

PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 08-1872

In re: EXIDE TECHNOLOGIES,

Debtors,

ENERSYS DELAWARE, INC., formerly known as EnerSys Inc.,

Appellant.

On Appeal from the United States District Court
for the District of Delaware
(D. C. No. 1-06-cv-00302)
District Judge: Hon. Sue L. Robinson

Argued on May 12, 2009

Before: AMBRO, ROTH and ALARCÓN*, Circuit Judges

Robert Lapowsky, Esquire (**Argued**)
Neil C. Schur, Esquire
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*Honorable Arthur L. Alarcón, Senior United States Circuit Judge for the Ninth Circuit, sitting by designation.

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ROTH, Circuit Judge:

ORDER AMENDING OPINION

IT IS ORDERED that the published Opinion in the above case, filed on June 1, 2010, be amended as follows:

On page 11, delete the following parenthetical:

“Non-occurrence of a condition is not a breach by a party unless he is under a

condition that the condition occur.”

and **replace it with:**

“Non-occurrence of a condition is not a breach by a party unless he is under a duty that the condition occur.”

This amendment does not change the date of filing, June 1, 2010.

By the Court,

/s/ Jane R. Roth
Circuit Judge

Dated: June 24, 2010
PDB/cc: All Counsel fo Record