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5 Attorneys for Defendant
 6 OWENS-BROCKWAY GLASS CONTAINER
 INC. erroneously sued as OWENS-ILLINOIS, INC.

7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT

10
 11 WESLEY THOMAS,

12 Plaintiff,

13 v.

14 OWENS-ILLINOIS, INC., and DOES 1
 15 through 20, inclusive,

16 Defendants.

Case No. CV 08-05123 MMC

**STIPULATION AND ~~PROPOSED~~
 ORDER TO REMAND CASE TO STATE
 COURT**

17 Plaintiff Wesley Thomas ("Plaintiff") and defendant Owens-Brockway Glass Container
 18 Inc., erroneously sued as Owens-Illinois, Inc. ("Defendant"), hereby agree and stipulate as
 19 follows:

20 WHEREAS Plaintiff filed his Complaint on October 3, 2008 in California Superior Court,
 21 County of Alameda, Case number RG 08-413335;

22 WHEREAS on November 10, 2008, pursuant to 28 USC § 1441, Defendant timely filed
 23 its Notice of Removal to the United States District Court, Northern District of California;

24 WHEREAS Plaintiff claims, after full investigation of the facts, that his condition is
 25 stable, and the amount of damages in this case does not exceed and will not exceed \$65,000,
 26 inclusive of all damages claimed by Plaintiff as well as all liens, fees and costs; and

27 WHEREAS Plaintiff hereby agrees that neither he nor anyone acting on his behalf,
 28 including any compensation carriers or attorneys, will seek a total amount in excess of \$65,000,


1 inclusive of all damages claimed by Plaintiff as well as all liens, fees and costs, against Defendant
2 if Defendant agrees to remand the case to State Court;

3 THEREFORE, THE PARTIES HERETO STIPULATE THAT:

4 1. Plaintiff agrees that he does not and will not seek any damages in excess of
5 \$65,000, inclusive of all damages claimed by Plaintiff as well as all liens, fees and costs, against
6 Defendant for the claims alleged in his complaint; and


7 2. Based on Plaintiff's agreement in Paragraph 1, Defendant agrees to remand case to
8 the California Superior Court, County of Alameda.

9 DATED: March 4, 2009


Wesley Thomas

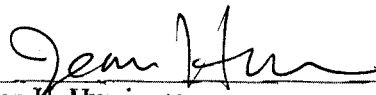
11 DATED: March 4, 2009

WALKUP, MELODIA, KELLY &
SCHOENBERGER

13 By 
Spencer J. Pahlke
Attorneys for Plaintiff
Wesley Thomas

15 DATED: March 5, 2009


SCHIFF HARDIN LLP

17 By: 
Jean M. Hurricane
Attorneys for Defendant
Owens-Brockway Glass Container Inc.
erroneously sued as Owens-Illinois, Inc.

21 Based on the Stipulation of the parties, and good cause appearing therefor, the case is
22 hereby REMANDED to ~~State Court~~ the Superior Court of the State of California in and
23 for the County of Alameda.

24 IT IS SO ORDERED

25 DATED: March 9, 2009

26 By 
Hon. Maxine Chesney
UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT CALIFORNIA

27 SP0319423.1