

1 ALAN R. BRAYTON, ESQ., S.B. #73685  
RICHARD M. GRANT, ESQ., S.B. #55677  
2 BRAYTON ♦ PURCELL LLP  
ATTORNEYS AT LAW  
3 222 Rush Landing Road  
P.O. Box 6169  
4 Novato, California 94948-6169  
(415) 898-1555

5 Attorneys for Plaintiffs  
6  
7

8 **IN THE UNITED STATES DISTRICT COURT**  
9 **IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10  
11 ROBERT HABBESHAW and  
SUSAN HABBESHAW,  
12 Plaintiffs,  
13  
14 vs.  
15 ASBESTOS DEFENDANTS (BP), et al.,  
16 Defendants.

No. C09-0992 JCS MHP

STIPULATION TO DISMISS  
DEFENDANT CROWN CORK & SEAL  
AND REMAND CASE TO SAN  
FRANCISCO SUPERIOR COURT

17  
18 Come now Plaintiffs ROBERT HABBESHAW and SUSAN HABBESHAW  
19 (“Plaintiffs”) and Defendant CROWN CORK AND SEAL COMPANY INC. (“CC&S”), who  
20 file the following stipulation pursuant to Local Rules 7-1 and 7-12:

21 WHEREAS, defendant CC&S removed this case to the United State District Court for  
22 the Northern District of California on March 11, 2009, on the ground that the court has “federal  
23 officer” subject matter jurisdiction under 28 United States Code § 1442(a) based on Plaintiffs’  
24 allegations that his injury was caused by products designed and manufactured by CC&S under  
25 the supervision and control of the United States government;

26 WHEREAS, Defendant CC&S was the sole removing defendant and no other defendant  
27 joined in removal or filed a separate notice of removal;

28 ///

1 WHEREAS, Plaintiffs and Defendant CC&S, the affected parties, have now reached a  
2 resolution of Plaintiffs' claims again CC&S;

3 WHEREAS, Defendant CC&S's desire for a federal forum for this action is now moot  
4 and given the resolution of Plaintiffs' claims against it; and

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

11 Dated: March 16, 2009

BRAYTON ♦ PURCELL LLP

12  
13 By: [Signature]  
14 Richard M. Grant  
15 Attorneys for Plaintiffs HABBESHAW, et al.

16 Dated: March 16, 2009

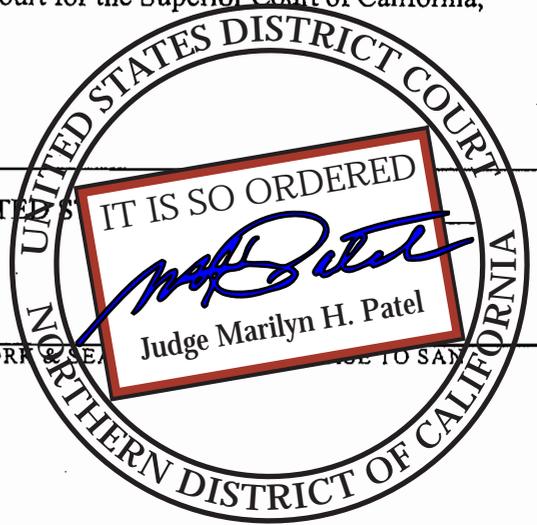
ARMSTRONG & ASSOCIATES, LLP

17  
18 By: [Signature]  
19 Attorneys for Defendant CROWN CORK &  
20 SEAL

21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.** Case is REMANDED to the  
22 Superior Court of California, County of San Francisco, Case No 274625. 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  
26 Dated: March 19, 2009 By: \_\_\_\_\_

UNITED STATES



BRAYTON PURCELL  
ATTORNEYS AT LAW  
222 RUSH LANDING ROAD  
NOVATO, CALIFORNIA 94945  
(415) 898-1535

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 222 Rush Landing Road, Novato, California 94948-6169.

On March 17, 2009 I served the attached:

**STIPULATION TO DISMISS DEFENDANT CROWN CORK AND SEAL AND REMAND CASE TO SAN FRANCISCO SUPERIOR COURT**

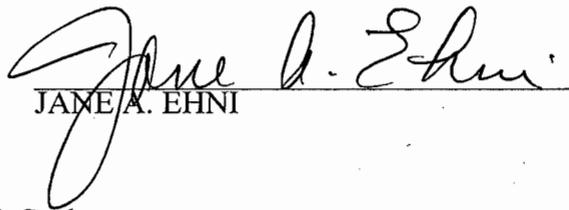
on the interested parties in this action by transmitting a true copy thereof in a sealed envelope, and each envelope addressed as follows:

CROWN CORK & SEAL  
Jennifer D. Fitzpatrick, Esq.  
ARMSTRONG & ASSOCIATES LLP  
One Kaiser Plaza, Ste. 625  
Oakland, CA 94612

XXX BY OFFICE MAILING: I am readily familiar with this office's practice of collection and processing correspondence, pleadings and other matters for mailing with the United States Postal Service on that same day with postage thereon fully prepaid at Novato, California in the ordinary course of business. I placed in the outgoing office mail, the above-described document(s), in a sealed envelope, addressed to the party(ies) as stated above, for collection and processing for mailing the same day in accordance with ordinary office practices.

Executed this March 17, 2009 at Novato, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

  
JANE A. EHNI

Robert Habbeshaw, et al. v. Crown Cork & Seal  
U.S.D.C. No. C09-0992 MHP