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 CARRIER CORPORATION

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 8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**
 10

11 ROBERT SCHOELZEL,
 12 Plaintiff,
 13 v.
 14 ALLIS-CHALMERS CORP., et al,
 15 Defendants.

Case No. C 08-03113 JSW

**JOINT STIPULATION TO DISMISS
 DEFENDANT CARRIER
 CORPORATION AND TO REMAND
 ACTION TO STATE COURT**

[Local Rules 7-1 and 7-12; FRCP 41]

16 Come now Plaintiff ROBERT SCHOELZEL ("Plaintiff") and Defendant CARRIER
 17 CORPORATION ("CARRIER"), who file the following joint stipulation pursuant to Local Rules
 18 7-1 and 7-12:

19 WHEREAS, Defendant CARRIER removed this case to the United States District Court
 20 for the Northern District of California on June 27, 2008, on the ground that the Court has
 21 "federal officer" subject matter jurisdiction under 28 United States Code § 1442(a) based on
 22 Plaintiff's allegations that his injury was caused by products designed and manufactured by
 23 CARRIER under the supervision and control of the United States government;

24 WHEREAS, Defendant CARRIER was the sole removing defendant and no other
 25 defendant joined in removal or filed a separate notice of removal;

26 WHEREAS, Plaintiff and Defendant CARRIER, the affected parties, have now reached a
 27 resolution of Plaintiff's claims against CARRIER;

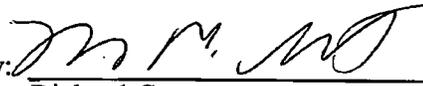
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 1
 STIPULATION
 C 08-03113 JSW

1 WHEREAS, Defendant CARRIER's desire for a federal forum for this action is now
2 moot given the resolution of Plaintiff's claims against it; and

3 WHEREAS, pursuant to the parties' resolution, Plaintiff and Defendant CARRIER seek
4 to have this action remanded to state court, IT IS HEREBY STIPULATED by the affected
5 parties, Plaintiff and Defendant CARRIER, that all claims against Defendant CARRIER shall be,
6 and hereby are, dismissed with prejudice pursuant to Rule 41 of the Federal Rules of Civil
7 Procedure and that this action shall be, and hereby is, immediately remanded to the San
8 Francisco County Superior Court, the court in which it was originally filed and from which it
9 was removed.

10 DATED: November 3, 2008

BRAYTON PURCELL

11
12 By: 
13 Richard Grant
14 Attorneys for Plaintiff
15 ROBERT SCHOELZEL

16 DATED: November __, 2008

TUCKER ELLIS & WEST LLP

17
18 By:
19 Lance Wilson
20 Attorneys for Defendant
CARRIER CORPORATION

21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.** Case is REMANDED to the
22 Superior Court of California, County of San Francisco, Case. No. 453669. The Clerk shall send
23 a certified copy of this Order to the Clerk of the Court for the Superior Court of California,
24 County of San Francisco.

25 Dated: November __, 2008

26 By: _____
27 HONORABLE JEFFREY S. WHITE
28 UNITED STATES DISTRICT JUDGE

1 WHEREAS, Defendant CARRIER's desire for a federal forum for this action is now
2 moot given the resolution of Plaintiff's claims against it; and

3 WHEREAS, pursuant to the parties' resolution, Plaintiff and Defendant CARRIER seek
4 to have this action remanded to state court, IT IS HEREBY STIPULATED by the affected
5 parties, Plaintiff and Defendant CARRIER, that all claims against Defendant CARRIER shall be,
6 and hereby are, dismissed with prejudice pursuant to Rule 41 of the Federal Rules of Civil
7 Procedure and that this action shall be, and hereby is, immediately remanded to the San
8 Francisco County Superior Court, the court in which it was originally filed and from which it
9 was removed.

10 DATED: October __, 2008

BRAYTON PURCELL

11
12
13 By: _____

Richard Grant
Attorneys for Plaintiff
ROBERT SCHOELZEL

14
15
16 DATED: November 3, 2008

TUCKER ELLIS & WEST LLP

17
18
19 By: 

Lance Wilson
Attorneys for Defendant
CARRIER CORPORATION

20
21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.** Case is REMANDED to the
22 Superior Court of California, County of San Francisco, Case. No. 453669. The Clerk shall send
23 a certified copy of this Order to the Clerk of the Court for the Superior Court of California,
24 County of San Francisco.

25 Dated: October __, 2008
26 November 7, 2008

27 By: _____


HONORABLE JEFFREY S. WHITE

UNITED STATES DISTRICT JUDGE