

MODIFY and AFFIRM; Opinion Filed September 13, 2017.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-15-00001-CV

**THE GOODYEAR TIRE & RUBBER COMPANY, Appellant
V.
VICKI LYNN ROGERS, INDIVIDUALLY AND AS
REPRESENTATIVE OF THE ESTATE OF CARL ROGERS,
NATALIE ROGERS, AND COURTNEY DUGAT, Appellees**

**On Appeal from the County Court at Law No. 5
Dallas County, Texas
Trial Court Cause No. CC-10-03294-E**

SUPPLEMENTAL OPINION

Before Justices Lang, Brown, and Whitehill
Opinion by Justice Whitehill

In our opinion dated August 31, 2017, we suggested remittitur of \$1,740,000 of the exemplary damages awarded to appellees Vicki Lynn Rogers, Natalie Rogers, and Courtney Dugat. We stated that if appellees filed the remittitur with fifteen days, we would modify the trial court's judgment to award appellees \$1,150,000 in exemplary damages and affirm the judgment as modified.

On September 6, 2017, appellees filed their consent to the suggestion of remittitur. Accordingly, we vacate our judgment, but not our opinion, dated August 31, 2017, and modify the trial court's judgment to reflect the specified remittitur. The trial court's judgment is modified to award appellees exemplary damages in the amount of \$1,150,000, apportioned

among appellees according to the jury's findings. We affirm the trial court's judgment as modified. This Court's opinion of August 31, 2017, otherwise remains in effect.

/Bill Whitehill/

BILL WHITEHILL
JUSTICE

Brown, J., dissenting

150001SF.P05



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

THE GOODYEAR TIRE & RUBBER
COMPANY, Appellant

No. 05-15-00001-CV V.

VICKI LYNN ROGERS, INDIVIDUALLY
AND AS REPRESENTATIVE OF THE
ESTATE OF CARL ROGERS, NATALIE
ROGERS AND COURTNEY DUGAT,
Appellees

On Appeal from the County Court at Law
No. 5, Dallas County, Texas
Trial Court Cause No. CC-10-03294-E.
Opinion delivered by Justice Whitehill.
Justices Lang and Brown participating.

We vacate our judgment dated August 31, 2017. In accordance with this Court's opinion of August 31, 2017, and supplemental opinion of September 13, 2017, we **MODIFY** the trial court's judgment as follows:

The judgment's fourth paragraph is modified to read:

"Therefore, the Court orders that Plaintiffs recover from Defendant THE GOODYEAR TIRE & RUBBER COMPANY the sum of \$1,150,000, plus postjudgment interest at the annual rate of 5.0%."

The judgment's fifth paragraph is modified to read:

"The Judgment shall be apportioned as decided by the jury as follows:

Vickie Lynn Rogers:	90%	\$1,035,000.00
Courtney Dugat:	5%	\$57,500.00
Natalie Rogers:	5%	\$57,500.00
	100%	\$1,150,000.00"

It is ordered that, as modified, the judgment of the trial court is **AFFIRMED**.

It is **ORDERED** that each party bear its own costs of this appeal.

Judgment entered September 13, 2017.