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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT SEATTLE

6 LEA BLACK,

7 Plaintiff,

8 v.

9 PRIDE MOBILITY PRODUCTS
CORPORATION, et al.,

10 Defendants.

C15-2008 TSZ

MINUTE ORDER

11 The following Minute Order is made by direction of the Court, the Honorable
12 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.

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

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

20 Dated this 27th day of January, 2017.

21 William M. McCool
Clerk

22 s/Karen Dews
23 Deputy Clerk