



LEXSEE 731 SO. 2D 736

**MICHELIN NORTH AMERICA, INC., f/k/a MICHELIN TIRE CORPORATION,
and DAVIS BANDAG RECAPPING & TIRE CO., Appellants, v. JULIAN
BERNARD LOVETT, DOROTHY MAE LOVETT, and JULIAN LOVETT, JR., by
and through his next friend and guardian, DOROTHY MAE LOVETT, Appellees.**

CASE NO. 97-4499

COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

731 So. 2d 736; 1999 Fla. App. LEXIS 4120; 24 Fla. L. Weekly D 859

March 31, 1999, Opinion Filed

SUBSEQUENT HISTORY: [**1] Rehearing Denied June 1, 1999. Released for Publication June 1, 1999.

PRIOR HISTORY: Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; James T. Carlisle, Judge;. L.T. Case No. CL 93-3196 AE.

DISPOSITION: REVERSED and REMANDED.

COUNSEL: Daniel S. Pearson and Linda Collins Hertz of Holland & Knight LLP, Miami, for appellants.

Joseph J. Reiter and Donald R. Fountain, Jr., of Lytal, Reiter, Clark, Fountain & Williams, and Jane Kreuzler-Walsh of Jane Kreuzler-Walsh, P.A., West Palm Beach, for appellees.

JUDGES: POLEN, J., STEVENSON and HAZOURI, JJ., concur.

OPINION BY: POLEN

OPINION

[*737] POLEN, J.

Michelin North America, Inc., f/k/a Michelin Tire Corp., and Davis Bandag Recapping & Tire Co., (collectively "Michelin") appeal a final judgment awarding appellees Julian Lovett, Dorothy Lovett, and

Julian Lovett, Jr., damages of \$ 30,424,000. Michelin presents four points on appeal. The first three concern alleged errors in voir dire and the fourth concerns the amount of damages awarded. Our review of the record on appeal and application of pertinent case law leads us reluctantly and unavoidably to the conclusion that error occurred in the denial of Michelin's peremptory challenge of [**2] Ms. Shirley Meeks, an African-American woman who served on the Lovetts' jury. Thus, we are constrained to reverse the judgment on appeal and remand for a new trial. Our resolution of this point on appeal renders Michelin's other three points moot.

The Lovetts sued Michelin alleging Julian Lovett suffered a catastrophic accident resulting in the amputation of his legs as a result of a hidden defect which caused the Michelin tire on Mr. Lovett's tractor-trailer rig to blowout on April 24, 1989. The circumstances of Mr. Lovett's injuries and the suffering he and his family have endured were made clear during the course of their four week trial. For purposes of this appeal, we limit our recitation of the facts to those material to the voir dire error.

VOIR DIRE

The parties began questioning the second venire panel on the second day of voir dire after the first venire panel was excused by the trial court. Among the twenty-four potential jurors in this second venire panel was Ms. Meeks, a resident of Riviera Beach for

approximately forty-six years who was employed by the Palm Beach County Board of County Commissioners in the Public Affairs Office as a secretary responsible for disseminating [**3] information. Ms. Meeks was married with three children, one of whom worked at a Firestone Tire and Service Center.

The Lovetts' counsel, Mr. Reiter, turned his questioning to the subject of the potential jurors' experiences with tire blowouts. Twenty-one of the twenty-four potential jurors admitted to some experience with either sudden flat tires or blowouts. Ms. Meeks was among those twenty-one. Ms. Meeks stated she experienced a blowout when she ran over something in the street and described how her B.F. Goodrich tire began to feel flat causing her to bring her vehicle to a stop on the side of the street. Her son replaced the tire with a Michelin tire.

Ms. Meeks went on to explain her daughter's very recent tire blowout experience:

MS. MEEKS: But I've had - my daughter has had an experience two weeks ago that really took effect on me. It wasn't a front [tire].

She was traveling the Florida Turnpike. She was doing seventy-five miles an hour. Her back tire blew out. She's a very young, you know -

MR. REITER: Young driver?

MS. MEEKS: - girl, I would say, young lady.

But she stopped. The car stopped. She said she gives it to God, because she said she don't know how the car [**4] stopped. She stopped. She didn't dart in or out. The car stopped on the side of the road.

And they did find out that it was a - something wrong with the tire, nothing she ran over, because when they took the tire off the car, the tire had blown [**738] from the inside. Something had ripped from the inside.

And it wasn't any visible means or holes in the tire. They tested it and tested it. So we got her four new tires.

MR. REITER: And who manufactured those tires, if you recall?

MS. MEEKS: The tires that she had on her car were Michelin. It came from when she bought the car, they

were on the car.

We changed them back to Michelin.

MR. REITER: So they replaced all four tires?

MS. MEEKS: All four tires.

MR. REITER: Even though the other three had not blown out?

MS. MEEKS: Right.

MR. REITER: Thank you very much, ma'am.

While being questioned by Michelin's counsel, Mr. Rothman, Ms. Meeks responded to a question regarding family members or close friends involved in civil litigation by stating one of her children was in litigation with the State Attorney's office. Ms. Meeks said her child had been sued; however, it looked as if the case would be "thrown out." Mr. Rothman asked Ms. Meeks [**5] whether the suit was a personal injury suit or a commercial case or business case, and she responded the case was "personal."

Ms. Meeks was educated about tire maintenance by her son, who taught her to look for tire wear and continues to insist that maintenance on her vehicle be completed timely. When questioned regarding tire preference, Ms. Meeks volunteered she preferred both Michelin and Yokohama tires. Mr. Rothman did not inquire further of Ms. Meeks regarding her daughter's Michelin tire blowout.

During jury selection, Michelin first challenged Ms. Meeks for cause, noting what it alleged were evasive answers to questions regarding family members involved in litigation. The trial court denied Michelin's challenge for cause. As jury selection neared a close, Michelin peremptorily challenged Ms. Meeks and the Lovetts objected on the basis Michelin's challenge was racially motivated. Michelin provided four reasons for its challenge:

MR. ROTHMAN: Judge, we have several non-racial reasons.

First of all, Ms. Shirley Meeks made it very clear early on in Mr. Reiter's examination that her daughter had experienced a blowout at seventy-five miles an hour on a rear tire.

The quote [**6] that I have is that she said that it really affected her, the fact that her daughter had been involved in this incident.

She also said that the four tires were replaced with other Michelins, but that was not due to selection. That was due to taking it back to the dealer and complaining and demanding the replacement of not only the one tire involved in the incident, but all tires equipped on the vehicle, and we find that bothersome.

Number two is with respect to the son, I still contend that in my view, when I was asking the questions-

THE COURT: She wasn't candid with you?

MR. ROTHMAN: There was a lack of candor with this lady. I don't think she truly expressed - and I'm concerned if she was not totally candid in responding to that particular area of inquiry, that perhaps there were other areas of inquiry in which she was not also totally candid.

MR. REITER: Your Honor -

MR. ROTHMAN: Also, if I could just finish, there are already - there are two other African-American prospective jurors.

THE COURT: Doesn't matter.

MR. REITER: Doesn't matter. I can have six [African-American jurors] and you can't strike one of them.

MR. ROTHMAN: Thirdly, Judge, she is a worker for the county, [**7] and I have [*739] some subjective concerns not having anything to do with race, but being a government worker in that capacity.

And that's it, Your Honor.

The trial court did not expressly find any reason Michelin gave for its peremptory challenge was race-neutral, yet it allowed Mr. Reiter to respond. Mr. Reiter argued the last of Michelin's three reasons, that Ms. Meeks was a county employee, was an insufficient reason unless Michelin could show some relationship between her employment and this case. The court agreed. Mr. Reiter next argued Michelin's "bad vibes and bad feelings" concerning Ms. Meeks' explanation of her son's involvement in litigation was not a sufficiently clear and

reasonably specific explanation for exercising a peremptory challenge. The trial court apparently agreed with Mr. Reiter again because the trial judge stated: "Yeah, but what about the blowout with the kid?"

Mr. Reiter asserted there were other jurors who had blowouts involving Michelin tires who were not challenged, including Mr. Hoag. As we discuss in greater detail below, and as clarified by the chart contained in the Appendix to this opinion, Mr. Reiter's statement was inaccurate. The record shows Mr. [**8] Hoag did not know the make of his two tires that suffered blowouts; however, Mr. Hoag had returned a spare tire that was a Michelin, when he observed the tire was cut on the sidewall. Further, Mr. Hoag had been stricken peremptorily by the Lovetts before Michelin challenged Ms. Meeks. Mr. Reiter also asserted "two or three other jurors talked about Michelin blowouts that actually happened to them." Again, the record shows Mr. Reiter's recollection of voir dire responses was inaccurate.

Before returning to a recitation of the material facts, we pause briefly to note a concern. The exercise of compiling the chart contained in the Appendix made it obvious to us that the trial court and counsel faced a significant challenge to quickly recall during the jury selection process the details of each of the twenty-four jurors' various experiences with tire blowouts. Voir dire is a significant part of any trial, whether that trial is expected to last two days or four weeks. During a *Neil* inquiry, the court must make the important determination of whether the challenged juror is being treated differently than similarly situated jurors. In light of the import of this inquiry, rather than relying [**9] on recollections of voir dire responses, we believe the better practice would be to have the jurors' voir dire responses read back by the court reporter. *See Overstreet v. State*, 712 So. 2d 1174 (Fla. 3d DCA 1998).

As the inquiry below continued, the trial court apparently was not yet convinced Michelin's reason was pretextual, because it stated: "Well, she [Ms. Meeks] says I was very affected by it." Mr. Reiter responded:

MR. REITER: No, no. She said her daughter was affected to the effect that she's glad she didn't suffer a serious injury, that God intervened or what happened, but there was no fault placed whatsoever on the tire. She didn't condemn Michelin.

All the questions asked of Michelin was I'd treat

them fairly, I would treat them no differently than anyone else, my son works for a tire dealer, I know that you're supposed to balance the tires, rotate them, and do all that other stuff.

On the contrary, it is more leaning towards their case than our case. And they have not demonstrated according to the Neal [sic] and Slappy decisions of the Supreme Court and all the cases that I've just cited that they're entitled to strike her.

And we think that, Your Honor, [**10] it is racially motivated, and we would object strongly.

The court denied Michelin's challenge and Ms. Meeks sat on the jury.

[*740] OUR STANDARD OF REVIEW

In *Melbourne v. State*, 679 So. 2d 759 (Fla. 1996) the court set out the guidelines which trial courts should follow when a party objects on racial grounds to an opponent's use of a peremptory challenge. After setting out the guidelines the court stated:

Voir dire proceedings are extraordinarily rich in diversity and no rigid set of rules will work in every case. Accordingly, reviewing courts should keep in mind two principles when enforcing the ? guidelines. First, peremptories are presumed to be exercised in a nondiscriminatory manner. Second, the trial court's decision turns primarily on an assessment of credibility and will be affirmed on appeal unless clearly erroneous.

Id. at 764-765 (footnotes omitted).

The denial of a party's right to exercise peremptory challenges, so long as those challenges are not exercised in a racially improper manner, constitutes error. *Cure v. State*, 564 So. 2d 1251, 1253 (Fla. 4th DCA 1990).

ALLEGED ERROR IN THE

CONDUCT OF THE NEIL INQUIRY

Michelin first argues the trial court [**11] erred, as a matter of law, in the conduct of its *Neil* inquiry by failing to reach the issue of the genuineness of its race-neutral reasons for challenging Ms. Meeks. We disagree, and find the trial court implicitly ruled Michelin's challenge was not genuine.

In *Harrison v. Emanuel*, 694 So. 2d 759 (Fla. 4th DCA), *rev. denied*, 700 So. 2d 685 (Fla. 1997), this court recently reiterated the steps to be followed by a trial court when the issue of race-motivated peremptory challenges arises:

In *State v. Neil*, 457 So. 2d 481 (Fla. 1984), the supreme court established a procedure for the trial court when the issue of race-motivated peremptory challenges arises. The procedure has evolved since then, and was recently clarified:

A party objecting to the other side's use of a peremptory challenge on racial grounds must: a) make a timely objection on that basis, b) show that the venire person is a member of a distinct racial group, and c) request that the court ask the striking party its reason for the strike. If these initial requirements are met (step 1), the court must ask the proponent of the strike to explain the reason for the strike.

At this point, the burden of production [**12] shifts to the proponent of the strike to come forward with a race-neutral explanation (step 2). If the explanation is facially race-neutral and the court believes that, given all the circumstances surrounding the strike, the explanation is not a pretext, the strike will be sustained (step 3). The court's focus in step 3 is not on the reasonableness of the explanation but rather its genuineness. Throughout this process, the burden of persuasion never leaves the opponent of the strike to prove purposeful racial discrimination.

694 So. 2d at 760 (quoting *Melbourne v. State*, 679 So. 2d 759, 764 (Fla. 1996)).

Michelin relies on *Greene v. State*, 718 So. 2d 334 (Fla. 3d DCA 1998) where the appellate court found the trial judge improperly ended the *Neil* procedure at step two when it determined the reasons provided were not ethnic-neutral, even though the reasons were clearly ethnic-neutral. *Id.* at 335. The court reiterated the distinction between step two and step three as recited in *Melbourne*, noting that if reasons given for a peremptory challenge are facially ethnic-neutral, the trial court must then proceed to the third step and assess the genuineness of the reasons [**13] in order to determine whether they are pretextual. *Greene*, 718 So. 2d at 335.

Michelin's reliance on *Greene* is misplaced because although the trial court [*741] below did not use the

magic words of *Melbourne* while conducting the *Neil* inquiry, the court pressed Mr. Reiter to respond to Michelin's reason regarding Ms. Meeks' experience with a Michelin blowout, thus indicating the court found this reason to be facially race-neutral. After Mr. Reiter responded that Michelin accepted other jurors with similar experience with a Michelin blowout, a fact not borne out by the record, the court then denied Michelin's challenge. Although the trial court did not use the language of *Melbourne*, its denial amounted to a finding Michelin's reason was not genuine. *See King v. Byrd*, 716 So. 2d 831 (Fla. 4th DCA 1998) (interpreting a virtually identical procedure to that followed by the trial court below as a determination the proffered reason was not genuine and was a pretext, thus fulfilling step three of the *Melbourne* analysis). Therefore we find no error in the trial court's conduct of the *Neil* inquiry.

ERROR IN THE DENIAL OF

MICHELIN'S PEREMPTORY CHALLENGE

While Michelin's [*14] challenge to the *procedure* utilized below does not demonstrate clear error, its challenge to the trial court's ultimate *ruling* is well-founded. Michelin's first stated ground for its peremptory challenge was that Ms. Meeks had recently been affected by her daughter's Michelin tire blowout experience. As Ms. Meeks explained, testing of the tire revealed the blowout was caused by a defect in the tire: "something wrong with the tire, nothing she ran over, because when they took the tire off the car, the tire had blown from the inside. Something had ripped from the inside." This type of defect was substantially similar to the type of defect the Lovetts would be arguing to the jury.

Ms. Meeks relayed more details of the investigative process, stating: "And it wasn't any visible means or holes in the tire. They tested it and tested it." She explained that all four tires were replaced, even though the other three had not blown out. Overall, Ms. Meeks demonstrated she was well-informed regarding the circumstances of her daughter's blowout to the extent that she recited somewhat detailed information regarding the cause of the blowout and some participation in the remedy, i.e., "So [*15] we got her four new tires." Her unique experience with a defective Michelin tire causing a blowout that potentially, but for divine intervention, could have resulted in the type of accident Mr. Lovett endured, made Ms. Meeks a potential juror Michelin did

not want to sit in judgment of the Lovetts' claim.

Plaintiffs' counsel's contention during the jury selection process that the reason for Michelin's challenge was equally applicable to other jurors, an argument repeated on appeal, is not supported by the record. Neither Mr. Hoag, nor any other potential juror reached during the jury selection process, could have been challenged on the same basis Michelin challenged Ms. Meeks.

Mr. Hoag was changing a Michelin tire on his brand new car because of a slow leak in the tire when he saw that the unused spare tire, also a Michelin, had a cut in the side wall. He returned the spare tire to the dealer and it was replaced. Mr. Hoag's notice of a cut on the side wall of a tire he was about to use for the first time differs significantly from Ms. Meeks' daughter's tire explosion which occurred while driving seventy-five miles per hour on an expressway, and after which it was learned there [*16] was a defect within the tire that caused the blowout. In addition, Mr. Hoag was peremptorily challenged by the Lovetts and did not serve on the jury. Michelin was not required to express its challenge to Mr. Hoag after he was stricken. The only other juror who had any experience with a Michelin blowout was Mr. Hahn, and Mr. Hahn was not reached during voir dire.

Application of the two *Melbourne* principles compels our finding that clear error [*742] occurred in the denial of Michelin's peremptory challenge of Ms. Meeks. Michelin's first stated reason for its peremptory challenge of Ms. Meeks was race-neutral and compelling. Its peremptory challenge was presumed to have been exercised in a non-discriminatory manner. The trial court's assessment of credibility resulting in its implied finding of a lack of genuineness was conducted in an atmosphere tainted by plaintiffs' counsel's inaccurate recollection of jurors' responses to voir dire questioning. A trial court's ruling on the issue of genuineness conducted in such an atmosphere is assailable as having resulted from a clearly erroneous assessment of credibility. On this record, we find the burden of demonstrating clear error has been [*17] met. *See Melbourne*, 679 So. 2d at 764-65.

The instant case presents facts distinguishable from those present in *King, supra*. In *King*, the defendant doctor in a medical malpractice action brought by a mother whose child was brain damaged during birth sought to exercise a peremptory challenge against an

African-American woman on the basis the potential juror was the single mother of two young children. *Id.* at 833. When asked to provide a race-neutral reason for his challenge, counsel first stated he was entitled to peremptorily challenge a potential juror if he did not like "the way they cut their hair." *Id.* He proceeded to explain the single mother of two would identify with the plaintiff and was the last person he wanted on the jury. *Id.* Plaintiff's counsel noted the venire member being challenged was one of the few who expressly stated she could walk out of the courtroom after finding for the defendant and against the plaintiff, and the court stated it would require a better reason from defense counsel. *Id.*

In affirming the court's denial of the defense's attempted peremptory challenge of the venire member, this court emphasized that the trial court's [**18] decision turns primarily on an assessment of credibility, and recognized defense counsel's opening remark regarding the cut of someone's hair "may have evinced to the court a lack of credibility of any of the following explanations." *Id.* at 834.

In the instant case Michelin's first stated reason for its peremptory challenge of Ms. Meeks concerned the similarity between Ms. Meeks' experience with a Michelin blowout and that of Mr. Lovett, a compelling reason that would not have evinced a lack of credibility. Further, statements made by the challenged juror in *King* indicated she would not sympathize with the Plaintiff, while the same is not true here. We disagree with the suggestion that Ms. Meeks was rehabilitated during Michelin's questioning. Her statement regarding a preference for both Michelin and Yokohama tires could be interpreted as indicating apprehension regarding Michelin tires after her daughter's recent experience, just as readily as the interpretation plaintiffs' counsel advocated below of an unwavering commitment to Michelin tires. Thus, the extent of Michelin's rehabilitation of Ms. Meeks is not as clear as the plaintiffs argued below.

We also reject the [**19] argument that Michelin was required to inquire further of Ms. Meeks on the issue of her daughter's Michelin blowout and to ask whether Ms. Meeks was *truly* affected by that experience as she claimed. Such an attempt would necessarily cause Michelin to place before the potential jurors the details of a defective Michelin blowout scenario substantially similar to Mr. Lovett's experience.

Finally, we reject the contention that when Michelin's peremptory challenge of Ms. Meeks is viewed in context, circumstances are apparent which demonstrate an impermissible pretext. We have already assessed the lack of similarity between Ms. Meeks' experience and that of any other potential juror. As to the Lovetts' argument that Michelin exercised a prior strike against a member of the same racial group, Ms. Knight, Michelin challenged [*743] Ms. Knight for cause only after three other similarly situated jurors were successfully challenged for cause because of difficulties they expressed regarding serving on the jury during what was anticipated to be a four to five week trial. Ms. Knight's responses to voir dire questioning supported Michelin's challenge of Ms. Knight who worked two jobs, one of which [**20] was as a crossing guard early in the morning and again in the afternoon, after which she picked-up her children from school and brought them home. She stated she did not live alone in her home, but there was no indication she would receive assistance with her children from any other person. The trial court apparently agreed with Michelin that Ms. Knight would have difficulty serving because it granted Michelin's challenge for cause.

In summary, under the circumstances present here we find the trial court's denial of Michelin's peremptory challenge of Ms. Meeks constitutes clear error such that the final judgment must be reversed and the cause remanded for a new trial.

REVERSED and REMANDED.

STEVENSON and HAZOURI, JJ., concur.

APPENDIX

The following chart summarizes the venire members' experiences with tire blowouts and their treatment during the jury selection process. We reiterate this chart was not before the trial court at the time of voir dire and was not available to counsel. It was prepared by a staff attorney of this court to assist the panel in its analysis of this issue.

Juror's Experience

With Flats or Blowouts Jurors Challenged for Cause, Peremptorily, [21] By Which Side, Reason Given Stricken/**

Chosen/ Not Reached

Mr. Hoag - two or three blowouts, never lost control, 40 mph or less, does not recall the make of tires, has Michelin now, once returned a Michelin tire when he noticed a cut or gap in side wall of spare tire Challenged peremptorily by Plaintiffs Stricken Peremptorily by Plaintiffs **Ms. Meeks** - flat tire, affected by Daughter's recent blowout on Michelin tire, tire tested, cause of blowout unknown, replaced all four tires with Michelin, prefers Michelin and Yokohama

Challenged for cause by Michelin, responses about son's litigation either based on misunderstanding or untruthful, challenge denied;

Michelin attempted to peremptorily challenge Meeks, but court denied Michelin's attempt Juror Number 1

African- American **Mr. Aiken** - couple flats, no serious blowouts, uses Firestone tires based on price Juror Number 2

African- American **Mr. Smith** - blowout at 60 mph on Goodrich tire, now has Michelin

Challenged for cause by Plaintiff, he said his business would be devastated, he would be distracted, stricken Stricken for Cause by Court **Ms. Johnson** - blowout on Okeechobee, ran [*22] over something, big hole in tire, took foot off gas and moved vehicle over, did not know make of tire Juror Number 3 **Mr. Lakey** - three blowouts, ran over metal twice and metal puncture once Challenged peremptorily by Plaintiffs Stricken Peremptorily by Plaintiffs **Ms. Siena** - observed truck blowout, remnant of tire blew up into her windshield, truck started swerving, everyone got out of truck's way Juror Number 4 **Ms. Jones** - two blowouts, one at 65 mph, controlled car to stop, old tires and hit something. second blowout five months ago when hit something on I-95, came to stop, did not know make of either tire Juror Number 5

African- American **Ms. Mettler** - never had a blowout, just flat tires, slow flats. has seen "retread coming off, pieces flying." believed her current tires were Goodyear Challenged for cause by Michelin on basis her attorney husband's ex-partner represented by counsel for Michelin in ongoing litigation and other connections to counsel, stricken Stricken for Cause by Court **Ms. Lori-Steiber** - passenger in [*744] vehicle with blowout, 55 mph, caused by wear Challenged for cause by Michelin

on basis she said her business would be devastated, Plaintiffs [*23] objected, stricken Stricken for Cause by Court **Ms. Knight** - no experience with blowouts, never observed blowout, did not know make of tires Challenged for cause by Michelin on basis single mother with three young children and two jobs, Plaintiffs objected, stricken Stricken for Cause by Court

African- American **Ms. Golle** - blowout thirty years ago 65-70 mph, able to bring vehicle to stop Challenged for Cause by Michelin on basis she would have hardship serving, denied by court. Challenged peremptorily by Michelin Stricken Peremptorily by Michelin **Ms. Niemann** - passenger in vehicle with blowout years ago when her family could afford only recapped tires, did not know make of tire Juror Number 6 **Ms. Roy** - passenger in vehicle with blowout 13 months ago, 60 mph, picked up metal, car came to stop, could not remember make of tire First Alternate **Mr. Coppernoll** - blowout many years ago, 65 mph, resulted from small bubble, did not know make of tire Challenged peremptorily by Plaintiffs Stricken Peremptorily by Plaintiffs **Ms. Lennett** - no experience with blowouts, uses Firestone tires Second Alternate

Excused during trial on revealing her first husband was a double [*24] amputee **Mr. Hahn** - two blowouts, 2nd was Michelin, 60-65 mph, lost control, no injury, now has Michelin tires Not Reached **Mr. Lolmaugh** - blowouts due to debris on job sites Challenged for cause by Plaintiffs on basis his business needed him, Michelin objected, stricken Stricken for Cause by Court **Ms. Israel** - passenger in vehicle with blowout, controlled Not Reached **Mr. Schlaff** - no blowout but outside tread of tire came off 15-18 years ago Not Reached **Mr. Prowler** - two blowouts, most recent 3-4 years ago Challenged for cause by Michelin on basis of statement manufacturer would hide latent defect, Plaintiff objected, stricken Stricken for Cause by Court **Mr. Minor** - blowout 5 mos. ago on Firestone tire at 60 mph Not Reached **Ms. Deveroomen** - blowout 28 years ago at 35 mph, controlled vehicle to stop Challenged for cause by Plaintiffs on basis mother worked for Jones Foster, no objection, stricken Stricken for Cause by Court **Mr. Fleishman** - blowout at 70 mph on Cooper tire, stopped vehicle without incident Challenged for cause by Michelin on basis he said he could not be fair due to experience with DES litigation, no objection, stricken Stricken for Cause [*25] by Court