not 12101 is customarily used in tire plants in the  
10 tire building process?
- 11 A. From my understanding, it's used throughout  
12 the industry.
- 13 Q. Okay. All right, sir. And, in fact, every  
14 tire has 12101 in it, doesn't it?
- 15 A. I don't know that for sure, sir.
- 16 Q. Okay. All right, sir. Now, 12101 is not  
17 benzene, is it?
- 18 A. No, sir, I don't believe it is.
- 19 Q. All right, sir. If anyone referred to  
20 12101 as Benny, that would be inaccurate, wouldn't  
21 it?
- 22 MR. COOK: Object to the form.
- 23 A. No, sir, because that's what we referred to  
24 it as when we first opened that plant up there. It  
25 was called Benny. It's what they referred to it --

- 1 need to get it off and reposition it, 12101 will help  
2 you do that, won't it?
- 3 A. Yes, sir.
- 4 Q. All right. Do you know of any reason why  
5 that shouldn't be done?
- 6 A. Well, it could weaken the composition of  
7 the material.
- 8 Q. No, no. Tell me what scientific or  
9 chemical basis you have for saying that.
- 10 A. Well, just from practical knowledge, sir,  
11 of seeing it happen.
- 12 Q. Well, it weakens it so you can at least get  
13 it off, doesn't it?
- 14 A. Well, yes, sir --
- 15 MR. COOK: Object --
- 16 A. -- but you're going to have to stretch it  
17 and move it around and all that when you're doing  
18 that.
- 19 Q. (Mr. Eckl) All right, sir. Well, are --  
20 are you telling this jury that if you put it in its  
21 proper place and then cure the tire, that that  
22 shouldn't be done?
- 23 MR. COOK: Object to the form of the  
24 question.
- 25 A. Well, I don't think it would be too good,

- 1 Q. Okay. All right, sir. And you didn't  
2 always agree with that decision?
- 3 A. No, sir, I didn't, not when they -- because  
4 a lot of the times it was ran before those people had  
5 the opportunity to check it.
- 6 Q. Well, was it supposed to be run before  
7 they'd had the opportunity to check it if regular  
8 procedures were followed?
- 9 A. No, sir. It should have been cleared  
10 through the quality control man or someone higher up  
11 before they pulled the tags off of it and ran it.
- 12 Q. Okay. But that -- there were occasions  
13 when that didn't happen? Is that what you're telling  
14 me?
- 15 A. When it didn't happen?
- 16 Q. Uh-huh.
- 17 A. I'm sure there was, sir, but there were  
18 occasions when it did happen.
- 19 Q. Okay. Well, either -- either way,  
20 procedure wasn't being followed if it wasn't checked  
21 by someone --
- 22 A. Right, sir.
- 23 Q. -- above you after you had tagged it?
- 24 A. Right, sir.
- 25 Q. Is that correct?

- 1 A. No, sir.
- 2 Q. All right, sir. Was it ever brought to  
3 your attention -- did you ever see a tire that had  
4 had liner blisters cured by using the awl? Did you  
5 ever see one that had been in service and that had  
6 failed in service?
- 7 A. No, sir.
- 8 Q. During the entire period of time that you  
9 worked for Cooper Tire, did you usually drive on  
10 Cooper tires?
- 11 A. Not all of the time, sir. I think I bought  
12 my first set of Cooper tires in 1994 when --
- 13 Q. Okay.
- 14 A. -- I bought a new vehicle. And I put them  
15 on there, because they would exchange them, you know,  
16 at the -- at the store out there with no charge.
- 17 Q. Okay. All right. Now, what kind of tires  
18 came on the new tire -- the car that you bought? Do  
19 you remember?
- 20 A. No, sir, I don't remember the exact brand  
21 name of them.
- 22 Q. Okay. But Cooper -- Tupelo plant has a --  
23 do y'all call that the Service --
- 24 A. Service Center.
- 25 Q. Service Center. Okay. And -- and they --

- 1 A. That's correct.
- 2 Q. Okay. All right. Now, do you know if all  
3 repair people would do the -- the awl procedure to --  
4 to take care of liner blisters or whether some of  
5 them would?
- 6 A. I don't -- only -- I only know about the  
7 group that I worked on, sir, which was B Group, and I  
8 know that all of the repair people on B Group and the  
9 classifiers did that.
- 10 Q. Okay. All right. Now, did you ever  
11 complain about that being done? I'm talking about  
12 the people being involved not knowing what they were  
13 doing.
- 14 A. No, sir, because I -- I thought they were  
15 aware of what they were doing and were authorized to  
16 do it.
- 17 Q. No, no. I'm talking about the people who  
18 actually did the repair work. They knew how to do  
19 that, didn't they?
- 20 A. Yes, sir. They were shown how to do it.
- 21 Q. Okay. All right. So now, have -- have you  
22 looked at any tires that are involved in any of the  
23 cases against Cooper Tire?
- 24 A. Have I looked? No, sir.
- 25 Q. Okay. You haven't examined any then?

- 1 you swapped out those tires that came on the new car  
2 for four Cooper tires; is that right?
- 3 A. Yes, sir.
- 4 Q. Do you remember what kind of Cooper tires  
5 they were?
- 6 A. The Discovery radial.
- 7 Q. Okay. All right, sir. And -- and how  
8 about your family vehicle?
- 9 A. That's the only vehicle I had, sir, at the  
10 time.
- 11 Q. Okay. That was the only one you had?
- 12 A. Yes, sir.
- 13 Q. Okay. All right. And -- and did you come  
14 here today for this deposition with -- with tires  
15 that are Cooper tires on your vehicle?
- 16 A. No, sir.
- 17 Q. Okay. How many sets of Cooper tires have  
18 you run on your -- on your vehicle?
- 19 A. Two, I believe, sir.
- 20 Q. Two. Okay. Now -- now, you wouldn't put  
21 tires on -- on your vehicle that you thought were  
22 unsafe, would you?
- 23 A. No, sir, I would not.
- 24 Q. Okay. All right. Now -- and, in fact,  
25 while you worked at Cooper, you knew that most of the

1 A. These attorneys that are here today, sir.  
 2 Q. Okay. Well, how many -- how many attorneys  
 3 were there?  
 4 A. Four, I believe it was, sir.  
 5 Q. Okay. So you and four attorneys met at the  
 6 Outback Restaurant --  
 7 A. Yes, sir.  
 8 Q. -- last evening and had dinner together?  
 9 A. Yes, sir.  
 10 Q. All right. But you did not talk about your  
 11 testimony today?  
 12 A. Nothing -- nothing important, sir. Just  
 13 that it was going to be today and that I shouldn't be  
 14 nervous or upset or anything like that and --  
 15 Q. Okay. And -- and you talked mostly about  
 16 sports?  
 17 A. Well, about sports mostly, but I'm not much  
 18 of a sports fan myself, sir. I'm mostly just an auto  
 19 mechanic, repair, stuff like that. You know, I ain't  
 20 got much interest in sports.  
 21 Q. Okay. All right. Now, do you remember  
 22 when you were employed with Cooper that you signed an  
 23 agreement that you would keep confidential, you know,  
 24 its processes and -- and confidential information?  
 25 MR. COOK: Object to the form.

1 MR. HUCKABEE: Object to form.  
 2 A. I don't recall signing it. Now, I'm not  
 3 saying I didn't when I first hired in, but that's  
 4 been a long time ago now.  
 5 Q. (Mr. Eckl) Okay. Well, do you remember  
 6 signing any agreement with Cooper when you first  
 7 hired in at Cooper?  
 8 A. The only agreement I remember signing with  
 9 them was that I would ro -- work rotating shifts.  
 10 Q. Okay. All right.  
 11 A. That's the only one I ever recall signing.  
 12 Q. All right. Now, you received a subpoena to  
 13 come here today, is that correct?  
 14 A. Yes, sir.  
 15 Q. All right. And they sent a check with the  
 16 subpoena?  
 17 A. Yes, sir.  
 18 Q. How much was that check?  
 19 A. \$50.  
 20 Q. All right. Now, have you received any  
 21 other compensation in any form whatsoever from any of  
 22 these attorneys?  
 23 A. I received another check for \$50 once  
 24 before when I was subpoenaed to go down to -- I  
 25 believe it was Clarksdale or Batesville or somewhere

1 down there around -- on another case or something.  
 2 I'm not sure.  
 3 Q. Okay. And, I mean, did they buy you dinner  
 4 last night?  
 5 A. I didn't have dinner, sir. All I had was a  
 6 couple of drinks.  
 7 Q. Okay. Now, are you talking about Cokes, or  
 8 are you talking about something else?  
 9 A. No, sir. I had a Bud Light beer, one.  
 10 Q. Okay. All right.  
 11 MR. ECKL: All right, sir. I think  
 12 that's all the questions I have.  
 13 MR. EATON: All right, sir.  
 14 EXAMINATION  
 15 BY MR. KASTER:  
 16 Q. Mr. Eaton, I want to clear up one thing  
 17 Your truck that you drove here today --  
 18 A. Yes, sir.  
 19 Q. -- does that have Cooper tires?  
 20 A. No, sir.  
 21 MR. ECKL: But -- but -- but you have  
 22 a vehicle that has Cooper tires on it?  
 23 MR. EATON: Yes, sir. I --  
 24 MR. KASTER: I didn't finish,  
 25 Counselor.

1 MR. ECKL: Oh, okay. I thought you  
 2 were.  
 3 MR. KASTER: That's all right. I'm  
 4 behind you. I know you weren't trying to  
 5 be rude or interrupt me.  
 6 MR. ECKL: You said one thing.  
 7 Q. (Mr. Kaster) And when -- that's one thing  
 8 I wanted to clear up. And when you -- when you did  
 9 buy Cooper tires, you made sure you inspected them  
 10 carefully so that the problems you've told us about  
 11 weren't in the tires that you were running?  
 12 MR. GLOVER: Form.  
 13 A. Yes, sir.  
 14 Q. (Mr. Kaster) Or your family was running?  
 15 A. Yes, sir.  
 16 Q. When you -- when you expressed the concerns  
 17 in the break room that you told us about earlier,  
 18 what concerns were you worried about?  
 19 A. Worried about the fact we was going to end  
 20 up having a big recall of all of the -- a lot of  
 21 tires, or worse than that, some family getting killed  
 22 out here on the highways with them.  
 23 Q. Were there any people who were supervisory  
 24 who were there when these kinds of discussions went  
 25 on?

1 A. Yes, sir. The supervisors were sitting  
2 around the tables there with -- during our lunch  
3 break and everything. There -- there was --  
4 different ones were there at different times.

5 MR. GLOVER: Form.

6 Q. (Mr. Kaster) In your experience at Cooper,  
7 of your own personal knowledge, was there ever any  
8 contamination of tires that occurred before they were  
9 cured?

10 A. Yes, sir.

11 Q. Can you give us examples of that from your  
12 personal knowledge?

13 A. One good example would be in the first  
14 stage department where they -- they brought out  
15 service racks for the builder to put his carcasses  
16 on, when the rack would get full and the truckers  
17 didn't get them out of the area in time with a fresh  
18 rack, they would stack the tires on the floor until  
19 he got over there. And sometimes it would be 30 or  
20 40 carcasses sitting around the machines sitting  
21 around the floor.

22 Q. What was the surface of these carcasses  
23 like?

24 A. Very tacky most of the time, and anything  
25 that's on that floor, it's going to pick up, you

1 know, like, dirt or debris of any type, plastic,  
2 metal, everything.

3 Q. Any of those foreign materials ever get  
4 cured in tires to your knowledge?

5 A. Yes, sir, I'm sure they did.

6 Q. Did all --

7 A. Because I have x-rayed tires and seen  
8 foreign materials, you know, in the tire after --

9 Q. Were all of the tires produced at Cooper  
10 x-rayed?

11 A. No, sir, not all of them are x-rayed. Just  
12 the ones that we have suspicions of.

13 Q. And if there was contamination of foreign  
14 material, either moisture or debris of some kind in  
15 the tire, is there any way at the final inspection to  
16 find it if it didn't stick out?

17 A. No, sir.

18 Q. Is that one of the concerns you had?

19 A. Yes, sir.

20 Q. Would you recommend anybody today, that  
21 they buy Cooper tires for themselves or their family?

22 A. No, sir.

23 MR. KASTER: Thank you. That's all I  
24 have, sir.

25

1 EXAMINATION

2 BY MR. ECKL:

3 Q. Tires do get occasionally contaminated in a  
4 tire plant, don't they?

5 A. True.

6 Q. All right, sir. And if they get  
7 contaminated, then whatever it is -- whatever foreign  
8 material that's in there, it will stay in there,  
9 won't it?

10 A. Yes, sir.

11 Q. All right. If there was any suspicion that  
12 a tire had anything, foreign material, built into it,  
13 then you x-rayed it? Isn't that what you said?

14 A. There would be no way to have that  
15 suspicion, sir, unless they were just caught by  
16 accident, which is where most of mine that I've seen  
17 were. I would be x-raying a tire for -- checking it  
18 for conicity or lateral, and you would see the  
19 foreign material in it then.

20 That's the only time that I ever -- that you  
21 would ever x-ray it, unless, like I -- like you said,  
22 if they had a broad -- something big like that  
23 happen, then, yeah, they might x-ray them, but they  
24 wouldn't x-ray every one of them.

25 Q. All right. Didn't you just testify, sir,

1 that -- that if -- you would x-ray the tires if you  
2 were suspicious that it had foreign material in it?

3 A. No, sir. I wouldn't x-ray it if I was

4 suspicious it had foreign material in it, because I  
5 wouldn't have -- that -- that wasn't part of my job  
6 to do that.

7 Q. Well, when I say you, I'm talking about  
8 Cooper Tire.

9 A. Well, I imagine, yes, sir, if they thought  
10 that there was foreign material in it, I'm sure they  
11 would do that.

12 Q. Okay.

13 A. But it would take a long time to x-ray  
14 20,000 tires or 15,000 tires.

15 Q. All right, sir. Now -- now, you have not  
16 actually seen -- I think you said that -- any tire  
17 involved in any accident?

18 A. No, sir.

19 Q. Okay. You don't know whether those -- any  
20 of those tires have anything in them in the way of  
21 foreign material?

22 A. No, sir.

23 Q. Okay.

24 MR. ECKL: Okay. I think that's all I  
25 have.



## EXAMINATION

2 BY MR. KASTER:

3 Q. Mr. Eaton, did you, yourself, ever conduct  
4 any kind of experiment or test to see whether or not  
5 the final inspection process worked properly and they  
6 found problems in tires?

7 A. Oh, yes, sir, we -- we would do different  
8 tests. Like, when they would repair the tires for  
9 tread blisters where they would puncture it with an  
10 awl or something like that to let the pressure out,  
11 then we would cure them and go out them, do a CTA on  
12 them to make sure they were okay. Just different  
13 things that we have done like that, you know. But  
14 the foreman -- sometimes a foreman would request it.

15 Q. Every tire that was awled, did it get  
16 tested?

17 A. No, sir.

18 Q. Did you ever do anything yourself out of  
19 curiosity just to see what would happen if a tire was  
20 sent through final finish and it wasn't proper?

21 A. Yes, sir.

22 Q. Want to tell us about that, sir?

23 A. I had -- well, I was very concerned about  
24 it at this time -- during this particular time,  
25 because I knew that tires were getting in the

1 warehouse that I didn't think should be there, so I

2 slit the sidewall of a tire with --

3 Q. You cut it?

4 A. Cut it with a knife. It was a scrap tire

5 already. I thought it was, you know. And I slit the  
6 sidewall. There was no bar code on the tire, and it  
7 ended up in the warehouse. I had to go through the  
8 warehouse, through the tires over there, to find it,  
9 but it went through the complete process and ended up  
10 in the warehouse.

11 Q. I wonder if you'd take that tire on the  
12 floor there and show us what you're talking about you  
13 slit. What did you slit, sir?

14 A. I took a knife, which was a mill knife that  
15 they had, and just inserted it in the tire right here  
16 and just made about a three or four-inch slice in the  
17 side of the tire right there. (Indicating)

18 Q. And then what -- where did the tire go  
19 after you slit it?

20 A. I threw it on the conveyor belt at the  
21 curing presses. It went from there through the  
22 trimmer, went from there through the inspectors, went  
23 from there through the TUGs, the balance machine, and  
24 into the warehouse. That is the procedure it was  
25 supposed to have followed.

1 Now, how it got through there without being  
2 caught, I have no idea. But it did get to the  
3 warehouse, because I had to go over there and dig  
4 through the tires to find it.

5 MR. KASTER: Thank you. That's all  
6 the questions I have, sir.

## EXAMINATION

8 BY MR. ECKL:

9 Q. Okay. And -- and did you make a written  
10 report of this to anyone?

11 A. It was written in my logbook that we had --  
12 that the classifiers had to -- or the technicians had  
13 to keep on a daily basis.

14 Q. Okay. And can you tell me when this  
15 occurred?

16 A. Oh, boy. No, sir. I don't remember the  
17 exact date. It's several years ago. I have no idea.

18 Q. All right. Several years ago would not be  
19 1992, would it?

20 A. It was probably later than that. I'd say  
21 '95, '96 maybe. Maybe not -- maybe somewhere along  
22 in there. I'm not sure of the exact date. It was  
23 roundabout the time they found the chicken bone in  
24 the tire, sir.

25 Q. Okay.

1 A. Shortly after that.

2 Q. Well, now did you, yourself, ever knowingly  
3 let a tire go to the warehouse that was in any way  
4 defective?

5 A. No, sir.

6 Q. Okay. All right. Do you know anyone who  
7 did? Can you give me the name of anybody at Cooper  
8 Tire that did that?

9 A. Not knowingly that it was defective, but  
10 the possibility that they could be, yes, sir, I can.

11 Q. Okay. Well, you know, since tires are made  
12 by people and people make errors, that possibility is  
13 always going to exist, isn't it?

14 A. That's very true, sir, but we can lessen  
15 that possi -- possibility by making sure that we  
16 follow proper procedures though.

17 MR. GLOVER: Form.

18 Q. (Mr. Eckl) All right, sir. Now, have you  
19 had any training -- you know, I'm talking about  
20 education -- in quality assurance or product  
21 assurance?

22 MR. KASTER: Object to the form.

23 MR. HUCKABEE: Object to form.

24 MR. COOK: Object to form.

25 A. That was part of our job as a technician,

1 through this first stage building and the tires were  
 2 sticky, then they'd put those sticky tires in the wet  
 3 places?  
 4 MR. GLOVER: Form.  
 5 MR. ECKL: Form.  
 6 MR. FEIN: Object to the form.  
 7 A. Possible.  
 8 Q. (Mr. Cook) All right. Well, tell me  
 9 whether or not they would ever put these sticky tires  
 10 in the first stage building procedure in these areas  
 11 where the water had been channeled from the leaky  
 12 roof.  
 13 A. Well, sir, they didn't have nowhere else to  
 14 put them. If they're still building on the machine,  
 15 the rack is filled up, they have nowhere to stack the  
 16 carcasses except there. And they're not going to  
 17 stop production just to wait on a -- so they just  
 18 stack them on the floor wherever they can find room.  
 19 Q. Why -- why wouldn't they -- why wouldn't --  
 20 MR. GLOVER: Form.  
 21 Q. (Mr. Cook) Why wouldn't they stop  
 22 production?  
 23 A. That affects their bonus, sir.  
 24 Q. Oh.  
 25 MR. COOK: I pass the witness.

1 Q. Or we're going to analyze this and see if  
 2 it's repairable?  
 3 A. Yes, sir.  
 4 Q. Okay. So somebody got some input to help  
 5 them make that decision?  
 6 A. Yes, sir, I'm sure they did.  
 7 Q. Okay. And were you involved in the putting  
 8 together of the input to decide whether or not this  
 9 tire should, in fact, have a -- an attempt made to  
 10 repair it?  
 11 A. No, sir.  
 12 MR. COOK: Object to the form of the  
 13 question.  
 14 Q. (Mr. Glover) You would agree that if a  
 15 tire is repairable, you should repair it and not  
 16 throw it away?  
 17 MR. COOK: Object to the form of the  
 18 question.  
 19 A. Yes, sir, I'll agree with that.  
 20 Q. (Mr. Glover) Okay. Now, along this same  
 21 line, there was blister releasing done by the use of  
 22 an awl?  
 23 A. Yes, sir.  
 24 Q. Okay. And, again, that was made by  
 25 somebody besides yourself?

1 MR. ECKL: Foundation.  
 2 EXAMINATION  
 3 BY MR. GLOVER  
 4 Q. You said that during your tenure there,  
 5 that they had a process where tires were to be  
 6 scrapped, but then they would have inspectors look at  
 7 them, and then they would decide to make repairs. Do  
 8 you know what thinking went into the process of  
 9 making the repair versus not making the repair?  
 10 A. Yes, sir. Less scrap. And less scrap --  
 11 MR. COOK: Let -- let the witness --  
 12 were you about to finish, sir?  
 13 A. Less scrap, and that means more money for  
 14 the company.  
 15 Q. (Mr. Glover) No, that's not my question.  
 16 Do you know what thinking went into what made the  
 17 repair possible versus not possible?  
 18 MR. COOK: Object to the form of the  
 19 question.  
 20 MR. HUCKABEE: Object to form.  
 21 Q. (Mr. Glover) In other words, somebody made  
 22 a determination, we're going to make a repair, right?  
 23 A. Uh-huh.  
 24 Q. Or we're going to attempt to make a repair?  
 25 A. Uh-huh.

1 A. Oh, yes, sir.  
 2 Q. Okay. And somebody looked into whatever  
 3 you would assume the problem was and decided a way to  
 4 repair the -- the blister would be with an awl?  
 5 A. Yes, sir.  
 6 Q. And then instructions were given on how to  
 7 do it?  
 8 A. Yes, sir.  
 9 Q. And there were awls available?  
 10 A. Yes, sir.  
 11 Q. And there were certain people that were  
 12 designated as the people who were the official  
 13 blister releasers?  
 14 A. Right, sir.  
 15 Q. And if they needed some assistance, then  
 16 they had some backup from time to time if --  
 17 designated backup?  
 18 A. Right, sir.  
 19 Q. Okay. And you were not included, I assume,  
 20 in the discussion on blister releasing and the  
 21 propriety of blister releasing and the method in  
 22 which to do it? That was --  
 23 A. No, sir.  
 24 Q. Okay. What we have is, we have a decision  
 25 making process on one hand --

- 1 A. No, sir.
- 2 Q. You strip the -- just let me finish,
- 3 please. You strip the treads off the tires -- two of
- 4 the tires and replace those. Are you going to run
- 5 the other two until you see if you can strip those
- 6 too?
- 7 MR. COOK: Object to the form of the
- 8 question.
- 9 A. No, sir.
- 10 Q. (Mr. Glover) I mean, that would be
- 11 incredibly stupid, would it not?
- 12 MR. COOK: Object to the form of the
- 13 question.
- 14 A. In my opinion, it would be, sir.
- 15 Q. (Mr. Glover) Or to put it a nicer way,
- 16 it's penny-wise and pound-foolish?
- 17 MR. COOK: Object to the form of the
- 18 question.
- 19 A. Yes, sir.
- 20 Q. (Mr. Glover) You mentioned a slit that you
- 21 put in a tire. Do you recall that?
- 22 A. Yes, sir.
- 23 Q. Did that slit go all the way through to the
- 24 inner liner, or was it a surface slit that --
- 25 A. It went all -- excuse me, sir. It went all

- 1 Q. (Mr. Cook) And -- and how do you determine
- 2 whether a tire is really repairable?
- 3 MR. GLOVER: Foundation.
- 4 MR. ECKL: Foundation.
- 5 MR. KASTER: Excuse me, Counselor.
- 6 Are you talking about new tires?
- 7 MR. COOK: No, I'm talking -- well,
- 8 yes, we're talking -- let me -- let me
- 9 restate the -- restate the question.
- 10 Q. (Mr. Cook) We're talking about the tires
- 11 at -- at Cooper Tire, and there were some that you
- 12 found that you scrapped, right?
- 13 A. Yes, sir.
- 14 Q. Because while somebody could repair those
- 15 tires, it just wouldn't be safe to do so?
- 16 MR. GLOVER: Form.
- 17 A. I didn't feel it was safe, sir.
- 18 Q. (Mr. Cook) All right. Now, you were
- 19 talking about overhearing a statement made by
- 20 Mr. -- was it Hogan Cooper?
- 21 A. Yes, sir.
- 22 Q. Who is Mr. Cooper?
- 23 A. He's quality control manager.
- 24 Q. And he -- you overheard him making this
- 25 statement about blisters and puncturing them with

- 1 the way through all the plies, liner, everything.
- 2 Q. But you didn't make any special report of
- 3 this test. You just put it down in your normal log?
- 4 A. Yes, sir.
- 5 Q. And this was a one-time deal back in the --
- 6 back in '66?
- 7 A. Somewhere in that area, sir.
- 8 MR. GLOVER: Thank you, sir.
- 9 MR. EATON: Yes, sir.
- 10 EXAMINATION
- 11 BY MR. COOK:
- 12 Q. Mr. Glover asked you just a second ago
- 13 whether or not you would agree that the tire should
- 14 be repaired if it was repairable. Is -- do you
- 15 remember that question?
- 16 A. Yes, sir.
- 17 Q. Well, the key question is, is whether or
- 18 not it's repairable, right?
- 19 A. Yes, sir, that's the key.
- 20 MR. GLOVER: Form.
- 21 Q. (Mr. Cook) All right. And not every --
- 22 not every tire that can be repaired is really
- 23 repairable and -- isn't that the case?
- 24 MR. GLOVER: Form.
- 25 A. That's true, sir.

- 1 awls?
- 2 A. Yes, sir.
- 3 MR. GLOVER: Form.
- 4 Q. (Mr. Cook) And was he telling people that
- 5 it was okay to puncture them with awls?
- 6 A. Yes, sir, he sure did.
- 7 Q. Now, I want to ask you a little bit about
- 8 the -- a tire, and you were asked a lot of questions
- 9 by Mr. Glover about if a -- if a tire is worn out.
- 10 Are there some type of indicator on the tread to tell
- 11 whether a tire is worn out?
- 12 A. Yes, sir, there is. There's a tread
- 13 wear --
- 14 Q. All right.
- 15 A. -- indicator on the tires.
- 16 Q. All right. And why is that put on there,
- 17 if you know?
- 18 A. For that simple reason. So the people will
- 19 know it's time to replace the tire when it wears down
- 20 to there.
- 21 Q. And if it's not worn down to there --
- 22 A. It's still good, sir.
- 23 Q. All right.
- 24 MR. GLOVER: Form.
- 25 Q. (Mr. Cook) And so when you were asking --

1 that should not have been used in the building of  
 2 tires?  
 3 A. Yes, sir.  
 4 Q. And did you do that?  
 5 A. Yes, sir.  
 6 Q. And did management go ahead and use  
 7 material that you had been trained and knew was not  
 8 proper to use in the tire?  
 9 MR. ECKL: Foundation and form.  
 10 A. Yes, sir.  
 11 Q. (Mr. Kaster) And was that based on your  
 12 training that you were given at Cooper?  
 13 A. Yes, sir.  
 14 MR. ECKL: Foundation and form.  
 15 A. And sometimes with -- according to the  
 16 specs that the company had put out.  
 17 Q. (Mr. Kaster) And did they deviate from  
 18 their own specifications and use material that you  
 19 had red tagged?  
 20 MR. GLOVER: Form.  
 21 MR. FEIN: Object to the form.  
 22 A. Yes, sir.  
 23 MR. KASTER: Thank you, sir. That's  
 24 all I have at this time.  
 25

1 two cases pending in Florida. I came up here from  
 2 Florida to attend your deposition. The plaintiffs'  
 3 lawyers in those cases in Florida are not here today,  
 4 and I want to ask you some questions nonetheless.  
 5 MR. KASTER: Object to the form. I'm  
 6 here on behalf of that party, and you know  
 7 it.  
 8 MR. COOK: I -- I join in the  
 9 objection.  
 10 MR. FEIN: Well, let me ask you on the  
 11 record, Mr. Kaster, have you been admitted  
 12 as counsel of record to either Phommachanh  
 13 or Gladfelter since Monday?  
 14 MR. KASTER: I'm here -- I'm here  
 15 representing those plaintiffs at the  
 16 request of their lawyer in accordance with  
 17 the letter they've written you. You ask  
 18 whatever questions you want, Counselor. He  
 19 adopts all of my questions. He would have  
 20 asked the same questions if he had been  
 21 here.  
 22 MR. FEIN: Are -- I'm just asking, are  
 23 you counsel of record in either one of  
 24 those cases?  
 25 MR. KASTER: I'm not here to be

1 EXAMINATION  
 2 BY MR. ECKL:  
 3 Q. Well, when we talked about that earlier,  
 4 Mr. Eaton, didn't you say that -- that you didn't  
 5 make a decision of whether or not the material could  
 6 be used?  
 7 A. I make a decision --  
 8 Q. To tag it?  
 9 A. -- to tag it and let the supervisor know  
 10 that it should not be used.  
 11 Q. In your opinion?  
 12 A. In my opinion and according to the spec  
 13 book that Cooper had.  
 14 Q. All right. Do you remember testifying that  
 15 when he would look at it, that sometimes the decision  
 16 that he would make was that it was so close to the  
 17 specs, it would be used?  
 18 A. Yes, sir.  
 19 Q. Okay.  
 20 A. Yes, sir.  
 21 MR. FEIN: Anybody else?  
 22 EXAMINATION  
 23 BY MR. FEIN:  
 24 Q. All right. Mr. Eaton, my name is Fred  
 25 Fein. I represent Cooper Tire and Western Auto in

1 questioned by you, Counselor. You go ahead  
 2 with your questions.  
 3 MR. FEIN: I take that as a no.  
 4 Q. (Mr. Fein) All right. Mr. Eaton, the two  
 5 cases pending in Florida are called Phommachanh and  
 6 Gladfelter. Have you ever seen the tire from those  
 7 cases?  
 8 A. No, sir.  
 9 Q. Do you have any idea what kind of tire it  
 10 is?  
 11 A. No, sir.  
 12 Q. Even know what size it is?  
 13 A. No, sir.  
 14 Q. Do you have any idea whether or not that  
 15 tire was awled at any time during its life?  
 16 A. No, sir.  
 17 Q. Do you have any idea whether or not that  
 18 tire ever was subject to any type of contamination  
 19 during the manufacturing process?  
 20 A. No, sir.  
 21 Q. Do you have any idea whether or not that  
 22 tire in the Phommachanh case was ever laid on wood or  
 23 on the floor from a -- a leaky roof?  
 24 A. No, sir. May I inject that I -- this is  
 25 the first I've heard of this case, so I wouldn't have