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# ARIZONA REPUBLIC

SATURDAY, SEPTEMBER 5, 2015

azcentral.com

A GANNETT COMPANY

## Judge: Tire maker hid fatal flaws

**Ariz. family's lawsuit claims Goodyear failed to recall tire model after dozens of deaths, injuries**

DENNIS WAGNER  
THE REPUBLIC • AZCENTRAL.COM

On June 14, 2003, the Haeger family of Tucson was traveling in a motorhome on Interstate 25, en route to a medical symposium in New Mexico, when the right front tire blew.

LeRoy Haeger, then 70, could not control the 38-foot-long RV as it swerved off the freeway and tumbled over an embankment, skidding on its side.

The Haegers' Great Dane flew through the windshield, injured but alive.

When the screeching ended and the

dust settled, LeRoy was trapped against the steering wheel, which had to be sawed off by emergency workers. According to court records, his right leg was torn nearly apart below the knee. He had a dislocated elbow, plus chest and abdominal injuries. He would undergo 17 surgeries and deal with chronic pain until his death from cancer five years later.

LeRoy's wife, Donna, and daughter-

See **TIRES, Page 6A**

**"Goodyear's conduct surrounding the G159 reflects an abandonment of all human ethics, as it has knowingly and willfully allowed countless citizens to be killed or injured in pursuit of profit."**

FAMILY'S CIVIL SUIT VS. GOODYEAR



## GOODBYE, SUMMER; HELLO, FOOTBALL

DAVID WALLACE/THE REPUBLIC

Friday's game between Chandler's Hamilton High and Gilbert's Highland High fuels football fever for fans of Arizona high-school contests.

OK, so the night air isn't exactly crisp, but it's crisper than it was a few weeks ago. Still, it's almost fall in Arizona, and that can mean only one thing: football. High-school games have been in full swing for a couple of weeks now. Arizona State University opens its season today on the road against Texas A&M, a tough non-conference opponent that will show whether the Sun Devils are deserving of their No. 15 national preseason ranking. And the Arizona Cardinals capped their preseason Thursday with a win over Denver and then on Friday traded for another USC quarterback, 24-year-old Matt Barkley, who the team hopes will back up Carson Palmer and eventually become the quarterback of the future. For football fans, it doesn't get any better than this. At least until playoff time.



DAVID WALLACE/THE REPUBLIC

The ASU Sun Devils and quarterback Mike Bercovici face a tough Texas A&M in their season opener today.



RON CHENOY/USA TODAY SPORTS

Playoff hopes are high this season for the Arizona Cardinals and their starting quarterback, Carson Palmer.

» **High schools:** Complete results from Friday night's games: [highschools.azcentral.com](#).

» **Colleges:** ASU kicks off at 4 p.m. on ESPN. Follow live updates at [sundevils.azcentral.com](#).

» **The pros:** Pick up a copy of Sunday's *Arizona Republic* for our special NFL preview coverage, which will tell you everything you need to know as the Cardinals prepare for their season opener against New Orleans next week.

## Migrant crisis hits Eastern Europe

A tense migrant standoff in Eastern Europe underscored the growing humanitarian toll in Syria, Iraq and Afghanistan on Friday. Hundreds of migrants, exhausted after breaking away from police and marching for hours toward Western Europe, boarded buses provided by Hungary's government as Austria and Germany agreed to let them in. The weary travelers from the war-torn countries streamed in long lines along highways from a Budapest train station and near a migrant reception center after making dangerous treks in scorching heat, crawling under barbed wire on Hungary's southern frontier and facing the hostility of some locals along the way. **1B**

USA TODAY

Nation & World: Full report in **Section B**.

## Republic and azcentral name new top editor

RUSS WILES  
THE REPUBLIC • AZCENTRAL.COM

Nicole Carroll, who has managed most daily operations for *The Arizona Republic* and azcentral.com for the past three years, has been promoted to a position with expanded responsibility and full oversight of the state's largest newsroom.

Carroll was promoted to vice president/news and editor, a subtle but significant change from her prior position as vice president/news and executive editor.

To her previous responsibilities, she will add oversight of the editorial

See **EDITOR, Page 14A**



DAVID WALLACE/THE REPUBLIC

The flood that devastated a Mesa neighborhood a year ago was driven by nature and made worse by human decisions. It could happen again. In Sunday's *Arizona Republic*

### ALSO

**Materials wasted:** A contractor demolishing homes in the path of the South Mountain leg of Loop 202 has come under fire for hauling salvageable materials to landfills rather than allowing charity organizations to use them. **12A**

**Tempe office vacancy:** American Airlines will vacate its iconic building in downtown Tempe and relocate about 500 employees to other Valley facilities. The building was originally the headquarters of America West Airlines. **17A**

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## From the Front Page

## Tires

Continued from Page 1A

in-law, Suzanne, were pinned in the motorhome until rescuers freed them.

Donna, who was 69 at the time, suffered fractures to a wrist, an ankle and five toes. Her jaw was broken and had to be wired shut for months. She suffered permanent facial nerve damage that affects speech and eating. Suzanne, then 42, suffered head trauma, a crushed arm and wounds that left scars on her chest, arms and hands.

Barry Haeger, LeRoy's 45-year-old son, escaped with minor injuries.

The accident was one of dozens around the nation involving tread separations and blowouts with G159 tires, a product of the Goodyear Tire & Rubber Co.

Court records allege that, despite the accidents and more than 40 lawsuits, the industry giant continued making and selling that tire for years. No recall or public-safety warning was issued. Some deaths and injuries were not reported to federal safety officials.

Meanwhile, according to rulings by a federal judge, Goodyear lawyers allegedly withheld evidence, misled courts and had documents sealed to keep the fatal flaw hidden. That secrecy campaign was so successful that, until today, no mainstream media outlet has reported in detail on the G159 tire's lethal legacy.

But, after 10 years of litigation, the Haeger case and a few other lawsuits finally offer a window into the G159's history and Goodyear's legal efforts to keep it under wraps.

The family's ongoing lawsuit in Maricopa County Superior Court asserts that the company knew its tire was unsuitable for motorhomes, yet "made no subsequent effort to warn users about the liability of the G159, made no effort to inform the government what Goodyear knew ... and made no effort to otherwise recall the tire or provide any post-sale warning."

"Rather, Goodyear chose to 'run out' the tire and solve one claim at a time while it employed a national strategy to conceal all critical information from those victimized. ... Goodyear knew this strategy would cause future deaths and injuries from G159 tread separations."

In a key ruling for the Haegers, U.S. District Judge Roslyn Silver of Arizona hit Goodyear and its lawyers with more than \$2.7 million in sanctions for fraud upon the court, possibly a record penalty of that kind in the justice system.

Silver's 66-page report says Goodyear engaged in a "pattern and practice" of deception and perpetuated "serious discovery misconduct" in other cases she reviewed. Along with financial penalties, the judge ordered Goodyear to file a copy of her ruling in all G159 civil actions nationwide.

Silver's decisions were upheld in July by a tribunal of the 9th U.S. Circuit Court of Appeals. Goodyear is now asking for a review by the full court.

In a supporting brief, the company argues that its lawyers were required to disclose only evidence they planned to use to bolster their defense, not any evidence — negative tire-testing results, for example — that might be harmful to their case.

During past legal proceedings, and in a statement e-mailed to *The Arizona Republic*, company officials denied that G159 tires were responsible for accidents and denied that corporate lawyers misled and deceived the courts.

Responding to more than 20 questions submitted by the newspaper, a company spokesman issued this statement: "Goodyear does not comment on pending litigation, however it disputes the plaintiff's allegations in the pending case. Goodyear prides itself on its commitment to product performance and places product safety and quality as its highest priorities."

**Problems with the G159**

Goodyear is one of the world's leading tire manufacturers, with more than \$15 billion in annual revenue and about 1,240 retail outlets, the company's website says.

According to court records, G159 tires were developed in the late 1990s for use by urban delivery trucks driving limited distances at moderate speeds. A particular model, 275/70 22.5, also fit motorhomes — a huge market.

Accident victims allege that Good-

year officials knew those tires were subject to tread separation and blowouts when driven long distances at freeway speeds, yet continued making them from 1996 to 2003 and never halted sales.

Manufacturing and sales of G159 tires began in 1996. According to federal court records, the tires were designed to withstand sustained temperatures of 194 degrees. Tests — which, according to court records, allegedly were concealed for years — showed that, at 75 mph, the G159s hit temperatures up to 229 degrees, becoming subject to potential tread separation and blowout.

Goodyear sold the tires to motorhome manufacturers and owners even after 1998, when the 55 mph national speed limit was canceled and major U.S. freeways allowed travel up to 75 mph.

A lawsuit filed by the Haegers in Maricopa County Superior Court says the failure rate of G159 tires installed on motorhomes has been about 15 times that of Firestone tires that were recalled during a public scandal in 2000 after numerous fatal accidents.

Because some recreational vehicles are seldom used and therefore experience minimal tire wear, a limited number of G159s may still be in use even though production stopped in 2003. Court documents say an accident occurred as recently as last year.

It remains unknown how many fatalities have occurred in accidents with the tires in question. According to court records, the company received more than 614 claims involving accidents that resulted in death, injury or damage. Thirty-five accidents occurred in Arizona.

**The fight for data**

The Haegers first sued Goodyear in 2005, with Scottsdale attorney David Kurtz as their lawyer.

According to court filings, the tire company blamed LeRoy Haeger for the accident because he slammed on the brakes when the tire blew. As in other G159 cases, Goodyear also claimed the motorhome, at some time prior to the crash, had struck an unknown road hazard, causing damage that eventually led to tread separation.

Litigation dragged through seven years of motions and discovery. From the outset, Kurtz requested from Goodyear all durability and road-safety tests on the G159 tire.

Goodyear lawyers objected, saying the request was too broad and data from testing had been discarded per corporate policy. They eventually divulged partial results from a study conducted at low speeds.

Convinced the company was withholding evidence, Kurtz pressed Silver for a court order to produce documents, including materials sealed by judges in other G159 liability cases. Silver rebuked Kurtz, saying Goodyear's lawyers were officers of the court who could be trusted to abide by legal rules.

Without test data, the Haegers' case was legally hampered. Emotionally and financially drained, they accepted a confidential settlement in 2010.

Months later, victims in a Florida G159 wreck brought Goodyear to trial for the first time and won a \$5.6 million jury verdict. Kurtz read about the case in a safety journal. The article mentioned heat and speed tests performed by Goodyear — the very information he had sought for years.

**Legal tactics slammed**

Barred by settlement from reopening the Haeger case, Kurtz filed a motion with Silver seeking misconduct sanctions. Goodyear tried to get the judge to seal that document as well. Instead, Silver demanded explanations from company lawyers and then launched a judicial inquiry.

According to court records, Silver's probe exposed even more deception. Based on new testimony and documentation, the judge concluded Goodyear's expert witnesses gave false testimony and its attorneys acted "in bad faith" with a "dizzying array of misstatements and simple falsehoods."

Silver's report says Phoenix attorney Graeme Hancock, representing Goodyear, made false declarations about the existence and availability of test results. The judge said Goodyear's national coordinating counsel for G159 cases, Basil Musnuff, and in-house attorney Deborah Okey prepared and approved disclosures and motions with similar false avowals.

Silver ordered payment to the Haegers of all legal expenses from the start

date of Goodyear's alleged deception. The company and Musnuff were sanctioned \$2.2 million. Hancock was fined \$548,240.

Silver noted that her ruling could have "unfortunate professional consequences" for the attorneys, referring to potential discipline for ethics violations. A State Bar of Arizona spokesman said Hancock is the subject of an investigation, but the probe has been stayed because of continuing legal proceedings focused on the alleged misconduct.

In a written statement, attorneys representing Hancock said they believe the sanction ruling was "factually and legally incorrect" and noted that it is under appeal. Musnoff, based in Ohio, could not be reached for comment.

Silver was not the first or only judge to condemn Goodyear's legal tactics.

In a 2006 wrongful-death case, a Pinal County judge ruled the company "has frustrated both the letter and the spirit of the discovery and disclosure rules."

One year later, according to Nevada court records, the company was ordered to pay \$30 million in a wrongful-death judgment that stemmed from a wreck involving a different tire but similar courtroom conduct. Three occupants of a van were killed and seven others injured.

Judge Sally Loehrer ruled that Goodyear acted in bad faith, withheld evidence, stonewalled and used other "BS" tactics. "Maybe the board of directors has given Goodyear absolute corporate resolution that in every case where Goodyear is sued we shall obfuscate, we shall delay and we shall impede," Loehrer wrote, "but certainly someone in this case has taken that posture and mode."

**Second civil suit**

The Haegers are now pursuing a second civil suit against Goodyear, claiming they were defrauded in the federal case.

"By concealing the truth," their complaint alleges, "Goodyear saved tens if not hundreds of millions of dollars in settlements and verdicts, and simultaneously evaded regulatory penalties and brand damage. ... Goodyear's conduct surrounding the G159 reflects an abandonment of all human ethics, as it has knowingly and willfully allowed countless citizens to be killed or injured in pursuit of profit."

Attorneys for the family declined comment for this article. In a recent motion, they wrote that Goodyear has acknowledged receiving at least 63 injury and death claims from G159 accidents. They contend the company "misrepresented" casualty numbers to the National Highway Traffic and Safety Administration, reporting just one death and 13 injuries.

Goodyear denied violating national reporting requirements. The company said in a court brief that it is required only to report some casualties, not all.

While the Goodyear litigation involves fatal accidents, product safety

and alleged corporate dishonesty, it also spotlights secrecy in the nation's courts.

In civil cases, federal and state judges often seal evidence, testimony and motions without public notice or discourse. Blanket protective orders, ostensibly issued to guard trade secrets, are granted at the behest of litigants who seek to avoid embarrassment or hide wrongdoing.

According to Silver and the Haeger filings in Maricopa County, Goodyear successfully concealed the G159 controversy for 15 years with complicity from courts nationwide.

In every lawsuit filed against the company, the Haegers allege, judges "allowed Goodyear to designate documents as 'confidential' and to claim testimony as 'confidential.' The protective orders specifically prohibited victims of G159 tread separations and their attorneys from sharing information produced by Goodyear through the course of litigation. ... To assure no documents were ever disclosed, each protective order required that all 'confidential' documents be returned to Goodyear after the case was resolved."

Goodyear was allowed to determine what information should be blocked from public view. Although the company has claimed protective orders are necessary to guard proprietary information, lawyers for accident victims argue the real purpose is to limit damages and protect the reputation of a company with the slogan "Made to feel good."

After the Florida jury verdict in a case known as *Schalmo vs. Goodyear*, the Haegers' attorneys allege, company attorneys became "frantic" to remove evidence and testimony from the public record. Goodyear agreed to an immediate settlement with confidentiality provisions and then persuaded the judge in 2010 to issue a protective order that retroactively sealed evidence and testimony presented in open trial.

Even in Silver's court, reams of documents marked as confidential by Goodyear remain hidden from public view.

Kurtz, joined by Phoenix attorney Patrick McGroder III in representing the Haeger family, is now battling for records sealed in G159 civil actions all across the country. In a filing last month, Goodyear responded that those materials contain "trade secrets" and are irrelevant.

Goodyear's filing accused the Haeger family of trying "to turn a straightforward settlement fraud case into a 15-year conspiracy by spinning a convoluted and nefarious tale."

According to the Haeger suit, Goodyear's financial jeopardy could extend beyond lawsuits filed by accident victims. It says the company faces up to \$35 million in federal fines — plus possible criminal penalties — for failure to disclose defect-related deaths and injuries to the National Highway Traffic Safety Administration.

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## Guadalupe official calls for mayor's resignation

MEGAN CASSIDY  
THE REPUBLIC • AZCENTRAL.COM

Guadalupe Vice Mayor Andrew Sanchez is calling for town Mayor Rebecca Jimenez to step down from her position, a move that comes in response to Jimenez's recent legal problems and what he says is a pattern of political overreach.

Standing in front of Guadalupe's town hall Friday afternoon, Sanchez said his former political ally had tarnished the town's image.

"Mayor Jimenez holds

others in scrutiny with the law but fails to maintain her own ethical standards," he read from a printed statement. "Mayor Jimenez continues to bring negative media attention by her choices."

Jimenez could not be reached for comment Friday afternoon.

Sanchez said he initiated recall proceedings last month.

The announcement came a day after Jimenez was sentenced to probation and up to \$10,000 in restitution in a food-stamp fraud case. Jime-

nez had pleaded guilty to one misdemeanor count of criminal possession of a forgery device in exchange for the dismissal of three felony charges.

According to Arizona Department of Economic Security officials, Jimenez was receiving food-stamp benefits between July 2011 and February 2013.

But investigators say that during that time, Jimenez failed to disclose she was living with her children's father, who was earning a "significant" salary.