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GEGAT OY ÁFFÁCKEÁÚT The Honorable Catherine Shaffer
SÖ ÖÁUW P VY Hearing Date: May 15, 2020
ÚWÚÖÜWÜÁUWÜVÁÖŠÖÜS With Oral Argument (if ordered)
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SUPERIOR COURT OF WASHINGTON FOR COUNTY OF KING

ANGELA KELLY; and JANYCE L.
MACKENZIE,

Plaintiffs,

vs.

COOPER TIRE & RUBBER COMPANY, a
Delaware corporation; TBC CORPORATION,
a Delaware corporation; MEINEKE CAR
CARE CENTERS, LLC, a North Carolina
corporation; MCCC 4333, INC. d/b/a
MEINEKE CAR CARE CENTER #4333, a
Washington corporation; and SEARS,
ROEBUCK AND CO., d/b/a SEARS® AUTO
CENTER and/or SEARS, ROEBUCK AND
CO. #2049, a New York corporation,

Defendants.

NO. 18-2-17249-7 SEA

DEFENDANT MCCC 4333, INC.'S
REPLY TO PLAINTIFF
MACKENZIE'S RESPONSE TO
MEINEKE CAR CARE CENTERS'
MOTION FOR SUMMARY
JUDGMENT

COMES NOW defendant MCCC 4333, Inc. d/b/a Meineke Car Care Center #4333, Inc. ("MCCC 4333"), by and through its counsel of record, Fallon McKinley PLLC, and replies to Plaintiff Janyce L. Mackenzie's Response to Meineke Car Care Center's Motion for Summary Judgment as follows.

Although Defendant MCCC 4333 takes no position on Meineke's Motion for Summary Judgment itself, it would like to clarify the following facts erroneously asserted in Plaintiff MacKenzie's Response to the Motion:

- MCCC 4333 vehemently denies that the measurements taken of Ms. MacKenzie's

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vehicle in April 2016 were falsified; there is absolutely no testimony or evidence to support this allegation. Ms. MacKenzie alleges that the inspection form used at MCCC 4333 “is too easily falsified.” Response at 18:11-15. She also claims “an inference arises whether there was an inspection or whether the numbers were falsified by the Meineke technician.” Response at p. 21:7-9; 5:4-6. In reality, no such inference exists. Again, there is no testimony or evidence whatsoever to support that anyone at MCCC 4333 falsified its vehicle inspection forms.

Moreover, although Ms. MacKenzie’s retained expert measured the tire tread depths between 1/32 and 4.5/32, this is in direct contradiction to the measurements taken by the Montana Highway Patrol (MHP) during its inspection immediately following the accident. The MHP measurements, taken approximately four months after MCCC 4333’s April 2016 measurements and on the same day as the accident, were between 4/32 and 7/32, well within the legal limit for tread depth. RCW 46.37.425(4); Declaration of Eden E. Goldman (“Goldman Decl.”) at Ex. 1.

- Plaintiff MacKenzie claims MCCC 4333 store manager Kyle Johnson “doesn’t actually know what a 23-point or 35-point inspection entails.” Response at p. 6. Again, this is false. Mr. Johnson testified he knows what the “23 point inspection” is referring to, but merely stated that it isn’t actually 23 points. Goldman Decl. at Ex. 2, p. 134:11-14. He also testified that a 23-point or 35-point inspection is “all the same. It’s the sheet ... It’s the inspection form.” Goldman Decl. at Ex. 2, p. 82:23-83:8. Clearly, Mr. Johnson knew that a 23 point inspection was the vehicle inspection reflected on the vehicle inspection form.
- Plaintiff MacKenzie unnecessarily spends multiple pages in her Response discussing tire age, when she admits that the subject tire on Plaintiff’s vehicle at the time of the

1 accident was just over 8.5 years old, and also acknowledges that 10 years old is the
2 age at which a tire should leave service. Accordingly, any inspection, or lack thereof,
3 of tire age at the time Ms. MacKenzie's vehicle was brought to MCCC 4333 is
4 immaterial. The tire was well within industry standards, as well as the Cooper Tire
5 standard of 10 years specifically included in MacKenzie's Response.

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7 DATED this 11th day of May, 2020.

8 FALLON MCKINLEY, PLLC
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11 By: /s/ Eden E. Goldman

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CERTIFICATE OF SERVICE

I hereby certify that on this day I served a true and correct copy of the foregoing upon the following counsel in the manner as indicated below:

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|--|---|
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10 DATED this 11th day of May, 2020 in Seattle, Washington.

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