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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

WESTERN SURETY COMPANY,  
a South Dakota corporation,

No. 2:08-cv-02718-MCE-DAD

Plaintiff,

v.

**ORDER**

AUTO AMERICA, INC., a  
California corporation;  
MOCTEZUMA TOVAR, an  
individual; PENELEEYU  
TOVAR, an individual,  
WACHOVIA DEALER SERVICES,  
INC., a California corporation,  
TRUCK CITY AUTO SALES, INC.,  
a California corporation;  
FIRESIDE BANK, a California  
corporation; LOBEL FINANCIAL  
CORPORATION, a California  
corporation, CALIFORNIA  
DEPARTMENT OF MOTOR VEHICLES,  
a California state agency,

Defendants.

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Plaintiff is the surety for a motor vehicle dealer,  
Defendant Auto America, Inc. After the dealership and its  
owners, Defendants Moctezuma Tovar and Peneeleyu Tovar, began to  
experience alleged financial difficulties, Plaintiff alleges that

1 multiple claims were asserted by the remaining Defendants against  
2 the Tovars and their business, which in turn led to claims  
3 against Plaintiff's surety bond. Through the present  
4 Interpleader action, Plaintiff has deposited its bond amount in  
5 the amount of \$50,00.00 given the conflicting claims against its  
6 bond.

7 Plaintiff now moves for permission to file a Third Amended  
8 Complaint in this matter which will add a recently discovered  
9 additional claimant to the bond proceeds, Alicia Zapata, as a  
10 Defendant. Defendant Wachovia Dealer Services, Inc. has filed a  
11 Statement of Non-Opposition to Plaintiff's Motion. No other  
12 defendant has filed any opposition.

13 Given the lack of any opposition, and good cause appearing  
14 therefor, Plaintiff's Motion (Docket No. 43) is hereby GRANTED.<sup>1</sup>  
15 The April 8, 2010 hearing date is accordingly vacated. Plaintiff  
16 may file a Third Amended Complaint adding Alicia Zapata as a  
17 Defendant to this matter not later than ten (10) days following  
18 the date this Order is electronically filed with the Court.

19 IT IS SO ORDERED.

20 Dated: April 2, 2010

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23 MORRISON C. ENGLAND, JR.  
24 UNITED STATES DISTRICT JUDGE

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28 <sup>1</sup> Because oral argument was not of material assistance, the  
Court orders this matter submitted on the briefs. E.D. Cal.  
Local Rule 230(g).