

Geoffrey B

v.

Mechanic Company, et al

The Accident

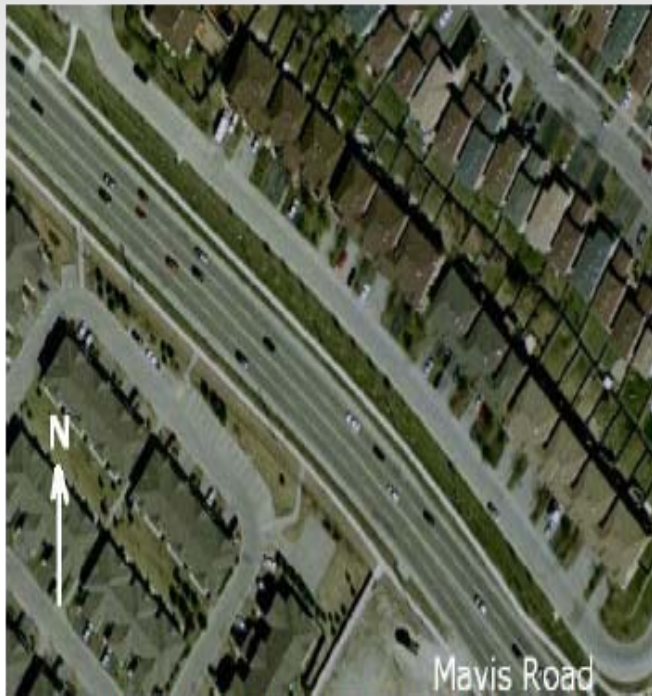


Figure 2 - Mavis Road north of Eglinton

- It was 7 pm on Saturday, April 23rd, 2005
- It was rainy and wet
- A Nissan vehicle was southbound on Mavis Rd
- The Nissan was a right hand drive vehicle
- The Nissan lost control
- The Nissan crossed into oncoming traffic
- The Nissan collided with three other vehicles

The Accident

- The driver of the Nissan was Geoffrey B
- Geoffrey was catastrophically injured
- Geoffrey is now tetraplegic
- Geoffrey will never walk again
- Geoffrey has limited movement of his upper body

The Police Investigation

- The Peel Regional police investigated the collision
- The investigation revealed problems with the Nissan's tires:
 - The rear tires had specially designed treads that were improperly mounted (mounted inside-out)
 - The tread depths on the tires were low

The Safety Inspection

- It was around 1 pm on Wednesday, April 20th, 2005 (*three days before the collision*)
- A customer by the name of Mr. Smith takes his Nissan to Mechanic Company in Mississauga
- Mechanic Company is a total automotive and tire centre
- The Nissan is brought there for a safety inspection and for an emissions test

The Safety Inspection

- Mr. Smith had just imported the Nissan from overseas
- Mr. Smith was selling the Nissan to Geoffrey B
- To complete the sale, Mr. Smith needed a Safety Standards Certificate and an Emissions Certificate
- Mr. Smith was selling the Nissan to Geoffrey B for \$10,000

The Safety Inspection

- At Mechanic Company, Mr. Smith speaks with Mr. G, the owner of this Mechanic Company
- Mr. G completes a work order
- The work order is given to a mechanic, Mr. S
- Mr. S commences the emission test on the Nissan, but struggles completing it
- Mr. S asks the senior experienced mechanic, Mr. M, to assist
- Mr. M completes the emission test

The Safety Inspection

- Mr. S's task is now to conduct a safety inspection
- As part of the safety inspection, Mr. S is to:
 - Remove all four wheels
 - Measure the tire tread depths
 - Examine the wheels for tire tread defects
- As part of Mechanic Company' protocol, Mr. S is to:
 - Record his observations on the work order
 - Make recommendations on the work order

The Safety Inspection

- Mr. Smith is later told by Mechanic Company that he needs new windshield wipers and a new gas cap in order to pass the safety inspection
- The work order is not given to Mr. Smith
- No other recommendations are given to Mr. Smith
- No mention is made to Mr. Smith of any problems or potential problems with the tires on the Nissan

The Safety Inspection

- Mr. Smith pays for the new windshield wipers and the new gas cap
- Even though Mr. S was the inspecting mechanic, Mr. M proceeds to complete and sign the Safety Standards Certificate as the “Inspecting Mechanic”
- Some 77 hours later the Nissan loses control

The Issues

- 1) Who is responsible for Geoffrey's accident?
- 2) How is Geoffrey different than before his accident?
- 3) Why can't Geoffrey return to work?
- 4) What help does Geoffrey need in his daily life?

Who is Responsible for Geoffrey's Accident

Two 2 reasons Mechanic Company is
being sued:

- 1) Mismounted rear tires—Mr. Smith's evidence will be that:
 - He had just imported the Nissan and was not aware of any tire problems or concerns
 - No one at Mechanic Company told him that his rear tires were mismounted (mounted inside-out)
 - That he would have paid the \$15 per tire to have the rear tires remounted had he been told of the problem

There is no evidence being called by Mechanic Company that they noticed the mismounted tires

Who is Responsible for Geoffrey's Accident



ALL 4 OF THE NISSAN'S TIRES WERE LABELLED "OUTSIDE" ON THE INTENDED OUTSIDE OF THE TIRE

Who is Responsible for Geoffrey's Accident

The 2nd reason Mechanic Company is being sued:

2) Low Tire Tread Depths:

You will hear evidence obtained from Mechanic Company that:

- Tires become slippery as tire tread depths approach the minimum limit
- Mechanic Company's corporate policy is to recommend new tires when tread depths are approaching the minimum limit

Mr. Smith's evidence will be that:


- No one told him that his tire tread depths were low and that he should replace them or drive cautiously
- Any information provided to him about the low tread depths would have been passed onto Geoffrey B

Who is Responsible for Geoffrey's Accident

The Defendant Mr. M is being sued for his role and responsibility as the “Inspecting Mechanic”:

- The “Inspecting Mechanic”, Mr. M, did not inspect the vehicle
- According to Mr. Smith, the “Inspecting Mechanic”, Mr. M, did not warn him of any problems with the tires on the Nissan

Who is Responsible for Geoffrey's Accident


 Ministry of Transportation
 Ontario
 Ministère des Transports

7246972

Safety Standards Certificate - Form 5
 Issued pursuant to the Highway Traffic Act and Regulations
Certificat de normes de sécurité - Formule 5
 Délivré conformément au Code de la route et à ses règlements

Please Print/Écrire en lettres moulées

For Ministry Use Only / Réserve au ministère

Agent No. 070 Date Received Year 2004 Month 04 Day 20

Motor Vehicle Inspection Station / Centre d'inspection des véhicules automobiles

Licensee Number / Numéro de titulaire: [Redacted]
 Name of Licensee / Nom du titulaire: [Redacted]
 City, Town or Village / Cité, ville ou village: [Redacted]


Véhicule / Véhicule
 V.I.N. (Serial No.) / N.I.V. / Numéro de série: HCR32021792
 Make of Vehicle / Marque du véhicule: nissan
 Year of Vehicle / Année: 89
 Type of Body / Type de carrosserie: 2 DR
 Odometer Reading on Date of Inspection / Kilométrage au compteur à la date de l'inspection: 123865

Indicate manufacturer's Gross Vehicle Weight Rating / Inscrire le poids brut du véhicule donné par le constructeur
 4600 Kg or under / 4600 kg ou moins
 Over 4600 Kg / Plus de 4600 kg

Date of Inspection / Date de l'inspection: Year 03 / Month 04 / Day 20

This Certificate expires 36 days from this date / Ce certificat expire 36 jours à compter de cette date

We hereby certify that the above described motor vehicle has been inspected in accordance with the provisions of Sections 88 to 100 of the Highway Traffic Act and Regulations issued thereunder, and that the items inspected met the prescribed standards on the Date of Inspection.
 Nous certifions par la présente que le véhicule automobile décrit ci-dessus a été inspecté conformément aux dispositions des articles 88 à 100 du Code de la route et de ses règlements et que les articles inspectés sont conformes aux normes


PURCHASER'S COPY / COPIE DE L'ACHETEUR

- Present this copy for transfer or registration purposes.
 - This certificate indicates that the items on the reverse side met the required standards on the date of inspection and is not a warranty on the condition of the vehicle.
 - Présentez cette copie aux fins de transfert ou d'immatriculation.
 - Ce certificat indique que les articles ou pièces mentionnés au verso sont conformes aux normes requises à la date de l'inspection mais ne constitue pas une garantie de l'état du véhicule.

SR-E-214 99-02

THIS IS A COPY OF THE SAFETY STANDARDS CERTIFICATE COMPLETED BY AND SIGNED BY Mr. M

Who is Responsible for Geoffrey's Accident

The claim against Mr. Smith:

- Geoffrey's claim against Mr. Smith has been resolved
- Mr. Smith is still pursuing his crossclaim against Mechanic Company seeking reimbursement for compensation he has paid

Who is Responsible for Geoffrey's Accident

- **The Plaintiff's accident reconstruction engineer will say that the problems with the tires were a cause of the accident**
- **The Plaintiff's tire engineering expert will say that the problems with the tires were a cause of the accident**

Issues Raised by the Defence

- That the accident was caused by driver error:
 - Claiming Geoffrey was speeding
 - Claiming Geoffrey oversteered
- That the mismounted tires were not a cause of the loss of control
- That the low tread depths were above the minimum standards allowed and were not a cause of the loss of control

Issues Raised by the Defence

The Claim that Geoffrey was speeding:

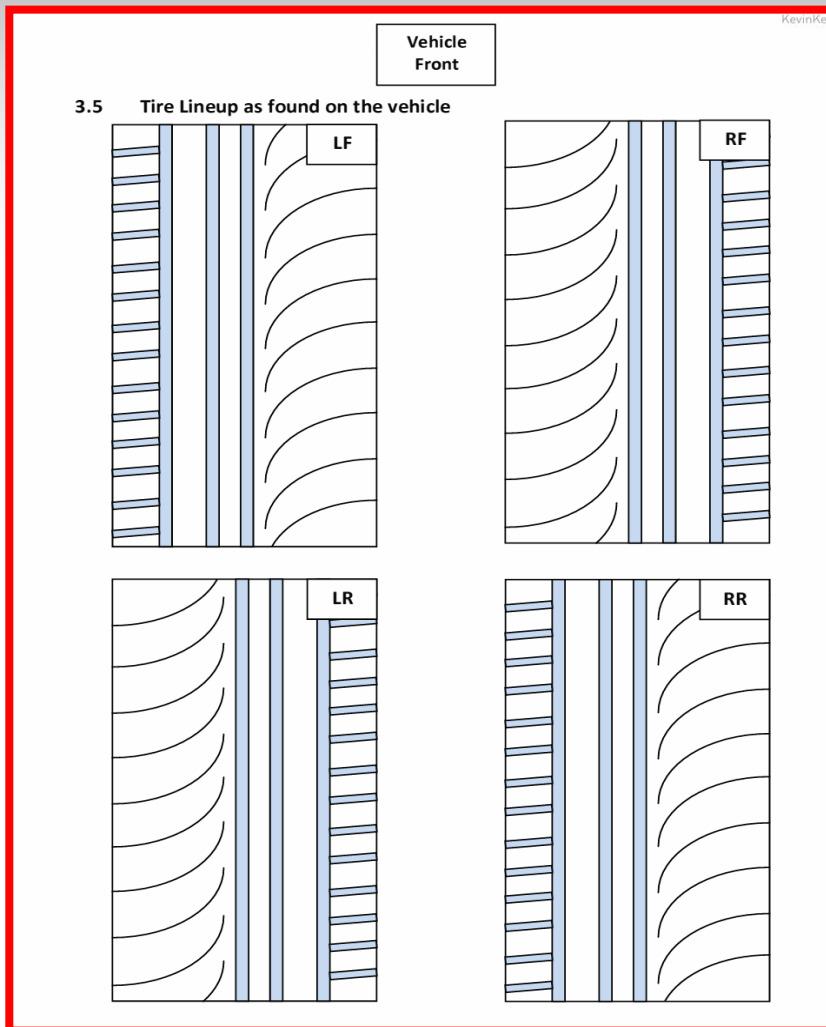
- The Defendant may call the drivers/passengers of the oncoming vehicles to testify that they believe Geoffrey was going fast
- The passenger in Geoffrey's vehicle, Albert Y, will testify that Geoffrey was travelling at a normal speed
- The driver in the vehicle in front of Geoffrey, Jeffrey P, will testify that Geoffrey was travelling at a normal speed
- The Plaintiff's engineering experts will explain the difficulties estimating Geoffrey's speed due to the circumstances of this collision

Issues Raised by the Defence

The Claim that Geoffrey oversteered:

- Admittedly Geoffrey had limited experience with the right hand drive Nissan vehicle
- You will not hear any evidence suggesting a need for an abrupt lane change
- The Plaintiff's engineering experts will explain that a loss of control can result from a normal lane change where other traction reducing factors are present
- The Plaintiff's engineering experts will explain that there is no physical evidence to determine the nature of the lane change

Issues Raised by the Defence

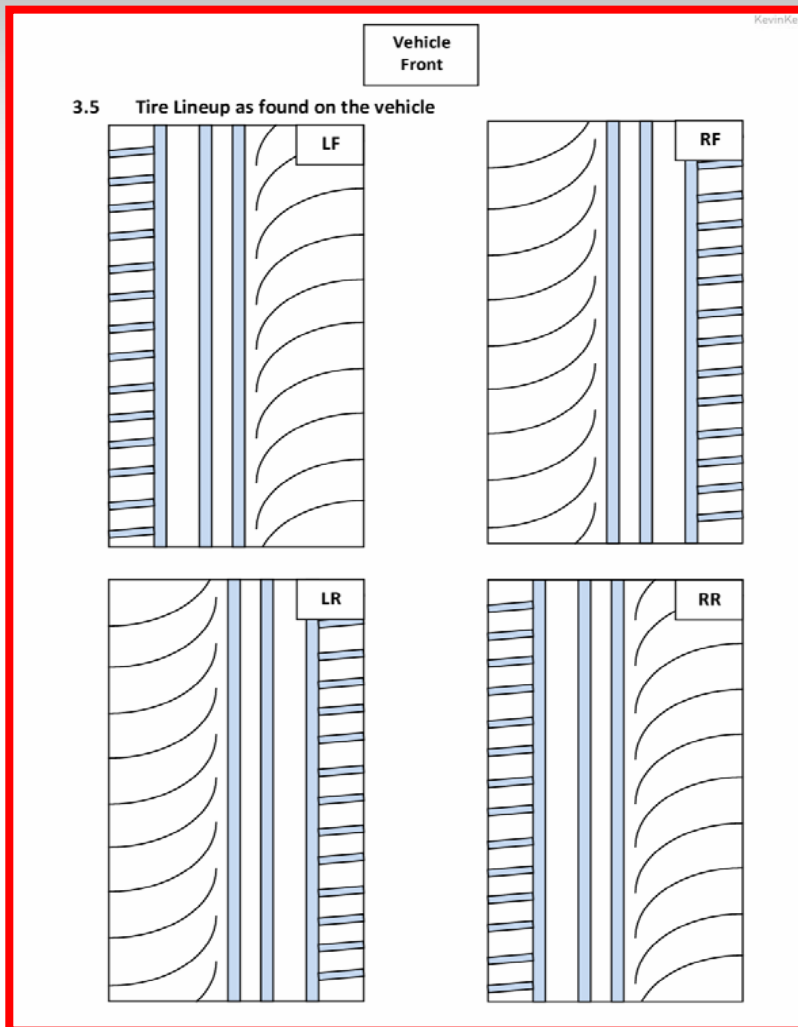


THE TIRES AS THEY WERE AT THE TIME OF THE ACCIDENT

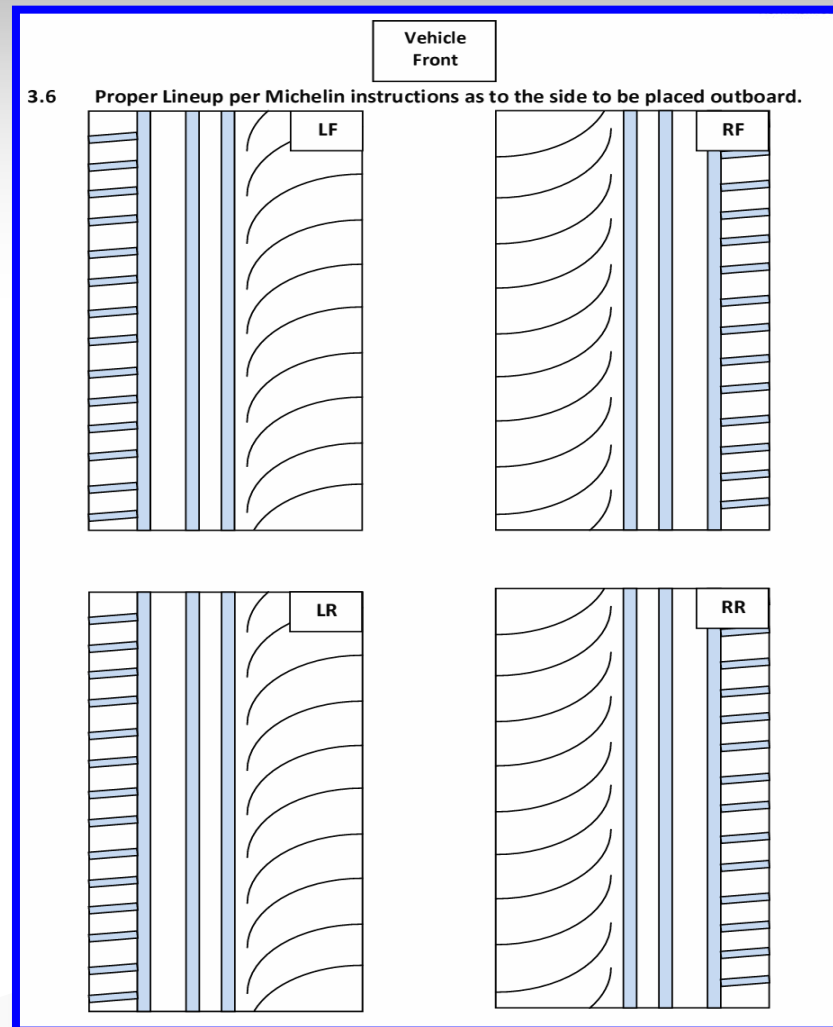
The Claim that the mismounted tires did not make a difference:

- The Plaintiff's tire engineering expert and the Plaintiff's accident reconstruction engineering expert will explain that the Nissan's tires were asymmetrical (each tire had an 'outside' and an inside)
- The tire mounting is shown on the left (as it was at the time of the safety inspection)

Issues Raised by the Defence



THE BACK TIRES ARE **INCORRECT** ABOVE



THE BACK TIRES ARE **CORRECT** ABOVE
(STRAIGHT LINES ON OUTSIDE)

Issues Raised by the Defence

The Claim that the mismounted tires did not make a difference:

- The Plaintiff's engineering experts will testify that the mismounted asymmetrical tires would have less traction than they were designed to provide, especially in wet conditions
- The Plaintiff's engineering experts will testify that the mismounted tires were a cause of the accident

Issues Raised by the Defence

The Claim that the low tread depths were above the minimum standards allowed (of 2/32 of an inch) and were not a cause of the loss of control:

- You will hear that Mechanic Company has a corporate policy of warning customers that their tires may become slippery as the tread depths approach the minimum limit
- You will hear from Mr. Smith that he was not warned of the low tire tread depths on the Nissan
- The Plaintiff's tire engineering expert will testify that the low tire tread depths and, in particular, the tread depth of the right rear tire was a cause of the accident

How is Geoffrey Different than Before his Accident



Photo of Geoffrey B from before the accident

- **Geoffrey's mother, father and sister will tell you about their close family and about Geoffrey's life before the accident**
- **Geoffrey and his family doctor will tell you that Geoffrey was in good health before the accident**

How is Geoffrey Different than Before his Accident

- **Geoffrey's treating orthopaedic surgeon will describe the spinal fracture and the spinal cord injury that Geoffrey suffered**
- **Geoffrey's treating rehabilitation specialist will explain that Geoffrey is tetraplegic, with very limited ability to move his upper body and no mobility of his lower body**
- **Geoffrey and his family will tell you how his injuries and limitations have changed his life**

Why Can't Geoffrey Return to Work

- **Geoffrey will tell you about his full time employment as a steel construction worker in the years prior to the accident**
- **Geoffrey's treating rehabilitation specialist will explain why Geoffrey's injuries and limitations prevent him from working in any gainful employment for the rest of his life**

What help does Geoffrey Need in his Daily Life

- **Geoffrey's caregivers and rehabilitation workers will tell you about the help Geoffrey needs in his day to day life**
- **You will hear evidence from his caregivers and from rehabilitation experts about the equipment and supplies that are required in Geoffrey's day to day care**
- **A housing expert will tell you about the modifications Geoffrey requires to his home to accommodate his disabilities**
- **You will hear evidence from a life care planner about the treatment, care and assistance that Geoffrey will require in the future and the cost of that care**

Summary

- **The Plaintiff will establish that the Defendant Mechanic Company is responsible for the accident, by establishing:**
 - **the nature of the problems with the tires on the Nissan**
 - **Mechanic Company' failure to warn of the problems**
 - **that the tires were a cause of the accident**
- **As a result of driving the Nissan, Geoffrey has been left with severe physical disabilities that prevent him from living a normal life**
- **This lawsuit seeks compensation for Geoffrey's losses**