

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

LEA BLACK,

Plaintiff,

V.

PRIDE MOBILITY PRODUCTS  
CORPORATION, et al.,

## Defendants.

C15-2008 TSZ

## MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

13 (1) Plaintiff's motion for judgment on the pleadings, docket no. 40, is  
14 DENIED. This Court cannot decide as a matter of law, if Pride branded the product  
15 pursuant to RCW 7.72.040(2) at this time. The affirmative defenses of failure to join a  
16 necessary party and apportionment of fault are available to a defendant in the context of  
negligence claims under RCW 7.72.030(1). *See Hiner v. Bridgestone/Firestone, Inc.*,  
138 Wn. 2d 248, 978 P.2d 505 (1999). This Court declines to convert this 12(c) motion  
into a summary judgment motion because whether plaintiff is a product seller under  
RCW 7.72.010(1) must await summary judgment.

(2) Plaintiff's unopposed motion to amend their complaint, docket no. 42, is GRANTED.

(3) The Clerk is directed to send a copy of this Minute Order to all counsel of record.

Dated this 27th day of January, 2017.

William M. McCool  
Clerk

s/Karen Dews  
Deputy Clerk