

Trenado v. Cooper Tire & Rubber Co., Not Reported in F.Supp.2d (2010)

2010 WL 3452383

Only the Westlaw citation is currently available.

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United States District Court,
S.D. Texas,
Houston Division.

Maria Rodriguez TRENADO, Individually
and as Representative of the Estate of Her
Spouse, Martin Ramon Trenado, Deceased,
and Her Son Jose Trenado, Deceased,
and Emanuel Trenado, Individually, and
Jessica Trenado, Individually, Plaintiffs,

v.

COOPER TIRE & RUBBER COMPANY
and Sears, Roebuck, and Co. d/b/
a Sears Auto Center, Defendants.

Civil Action No. 4:08 CV 249. | Sept. 2, 2010.

Opinion

ORDER ON COOPER TIRE & RUBBER COMPANY'S MOTION TO ENFORCE PROTECTIVE ORDER

[SIM LAKE](#), District Judge.

*1 Plaintiffs' counsel in this case admittedly disseminated Cooper Tire documents in violation of this Court's November 19, 2008 Amended Protective Order of Confidentiality ("Protective Order"). The disseminated documents are "**confidential material**" within the meaning of the Protective Order.

Plaintiffs' counsel state that their office inadvertently disseminated the **confidential material** to Attorneys Information Exchange Group, Inc. ("AIEG"), as part of a conference. According to plaintiffs, AIEG then further disseminated the **confidential material** to "several dozen" plaintiffs' lawyers who attended the conference held in Houston, Texas on August 13, 2010.

Defendant Cooper Tire & Rubber Company filed its Motion to Enforce Protective Order and for Sanctions, ruling on which this Court has held in abeyance until completion of this jury trial.

It is clear that the Court's Protective Order has been violated. Moreover, the Order makes specific provision for the process to be followed when an inadvertent disclosure occurs:

Should any **confidential material** be disclosed to any unauthorized persons, through inadvertence of a party or through the act or omission of any person, the unauthorized person (a) shall be informed promptly of the provisions of the Protective Order of Confidentiality by the party who first learns of the disclosure, and upon such notice shall be subject to the terms of this Protective Order of Confidentiality; (b) shall be identified immediately to counsel of record for Defendants; and (c) shall be directed if within control of a party, or otherwise asked to sign the Protective Order. At Defendants' sole discretion, such unauthorized person may be required to surrender to Defendants all copies of **confidential material** in such unauthorized person's possession.

In order to enforce the Court's Protective Order, it is **ORDERED** that

- a. Plaintiffs' counsel shall furnish, or cause to be furnished to the extent not already accomplished, a copy of the Protective Order and this Order to all individuals, entities, and/or groups to whom **confidential material** was provided;
- b. Plaintiffs' counsel shall as soon as practical furnish to the Court and to counsel for Cooper Tire a Protective Order executed by an authorized representative of AIEG;
- c. Plaintiffs' counsel shall immediately furnish to the Court and to counsel for Cooper Tire:
 1. the names and contact information of all individuals, entities, and/or groups to whom "**confidential material**" was provided;

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2. whether each such individual, entity, and/or group has signed the Protective Order, and if so, provide a copy of such signed Order to the Court and counsel for Cooper Tire;

3. whether each such individual, entity, and/or group has certified that they have returned the originals and all copies of “**confidential material**” that person, entity and/or group has in their possession, and if so, provide a copy of such certification to the Court and counsel for Cooper tire; and

*2 d. Plaintiffs' counsel shall furnish to the Court and to counsel for Cooper Tire a list identifying each individual, entity, and/or group that has failed to return the **confidential material** or refuse to sign the Protective Order.

e. Plaintiffs' counsel shall as soon as practical have AIEG send the original and all copies of **confidential material** to Judge Lake's attention marked “Confidential and Subject to Protective Order” and, if filed, filed under seal.

f. Plaintiffs' counsel shall as soon as practical furnish to counsel for Cooper tire all communications:

1. Between Plaintiffs' counsel and AIEG about the **confidential material**; and

2. Between AIEG and each recipient of **confidential material** about the **confidential material**.

g. Plaintiffs' counsel shall obtain from AIEG an affidavit signed by an authorized person with knowledge confirming that all information provided by Plaintiffs' counsel pursuant to paragraphs (a) through (f) above is true, correct, and complete to the best of the knowledge of AIEG.

As used in this Order, “as soon as practical” means not later than the end of business on September 3, 2010 unless otherwise ordered by the Court.

The term “**confidential material**” has the same meaning in this Order as it is defined in the Protective Order.

The Court reserves judgment on Cooper Tire's Motion for Sanctions.

IT IS SO ORDERED.

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