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 6 Attorneys for Plaintiffs, ELECTRONIC RECYCLERS INTERNATIONAL INC., and
 ELECTRONIC RECYCLERS OF AMERICA LLC, and Counterdefendant, ELECTRONIC
 7 RECYCLERS INTERNATIONAL INC.

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 EUREKA DIVISION

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 12 ELECTRONIC RECYCLERS
 INTERNATIONAL INC., a Delaware
 Corporation, and ELECTRONIC
 13 RECYCLERS OF AMERICA LLC, a
 California Limited Liability Company,

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 15 Plaintiffs,

16 v.

17 DLUBAK GLASS COMPANY, INC., a
 Pennsylvania Corporation, DAVID A.
 18 DLUBAK, an individual, and DOES 1
 through 25, inclusive,

19 Defendants.

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 21 DLUBAK GLASS COMPANY, INC.,
 a Pennsylvania Corporation,

22 Counterclaimant,

23 v.

24 ELECTRONIC RECYCLERS
 INTERNATIONAL INC., a Delaware
 Corporation,

25 Counterdefendant.
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Case No. 3:11-mc-80116-JSW (NJV)

**STIPULATION AND ~~PROPOSED~~
 ORDER RE: DISMISSAL OF ACTION**

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STIPULATION

Plaintiffs/Counterdefendants, ELECTRONIC RECYCLERS INTERNATIONAL, INC. and Plaintiff ELECTRONIC RECYCLERS OF AMERICA, LLC (hereinafter, collectively, "ERI") and Defendants/Counterclaimants DLUBAK GLASS COMPANY, INC. and Defendant DAVID A. DLUBAK (hereinafter, collectively, "Dlubak") by and through their counsel of record, hereby recite, stipulate and agree as follows:

1. In light of the settlement of the underlying action in the Eastern District of California (Case No. 1:10-CV-0760-LJO-GSA), the parties hereto stipulate to dismiss this action (Case No. 3:11-mc-80116-JSW (NJV)), which consisted in its entirety of a Motion to Compel Responses from Non-Party to Subpoena for Records, without prejudice with each side agrees to bear its own fees and costs.

SO STIPULATED.

Dated: August 29, 2011 DOWLING, AARON & KEELER, INC.

By: /s/ G. Andrew Slater
KEITH M. WHITE
G. ANDREW SLATER
Attorneys for Plaintiffs, ELECTRONIC RECYCLERS INTERNATIONAL INC., and ELECTRONIC RECYCLERS OF AMERICA LLC, and Counterdefendant ELECTRONIC RECYCLERS INTERNATIONAL INC.

Dated: August 29, 2011 McCORMICK, BARSTOW, SHEPPARD, WAYTE & CARRUTH, LLP

By: /s/ Mandy L. Jeffcoach
TIMOTHY J. BUCHANAN
MANDY L. JEFFCOACH
Attorneys for Defendants DLUBAK GLASS COMPANY, INC., a Pennsylvania Corporation, DAVID A. DLUBAK,



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ORDER

The Court, having reviewed the above stipulation and finding good cause to support it, hereby enters the stipulation as an ORDER OF THE COURT and dismisses Case No. 3:11-mc-80116-JSW (NJV) without prejudice.

Dated: August 30, 2011



Honorable Jeffrey S. White
United States Magistrate Judge

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PROOF OF SERVICE

STATE OF CALIFORNIA)
) **SS**
COUNTY OF FRESNO)

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen (18) years and not a party to the within-entitled action. My business address is Dowling, Aaron & Keeler, Inc., 8080 N. Palm Avenue, Third Floor, Fresno, California, 93711. On August 29, 2011, I served the within document(s):

STIPULATION AND [PROPOSED] ORDER RE: DISMISSAL OF ACTION

- BY FAX:** By transmitting via facsimile transmission the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- BY MAIL:** By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Fresno, California, addressed as set forth below.
- BY OVERNIGHT COURIER:** By causing the document(s) listed above to be picked up by an overnight courier service company for delivery to the address(es) listed below on the next business day.

James E. Kemp, Esq. Law Office of James E. Kemp 530 Lytton Avenue, 2nd Floor Palo Alto, California 94301 <i>Attorney for ECS Refining Texas, LLC.</i>	ECS Refining Texas, LLC Kenneth R. Taggart, Agent for Service of Process 705 Reed Street Santa Clara, CA 95050
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I am readily familiar with the firm's practices of collection and processing of correspondence for mailing. Under that practice, it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on August 29, 2011, at Fresno, California.

/s/ Nellie M. Jacques
Nellie M. Jacques

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