



## **MEDIA ADVISORY**

December 15, 2010

**WHAT:** Oral Argument Regarding Defendant's Attempt to Deny Public Access to Documents  
in *Toe v. Cooper Tire & Rubber Co.*

**WHEN:** Friday, December 17<sup>th</sup>, 2010  
9:00 a.m.

**WHERE:** Honorable Carla Schemmel  
Room 302  
Polk County Courthouse  
500 Mulberry Street  
Des Moines, Iowa

### **BACKGROUND ON *TOE v. COOPER TIRE & RUBBER CO.***

#### **HOW IT STARTED**

In September 2007, a Plymouth Grand Voyager carrying six passengers spun out of control after a catastrophic tread separation on the left rear Cooper tire. The vehicle rolled over into a ditch, killing one passenger. A second passenger was rendered quadriplegic. A third passenger, who was five months pregnant at the time, suffered a fractured neck and a miscarriage as a result of the crash. The other three passengers were also severely injured.

#### **THE CASE GOES TO COURT**

- The plaintiffs sued Cooper Tire & Rubber Co. in Iowa state court. As part of their case, the plaintiffs' attorneys obtained key documents showing that Cooper was aware of the defect that caused the rollover but decided it would cost too much to fix. These documents were then used as permissible evidence during the trial.
- In March of this year, a jury in Polk County, Iowa found Cooper Tire & Rubber Co. 100 percent at fault for the crash (in legal terms, Cooper exhibited "willful and wanton disregard for the rights or safety of another"). The next month, however, Cooper filed a "motion to maintain protective order," which, if granted, would require the sealing of all documents as well as the portions of the trial transcript the tire manufacturer claims are confidential.
- The Center for Auto Safety (CAS), an advocacy group focused on the U.S. auto industry, opposed the sealing of these documents. The CAS enlisted Public Justice, P.C., a national public interest law firm, to file a brief challenging Cooper's attempt to seal off the documents. The brief, written by Public Justice Staff Attorney Leslie Bailey on behalf of the CAS, opposes Cooper's "motion to maintain protective order" and explains the legal and policy arguments for why the public needs access to these documents: If the sealing motion is

granted, the brief states, then consumers looking to purchase new tires would never know of Cooper's past negligence.

#### **PROTECTING THE PUBLIC'S RIGHT TO KNOW**

The brief filed by Public Justice also explains that Cooper is well known for fighting public access to its safety documents and has been sanctioned in the past for intentionally burning and shredding evidence.

At a congressional hearing last year, a man whose spouse had been killed in an accident caused by a Cooper tire testified that he would not have purchased the tires had he been aware of the company's dismal safety history—but this information was hidden from the public. Bailey says that the sealing of documents that were used openly in the trial is an especially egregious violation of the public's right to open court records.

**While other parties are seeking access to the documents for their own cases against Cooper, and will also be participating in the hearing, the CAS requested a motion to argue separately. The judge granted the request, and this Friday, December 17, Bailey will present separate oral arguments at 9:00 a.m. at the Polk County Courthouse in Des Moines, Iowa.**