

# **EXHIBIT 5**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY *[Signature]* D.C.

05 FEB -7 PM 2:46

ROBERT R. DI TROLIO  
CLERK, U.S. DIST. CT.  
W.D. OF TN, MEMPHIS

AMERICAN COPPER & BRASS, INC., on behalf of  
itself and all others similarly situated,

Plaintiff,

v.

BOLIDEN AB, et al.,

Defendants.

CIVIL ACTION NO. 04-2771 - DV ✓  
Honorable Judge Bernice B. Donald  
Magistrate Judge Diane K. Vescovo

THE BANKRUPT ESTATE OF SMITH  
AND WOFFORD PLUMBING AND  
INDUSTRIAL SUPPLY, INC. on behalf of  
Itself and all others similarly situated,

Plaintiff,

v.

BOLIDEN AB, et al.,

Defendants.

CIVIL ACTION NO. 04-2930-DV  
Honorable Judge Bernice B. Donald  
Magistrate Judge Diane K. Vescovo

**AMENDED ~~PROPOSED~~ ORDER TO APPOINT PLAINTIFFS'  
CO-LEAD COUNSEL, CO-LIAISON COUNSEL, AND CONSOLIDATE CASES**

This matter is before the Court upon the respective applications of American Copper & Brass, Inc., and The Estate of Smith and Wofford Plumbing and Industrial Supply, Inc., for appointment of interim Lead and Liaison Counsel for the Plaintiff Class. Pursuant to Rule 23(g), the Court has reviewed the submissions of the parties. Since those filings, the parties have reached an agreement regarding a workable lead counsel arrangement, as evidenced by the joint motion filed by the Plaintiffs on February 3, 2005. Therefore the Court hereby Orders as follows:

*(56)*

1. The law firms of Wolf Haldenstein, Adler, Freeman and Hertz, LLP, and Alexander, Hawes & Audet, LLP, both have significant experience in handling complex class actions and prosecuting similar claims for class members in other cases. Additionally, the Bramlett Law Offices and the firm of Glassman, Edwards, Wade & Wyatt, PC, are well versed in local law and are located in Tennessee. The firms together can adequately represent the interests of the proposed class. Accordingly, for the reasons set forth above and for other reasons, the parties stipulate and the Court finds and determines that Alexander, Hawes & Audet and the Wolf Haldenstein firm will serve as Interim Co-Lead Counsel and the Bramlett Law Offices and Glassman, Edwards, Wade & Wyatt, PC, will serve as Interim Co-Liaison Counsel.

2. The following actions are hereby consolidated for all purposes, including pretrial proceedings, trial and appeal, pursuant to Rule 42 of the Federal Rules of Civil Procedure:

<b>Abbreviated Case Name</b>	<b>Case Number</b>	<b>Date Filed</b>
<i>American Copper &amp; Brass, Inc. v. Boliden AB, et al</i>	04-2771 - DV	09/24/04
<i>The Bankrupt Estate of Smith &amp; Wofford Plumbing &amp; Industrial Supply, Inc. v. Boliden AB, et al</i>	04-2930 - DV	11/17/04

3. The caption of these consolidated actions shall be "*In re: Copper Tubing Litigation*" and the files of these consolidated actions shall be maintained in one file under Master File No. 04-2771 - DV. Any other actions now pending or later filed in this Court which arise out of or are related to the same facts as alleged in the above-identified cases shall be consolidated for all purposes, if and when they are brought to the Court's attention.

4. Every pleading filed in the consolidated actions, or in any separate action included

herein, shall bear the following caption:

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

In re COPPER TUBING LITIGATION	)	Master File No. 04-2771 - DV
	)	
This Document Relates To:	)	
	)	

5. When a pleading is intended to be applicable to all actions governed by this Order, the words "All Actions" shall appear immediately after the words "This Document Relates To:" in the caption set out above. When a pleading is intended to be applicable to only some, but not all, of the consolidated actions, this Court's docket number for each individual action to which the pleading is intended to be applicable and the last name of the first-named plaintiff in said action shall appear immediately after the words "This Document Relates To:" in the caption described above (e.g., "\_\_\_\_\_ (\_\_\_\_)").

6. Plaintiffs, through Lead Counsel appointed by Order of this Court, shall file and serve a single consolidated complaint within 30 days after the entry of this Order. The consolidated complaint shall be deemed the original complaint, superseding all complaints filed in any of the actions consolidated hereunder or in any related cases. Defendants shall have sixty (60) days from the service of the Consolidated Complaint to answer, move, or otherwise respond to the Consolidated Complaint.

**IT IS SO ORDERED.**

*Ariane K. Vecovo*  
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JUDGE BERNICE B. DONALD  
DATE: *February 7, 2005*  
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