

IN THE CIRCUIT COURT OF THE SIXTH  
JUDICIAL CIRCUIT IN AND FOR PASCO,  
COUNTY, FLORIDA

DIVISION G

CASE NO. 51-2006-CA-2064-WS

JOHN H. SCHALMO, individually,  
KELLY J. SCHALMO, individually, RUTH  
McCLINTOCK, individually, and as personal  
representative of the estate of WILLIAM  
McCLINTOCK, deceased, and AUTO-  
OWNERS INSURANCE, as subrogor of  
S.T.E. Inc., and John Schalmo

v.

THE GOODYEAR TIRE & RUBBER  
COMPANY, an Ohio Corporation,  
FLEETWOOD MOTOR HOMES OF  
INDIANA, INC., a foreign corporation,  
LAZY DAYS' R.V. CENTER, INC., a  
Florida Corporation,

Defendants.



**ORDER ON DEFENDANT'S MOTION TO DETERMINE CONFIDENTIALITY**

This cause came before the Court on Defendant's Motion to Determine Confidentiality of Court Records pursuant to Florida Rule of Judicial Administration 2.420(c)(9)(A)(ii) which was filed August 5, 2010, and heard on September 1, 2010 and December 10, 2010. The Court having heard argument of counsel, and plaintiff's withdrawal of their opposition to the Motion, and having reviewed the information that is the subject of this motion and being fully advised, finds and orders:

1. Defendant seeks to seal certain exhibits introduced at trial on the basis that they contain or reveal confidential trade secrets and other confidential commercially sensitive proprietary information. These exhibits are specifically identified in the Appendix to this Order.

Prior to trial, the Court reviewed these exhibits *in camera* and considered testimony and affidavits. At that time, the Court found these documents contained or revealed confidential trade secret and other confidential commercially sensitive proprietary information and entered a Protective Order on August 27, 2008. See also Order and Findings of Fact Regarding *In Camera* Inspection May 6, 2008 also entered on August 27, 2008, which is adopted herein by reference. Pursuant to this protective order, the Court ordered these exhibits sealed at trial and they remain sealed at this time.

2. Goodyear also seeks to seal portions of trial transcripts that relate to the subject matter of the Court's pretrial *in camera* reviews, as well as portions of additional trial transcripts which include references to issues that were not raised during discovery and therefore were not the subject of the *in camera* hearings. These portions of trial transcripts are specifically identified in the Appendix to this order and fully incorporated herein.

3. Defendant also filed a Motion to Seal its Motion for New Trial, and attached materials, because it also contained or revealed confidential trade secret and other confidential commercially sensitive proprietary information. An order sealing this motion is sought pursuant to Florida Rule of Judicial Administration 2.420(c)(9)(A)(ii).

4. Based on evidence presented at trial and prior review of the materials, this Court finds that the documents, exhibits, motion for new trial and portions of trial transcripts identified herein contain or reveal confidential trade secret and other confidential commercially sensitive proprietary information, requiring confidentiality under rule 2.420(c)(9)(A)(ii). With regard to the confidentiality of the portions of transcripts involving issues that were not raised in discovery and therefore not subject to prior review, this court finds that they too contain or reveal confidential trade secret and other confidential commercially sensitive proprietary information

requiring confidentiality under rule 2.420(c)(9)(A)(ii). The Court adopts the Affidavit of James Stroble filed in support of the Motion to Determine Confidentiality as factual basis for this finding. Further, this Court orders that the terms of the August 27, 2008 Protective Order apply to all materials referenced in this paragraph.

5. Accordingly, the Clerk is directed to return the original exhibits and any copies to Defense counsel and to keep the exhibits under seal until they are returned. To the extent any of these designated portions of transcripts are in the court record, the Clerk is directed to seal any originals or copies of the transcripts. The Clerk is also directed to seal the motion for new trial.

6. The degree, duration, and manner of confidentiality ordered herein is no broader than necessary to protect the interests set forth in rule 2.420(c)(9)(A). No less restrictive measures are available to protect Goodyear's interests.

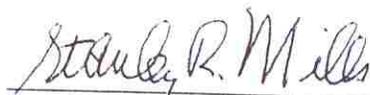
7. No party's name is determined to be confidential by this order, and this order is not to be construed to require sealing of the court or clerk's progress docket.

8. No person is permitted to view the confidential materials specifically identified in the Appendix to this Order.

9. Pursuant to Rule 2.420(e)(3)(H) [formerly Rule 2.420(d)(3)(H)], the clerk is directed to publish the order in accordance with Rule 2.420(e)(4) [formerly Rule 2.420(d)(4)].

10. The court reporter shall be furnished with a copy of this Order. The court reporter shall also maintain as confidential all portions of trial transcripts identified in the Appendix and not distribute those portions of the trial transcripts to any parties other than the parties to this case.

DONE and ORDERED in Chambers at Pasco County, Florida this 10<sup>th</sup> day of December, 2010.



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Stanley Mills  
Circuit Court Judge

Copies Furnished To:

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*Katie L. Dearing, Esquire*  
*Rutledge R. Liles, Esquire*  
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