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dba STANDARD INDUSTRIES, X-BODY
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Attorneys for Defendant ALLSTATE PAPER &
METAL RECYCLING CO., INC.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

ADVANCED STEEL RECOVERY, LLC,

Plaintiff,

v.

X-BODY EQUIPMENT, INC.,
JEWELL ATTACHMENTS, LLC, J.D.M.L., INC.
dba STANDARD INDUSTRIES, and ALLSTATE
PAPER & METAL RECYCLING CO., INC.,

Defendants.

) CASE NO. 2:16-CV-00148-KJM-EFB
)
) **[PROPOSED ORDER] GRANTING**
) **STIPULATED JOINT MOTION TO**
) **SEVER AND STAY CASE AS TO**
) **DEFENDANTS J.D.M.L., DBA**
) **STANDARD INDUSTRIES AND**
) **ALLSTATE PAPER & METAL**
) **RECYCLING CO., INC. TO RESPOND**
) **TO COMPLAINT**

) Hon. Kimberly J. Mueller
) Courtroom 3, 15th Floor

1 Having considered the joint stipulated motion of all parties in the above-entitled lawsuit to
2 sever and stay the lawsuit as to defendants J.D.M.L., Inc. dba Standard Industries (“Standard”) and
3 Allstate Paper & Metal Recycling Co., Inc. (“Allstate”), and good cause appearing therefore, the
4 MOTION IS HEREBY GRANTED. *See In re Nintendo of Am., Inc.*, 756 F.3d 1363, 1365 (Fed. Cir.
5 2014) (“When a patent owner files an infringement suit against a manufacturer’s customer and the
6 manufacturer then files an action of noninfringement or patent invalidity, the suit by the
7 manufacturer generally take precedence for it is the manufacturer who is generally the ‘true
8 defendant’ in the dispute.”).

9 The lawsuit is hereby severed as to defendant Standard, and that case is stayed pending the
10 outcome of the patent infringement claim by plaintiff Advanced Steel Recovery, LLC (“ASR”)
11 against defendants X-Body Equipment, Inc. (“X-Body”) and Jewell Attachments, LLC (“Jewell”).

12 Independently, the lawsuit is hereby severed as to defendant Allstate, and that case is stayed
13 pending the outcome of the patent infringement claim by ASR against X-Body and Jewell. *See 35*
14 *U.S.C. § 299(a)(1)* (multiple defendants cannot be joined in one patent action unless the right to
15 relief asserted in the complaint arises “out of the same transaction, occurrence, or series of
16 transactions or occurrences relating to the making, using, importing into the United States, offering
17 for sale, or selling of the same accused product”); *Fed. R. Civ. P. 21* (the court may sever any claim
18 against a party that is misjoined); *see also Mednovus, Inc. v. QinetiQ Grp. PLC*, No. 2:12-03487,
19 2012 WL 4513539 (C.D. Cal. Oct. 1, 2012).

20 IT IS SO ORDERED.

21 DATED: March 30, 2016

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24 UNITED STATES DISTRICT JUDGE
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