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8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**

11	JOHN RUBI,)	No. C05-3445 MJJ
12	Plaintiff,)	
13	vs.)	STIPULATION AND [PROPOSED]
14	ALLIS-CHALMERS CORPORATION)	ORDER OF DISMISSAL AND REMAND
15	PRODUCT LIABILITY TRUST, et al.)	TO STATE COURT
16	Defendants.)	

17
 18 **IT IS HEREBY STIPULATED** by and between the parties to this action through their
 19 designated counsel that:

- 20 1. This case was originally filed in the Superior Court of California for the County of
- 21 San Francisco, action no. CGC 04 436613.
- 22 2. Defendant MCDONNELL DOUGLAS CORPORATION (“MDC”) filed its Notice
- 23 of Removal on August 24, 2002, claiming that this Court has subject-matter jurisdiction under
- 24 28 U.S.C. §1442(a)(1), on the ground that defendant MDC was acting under the direction of
- 25 agencies and officers of the United States government.
- 26 3. Defendant MDC is dismissed from the above entitled action, pursuant to
- 27 Fed.R.Civ.Proc. 41 (a)(2). This dismissal is with prejudice, each party to bear its own costs.
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1 4. The parties note that plaintiff John Rubi is also a plaintiff in the related case, *Manuel*
2 *Rampola et al. v. Viacom Inc., et al.*, Northern District California case no. CO5-1461 MJJ,
3 which has been conditionally transferred to the Eastern District of Pennsylvania Multi District
4 Litigation Docket No. 875, *In re Asbestos Products Liability Litigation*. The parties hereto have
5 also entered into a Stipulation for dismissal of MDC, with prejudice, from that action.

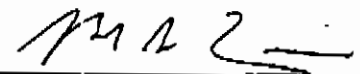
6 5. Because the sole removing defendant has been dismissed, no basis currently exists
7 for this Court to exercise jurisdiction over this action, remand to the Superior Court of
8 California for the County of San Francisco is appropriate.

9 Accordingly, the parties petition this court for an order dismissing defendant
10 MCDONNELL DOUGLAS CORPORATION, with prejudice, and remanding the action to the
11 Superior Court of California for the County of San Francisco.

12
13 **SO STIPULATED.**

14 Dated: August 26, 2005

BRYAN CAVE LLP

15
16 By: 
17 Paul A. Levin
18 Attorneys for Defendant
MCDONNELL DOUGLAS CORP.


20 Dated: August 26, 2005

BRAYTON PURCELL LLP

21 By: 
22 Nance F. Becker
23 Attorneys for Plaintiff, JOHN RUBI

24 **IT IS SO ORDERED.**

25 Dated: 8/30/2005


27 MARTIN J. JENKINS
28 United States District Court Judge