

THE HONORABLE MARSHA J. PECHMAN

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

STATE FARM FIRE & CASUALTY, as  
subrogee for Sandra J. Slisco,

Plaintiff,

v.

BROAN-NUTONE, LLC, a foreign limited  
liability company and NUTONE, INC., a  
foreign corporation and wholly-owned  
subsidiary of BROAN-NUTONE, LLC,

Defendants.

No. 08-CV-876 (MJP)

STIPULATION TO AMEND CASE  
SCHEDULE AND TRIAL DATE AND  
ORDER THEREON

NOTE FOR MOTION CALENDAR:  
MARCH 23, 2009

COMES NOW, the plaintiff State Farm Fire & Casualty (“State Farm”) and defendant Broan-NuTone, LLC (“Broan-NuTone”), by and through their attorneys, and hereby stipulate and agree that the outstanding dates forth in the Court’s Order Setting Trial Date & Related Dates, including the trial date, each be postponed approximately 60 days to permit the parties to pursue mediation and settlement and ask the Court to approve this postponement. The parties submit that good cause exists to amend the scheduling order because of complications and delays arising from locating and deposing out-of-state witnesses, because of the complexities of the engineering and expert evidence in the case, and for reasons of efficiency and the conservation of

**Perkins Coie LLP**  
1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
Phone: 206.359.8000  
Fax: 206.359.9000

1 the parties' resources that would achieved by permitting mediation prior to additional and costly  
2 discovery.  
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5 This case arises from a residential fire that occurred on June 27, 2005 at the home of  
6 Sandra and Erin Slisco, located at 3212 150th Place S.E., Mill Creek, Washington. The property  
7 insurer, State Farm, alleges that a Broan-NuTone fan, a Model 689-H ceiling ventilation fan,  
8 caused the fire. State Farm filed this subrogation action seeking to recoup \$322,564.25 on the  
9 basis of design and manufacturing defects in the fan, as well as on failure to warn and warranty  
10 grounds. A formal mediation pursuant to the Court's Order is set for April 6, 2009 before Tom  
11 Harris, a mediator from the Washington Arbitration and Mediation Service.  
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19 The parties have actively engaged in discovery for months, exchanging multiple sets of  
20 written discovery and taken depositions of factual witnesses. The parties agree, however, that  
21 further discovery, and in particular expert depositions, is necessary and that the current case  
22 deadlines and trial date do not allow for completion of that discovery. While the parties had  
23 originally sought delay of the discovery cut-off (currently April 1, 2009) and dispositive motion  
24 deadline (currently April 22, 2009) only, that proposal was rejected by the Court as not providing  
25 sufficient detail of good cause, or sufficient time for the Court's decision on dispositive motions  
26 prior to trial, which is currently set for July 20, 2009. Accordingly, the parties have now  
27 stipulated and agreed that a 60-day postponement of the trial date and the other outstanding case  
28 deadlines as listed below is supported by good cause, as explained below, and is prudent and  
29 necessary to allow discovery and dispositive motions practice, among other things, to be fully  
30 developed. Each party has discussed this postponement with its respective clients and each  
31 client agrees to the postponement and the reason for the postponement.  
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45 First, good cause exists for postponement because State Farm's subrogee, the property  
46 owner Sandra Slisco, along with her daughter Erin Slisco—who was the first eyewitness to the  
47 fire—have moved out of the State of Washington. Efforts to locate and serve subpoenas at  
48 various addresses and cities in Washington over the past months have proved fruitless. Initial  
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1 attempts to serve the Sliscos at the Mill Creek home were unsuccessful, as the Sliscos had moved  
2 out. Similarly, attempts to serve subpoenas at Sandra Slisco's last-known place of employment  
3 in Everett, Washington failed as she no longer worked there. The daughter, Erin Slisco, was then  
4 traced to an address in Bellingham, Washington, but repeated efforts to serve her there likewise  
5 failed. (Complicating locating and serving Erin is the fact that she apparently may now go by  
6 another name, "Aaron".) Two additional addresses for the Sliscos were obtained in Lynwood,  
7 Washington, in January 2009, but once again, attempted service at these locations proved  
8 fruitless. The parties recently learned that both individuals are now located in southern  
9 California, in Cathedral City. Both State Farm and Broan-NuTone, moreover, wish to depose the  
10 individuals prior to the end of discovery. An extension of the case deadlines is necessary to  
11 allow for the locating, scheduling, and taking (and perhaps even the compelling) of the  
12 depositions of the Sliscos.  
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24 Second, between the parties there are five different expert witnesses in the case who have  
25 submitted four expert reports, plus two rebuttal expert reports. The reports are hundreds of pages  
26 and involve complex issues of electrical engineering, metallurgy and combustion science. No  
27 depositions of any expert witness has yet occurred, as the parties have focused completing  
28 rebuttal expert reports and depositions of factual witnesses, including depositions of four  
29 responding fire fighters (that have occurred) and depositions of the homeowner and daughter  
30 (that have not occurred due to their transitory nature described above).  
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38 Finally, there is a formal Court-ordered mediation scheduled for April 6, 2009 before  
39 Tom Harris. Given that there exists the potential for a mediated resolution of the case prior to  
40 the undertaking of the costs and expenses involved in taking depositions of multiple expert  
41 witnesses and traveling out of state to take factual depositions, the parties jointly stipulate and  
42 agree that good cause exists to postpone the outstanding case deadlines 60 days to permit the  
43 scheduled mediation to proceed. So doing would both be more efficient and better facilitate  
44 settlement than if the parties were to expend the significant resources (in terms of legal and  
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/s/ Craig Evezich

Craig Evezich, Esq., WSBA No. 20957  
E-Mail: craig@evezich.com  
Evezich Law Offices, PLLC  
600 University Street, Suite 2701  
Seattle, WA 98101  
Telephone: (206) 576-6900  
Facsimile: (206) 624.8241

Attorney for Plaintiff  
State Farm Fire & Casualty

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/s/ Eric S. Lent

Eric S. Lent, WSBA No. 38308  
ELent@perkinscoie.com  
Perkins Coie LLP  
1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
Telephone: 206.359.8000  
Facsimile: 206.359.9000

Attorneys for Defendant  
Broan-NuTone, LLC

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IT IS SO ORDERED:

Dated this 30th day of March, 2009



Marsha J. Pechman  
United States District Judge

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3 **CERTIFICATE OF SERVICE**  
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5 On March 23, 2009, I caused to be served upon counsel of record, at the addresses stated  
6 below, via the method of service indicated, a true and correct copy of the foregoing  
7

8 **STIPULATION TO AMEND CASE SCHEDULE AND TRIAL DATE AND ORDER**  
9  
10 **THEREON.**

11  
12 *Attorney for Plaintiff*

13 Craig Evezich, Esq.  
14 Evezich Law Offices, PLLC  
15 600 University Street, Suite 2701  
16 Seattle, WA 98101  
17 Telephone: (206) 576-6900  
18 Facsimile: (206) 624.8241  
19 E-Mail:craig@evezich.com  
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By CM/ECF  
 By U.S. Mail  
 By Messenger

22  
23 I certify under penalty of perjury under the laws of the State of Washington that the  
24  
25 foregoing is true and correct.  
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28 DATED: March 23, 2009

/s/ Julia D. Wood

\_\_\_\_\_  
29 Julia D. Wood  
30 **Perkins Coie LLP**  
31 1201 Third Avenue, Suite 4800  
32 Seattle, WA 98101-3099  
33 Telephone: 206.359.8000  
34 Facsimile: 206.359.9000  
35 E-mail: jdwood@perkinscoie.com  
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