

1 GARY B. ROTH, ESQ., State Bar No. 248031  
 2 BOXER & GERSON, LLP  
 3 300 Frank H. Ogawa Plaza, Suite 500  
 4 Oakland, California 94612  
 5 Telephone: (510) 835-8870  
 6 Facsimile: (510) 835-0415  
 7 E-mail: [groth@boxerlaw.com](mailto:groth@boxerlaw.com)

8 Attorneys for Plaintiff  
 9 RAYMOND P. MARIOLLE

10 IN THE UNITED STATES DISTRICT COURT  
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 RAYMOND P. MARIOLLE,  
 13 Plaintiff,

14 vs.

15 VOLVO GROUP NORTH AMERICA,  
 16 INC.; CONSOLIDATED METCO, INC.;  
 17 AMSTED INDUSTRIES, INC.; and  
 18 DOES 1 through 25, inclusive,  
 19 Defendants.

) No. C-09-1209 MMC

) ASSIGNED FOR ALL PURPOSES TO  
 ) THE HONORABLE MAXINE M. CHESNEY  
 ) **CONDITIONAL ORDER RE:**  
 ) **MOTION FOR LEAVE TO FILE SECOND**  
 ) **AMENDED COMPLAINT, AND ORDER**

20 NOW INTO COURT, through undersigned counsel, comes Raymond Mariolle, plaintiff herein,  
 21 who moves this Honorable Court for an order permitting plaintiff to file a Second Amended Complaint  
 22 to name FEDERAL SIGNAL CORPORATION ("FSC") as an additional defendant in this action.

23 This personal injury action has been instituted to recover damages sustained by Raymond P.  
 24 Mariolle as a consequence of two single-vehicle collisions which were caused by the failure of the  
 25 vehicle's wheel hubs. The Volvo vehicle operated by Mr. Mariolle at the time of the collision sustained  
 26 hub failures on September 17, 2007 and October 29, 2007, causing a tire and rim of the vehicle to detach  
 27 and the vehicle to lose control.

28 Upon information and belief, the vehicle was designed, manufactured, distributed and sold by  
 Volvo Trucks North America, Inc. (VTNA) with component parts which were manufactured by


1 Consolidated Metco, Inc. and/or Amsted Industries, Inc. VTNA and Consolidated Metco, Inc. alleged  
2 that Labrie and Wittke were responsible for the alleged defects in the vehicle.

3 Plaintiff seeks to amend the complaint pursuant to Rule 15(a)(2) of the Federal Rules of Civil  
4 Procedure. The proposed Second Amended Complaint is attached as Exhibit "1" and is incorporated  
5 herein as if copied *in extenso*. The sole reason for amending the complaint is to address the recent  
6 allegation by Labrie and Wittke regarding the fault of FEDERAL SIGNAL CORPORATION.

7 Counsel for plaintiff has contacted Matt F. Cohen, counsel for VTNA, Anthony E. Sonnett,  
8 counsel for Amsted Industries, Inc. and Consolidated Metco, Inc., and Lisa Feramisco, counsel for  
9 Wittke and Labrie regarding this motion. Counsel for VTNA has advised that his client does not oppose  
10 the motion. Counsel for Amsted Industries, Inc. and Consolidated Metco, Inc. has advised that his  
11 clients do not oppose the motion. Counsel for Wittke and Labrie has advised that her clients do not  
12 oppose the motion.

13  
14 Dated: February 28, 2011


BOXER & GERSON, LLP

15 By:   
16 GARY B. ROTH  
17 Attorneys for Plaintiff  
RAYMOND P. MARIOLLE

18 **ORDER**

19 IT IS ORDERED that Raymond Mariolle may file the Second Amended Complaint, provided  
20 said Second Amended Complaint is filed no later than March 7, 2011 and further provided service  
thereof is accomplished as to the newly-named defendant, and proof of such service filed, no later  
than April 18, 2011.

21 DATED: March 3, 2011

22   
23 THE HONORABLE MAXINE M. CHESNEY  
24 Judge of the United States District Court