

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PERFORMANCE CONTRACTING, INC.,
Plaintiff,
v.
ENGINEERED WALL SYSTEMS, INC.,
Defendant,
TOP NOTCH COLLISION, LLC,
Third-Party Defendant.

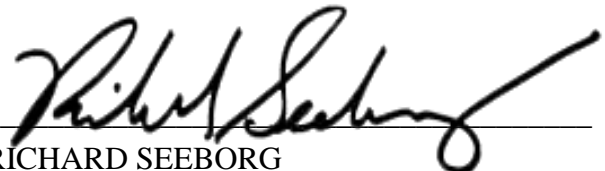
Case No. [15-cv-05245-RS](#)

**ORDER DENYING MOTION TO
DISMISS THIRD-PARTY COMPLAINT**

Third-party defendant Top Notch Collision, LLC, filed a motion to dismiss defendant Engineered Wall Systems, Inc.’s (“EWS”) third-party complaint. In lieu of filing an opposition to the motion to dismiss, EWS filed a first amended third-party complaint. See Fed. R. Civ. P. 15(1)(B). EWS’s motion to dismiss the complaint is therefore denied without any prejudice to its ability to challenge the sufficiency of the first amended complaint.

IT IS SO ORDERED.

Dated: February 12, 2016


RICHARD SEEBORG
United States District Judge