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# PRODUCTS LIABILITY LAW REPORTER

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Fla.; Dean Harris, product design, Columbia, S.C.; Paul Lewis, biomedical engineering, Atlanta; and William Kitzes, warnings, Boca Raton, Fla.

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### Dealership's failure to adequately inspect, replace worn tire leads to fatal rollover

*Weaver v. Ford Motor Co.*, No. BC50924 (Cal. Super. Ct. Los Angeles Cnty. June 21, 2016).

Frankie Jo Weaver was driving her 1998 Ford Explorer SUV on the highway and was wearing her seat belt when the left rear Cooper Dominator All Season tire suffered a tread separation. The SUV went out of control, crossed the center median, and rolled over several times, coming to rest on its roof. Emergency responders found Weaver, 62, suspended upside down from her belt. She was pronounced dead at the scene. A former teacher, she is survived by two adult sons.

Weaver's sons sued Ford Motor Co., alleging that the Explorer's defective design—including a narrow track width and high center of gravity—rendered it dangerously unstable and difficult to control in the event of

a rear tire failure. The plaintiffs also alleged that in a tire failure situation, the Explorer was prone to handling defects including over-steer (which causes the rear end of the vehicle to swing around) and skate (loss of rear-end directional control)—that generate lateral forces increasing the rollover risk. Suit also charged that the Explorer lacked electronic stability control, which could have prevented the rollover.

The plaintiffs further alleged that the Explorer was not crashworthy in that components of the roof structure—including the A-pillars, the windshield headers, and roof rails—lacked sufficient strength to withstand the foreseeable forces of a rollover without compromising the occupant survival space. The plaintiffs alleged that the roof had deformed and crushed inward, impacting Weaver during the roll sequence.

Suit against Cooper Tire & Rubber alleged, among other claims, defective manufacture in that the tire lacked adequate adhesion between the internal components and defective design, in that it lacked a full nylon cap ply, which acts to reduce belt-edge stress and prevent tread separation.

Finally, the plaintiffs sued the dealership that regularly serviced the Explorer and had inspected the

tires about two months before the crash, alleging that the dealership had failed to detect rapid wear on the Explorer's left rear tire—a sign of an impending tread separation—and take steps to warn Weaver and replace the tire. A forensic tire analysis expert testified that at the time of the dealership's last inspection, the tread was worn down to a depth of 2/32" above the area where the tread separation began and that this was a clear indication that a tread separation was imminent. Evidence showed that the tread separation and crash occurred 1,848 miles later.

The dealership argued that all four tires had a tread depth of 7/32" or greater in all four grooves at the time of the relevant inspection.

Ford and Cooper settled before trial for confidential amounts, and the case went to trial against the dealership defendant.

The jury found the dealership 100 percent at fault and awarded \$2 million. The judgment has been paid.

**Plaintiff counsel:** AAJ member Gary C. Eto, Torrance, Calif.; and AAJ member Christine Spagnoli, Santa Monica, Calif.

**Plaintiff experts:** Micky Gilbert, accident reconstruction/driver's response to tread separation, Arvada, Colo.; and Jean-Claude Brico, forensic tire expert, Greenville, S.C.