

1 ALAN R. BRAYTON, ESQ., S.B. #73685  
 2 MARY E. POUZIALES, ESQ., S.B. #77807  
 3 BRAYTON ♦ PURCELL LLP  
 4 ATTORNEYS AT LAW  
 5 222 Rush Landing Road  
 6 P.O. Box 6169  
 7 Novato, California 94948-6169  
 8 (415) 898-1555  
 9 (415) 898-1247 Fax

6 Attorneys for Plaintiff

10 **UNITED STATES DISTRICT COURT**  
 11 **NORTHERN DISTRICT OF CALIFORNIA**

13 CHARLIE WIGGINS	)	No. C 07 1322 CW
14 Plaintiffs,	)	
15 vs.	)	STIPULATION AND <del>PROPOSED</del>
16 ASBESTOS DEFENDANTS, et al.	)	ORDER PETITIONING COURT FOR
17 Defendants.	)	LIFTING OF STAY, DISMISSING
18 MCDONNELL DOUGLAS	)	DEFENDANT MCDONNELL DOUGLAS
19 CORPORATION,	)	CORPORATION WITH PREJUDICE AND
20 Removing Defendant.	)	REMANDING CASE TO CALIFORNIA
	)	SUPERIOR COURT

22 WHEREAS:

23 (1) This case consists of asbestos personal injury action originally filed in Superior Court  
 24 of California, County of San Francisco (the "State Court"), Case No. CGC-07-274006, in which  
 25 Charlie Wiggins ("Plaintiff") alleges product liability claims against Defendant McDonnell  
 26 Douglas Corporation ("MDC"), among others.

27 ///

28

D:\Documents and Settings\08h\Local Settings\Temporary Internet Files\OLKB\USDC-STIP TO DISMISS-MDC AND REMAND.wpd  
 STIPULATION AND ~~PROPOSED~~ ORDER PETITIONING COURT FOR LIFTING OF STAY, DISMISSING  
 DEFENDANT MCDONNELL DOUGLAS CORPORATION WITH PREJUDICE AND REMANDING CASE  
 TO CALIFORNIA SUPERIOR COURT: C 07-1322 CW

1 (2) Defendant MDC filed its Notice of Removal of the State Actions on March 7, 2007  
2 on "federal officer" grounds pursuant to 28 U.S.C. Section 1442(a)(1).

3 (3) Plaintiff and MDC have agreed to and do hereby stipulate that MDC should be  
4 dismissed from this action with prejudice pursuant to FRCP 41(a)(2).

5 IT IS HEREBY STIPULATED by and between Plaintiff and MDC, through their  
6 designated counsel, that because the sole removing defendant, MDC, is hereby dismissed with  
7 prejudice from this case, remand to the State court is appropriate at this time.

8 Accordingly, the Plaintiff and MDC petition this court for an order lifting the stay of this  
9 action so that it can dismiss MDC with prejudice and remand the State Actions to the State  
10 Court, pursuant to this Stipulation.

11 Dated: March 13, 2007

BRYAN CAVE LLP

12 By: 

13 Robert E. Boone III  
14 Attorneys for Defendant  
McDONNELL DOUGLAS CORPORATION

15  
16 Dated: \_\_\_\_\_

BRAYTON ♦ PURCELL LLP

17  
18 By: \_\_\_\_\_

19 Mary E. Pougiales  
Attorneys for Plaintiff

20 ORDER:

21  
22 IT IS SO ORDERED.

23  
24 Dated: \_\_\_\_\_

25  
26 Claudia Wilken, Judge  
United States District Court, Oakland

27  
28

1 ALAN R. BRAYTON, ESQ., S.B. #73685  
2 MARY E. POUZIALES, ESQ., S.B. #77807  
3 BRAYTON ♦ PURCELL LLP  
4 ATTORNEYS AT LAW  
5 222 Rush Landing Road  
6 P.O. Box 6169  
7 Novato, California 94948-6169  
8 (415) 898-1555  
9 (415) 898-1247 Fax

6 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

13 CHARLIE WIGGINS  
14 Plaintiffs,  
15 vs.  
16 ASBESTOS DEFENDANTS, et al.  
17 Defendants.  
18 MCDONNELL DOUGLAS  
19 CORPORATION,  
20 Removing Defendant.

No. C 07 1322 CW  
STIPULATION AND [PROPOSED]  
ORDER PETITIONING COURT FOR  
LIFTING OF STAY, DISMISSING  
DEFENDANT MCDONNELL DOUGLAS  
CORPORATION WITH PREJUDICE AND  
REMANDING CASE TO CALIFORNIA  
SUPERIOR COURT

22 WHEREAS:

23 (1) This case consists of asbestos personal injury action originally filed in Superior Court  
24 of California, County of San Francisco (the "State Court"), Case No. CGC-07-274006, in which  
25 Charlie Wiggins ("Plaintiff") alleges product liability claims against Defendant McDonnell  
26 Douglas Corporation ("MDC"), among others.

27 ///

28

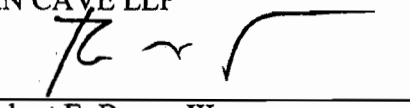
1 (2) Defendant MDC filed its Notice of Removal of the State Actions on March 7, 2007  
2 on "federal officer" grounds pursuant to 28 U.S.C. Section 1442(a)(1).

3 (3) Plaintiff and MDC have agreed to and do hereby stipulate that MDC should be  
4 dismissed from this action with prejudice pursuant to FRCP 41(a)(2).

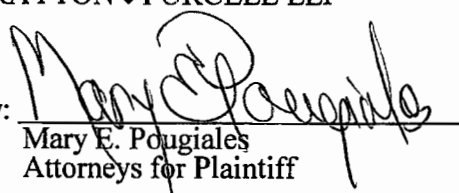
5 IT IS HEREBY STIPULATED by and between Plaintiff and MDC, through their  
6 designated counsel, that because the sole removing defendant, MDC, is hereby dismissed with  
7 prejudice from this case, remand to the State court is appropriate at this time.

8 Accordingly, the Plaintiff and MDC petition this court for an order lifting the stay of this  
9 action so that it can dismiss MDC with prejudice and remand the State Actions to the State  
10 Court, pursuant to this Stipulation.

11 Dated: March 13, 2007


BRYAN CAVE LLP  
By:   
Robert E. Boone III  
Attorneys for Defendant  
McDONNELL DOUGLAS CORPORATION

15 Dated: March 14, 2007

BRAYTON ♦ PURCELL LLP  
By:   
Mary E. Pougiales  
Attorneys for Plaintiff

20 ORDER:  
21  
22 IT IS SO ORDERED.

23 Dated: 3/20/07

  
\_\_\_\_\_  
Claudia Wilken, Judge  
United States District Court, Oakland

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 14, 2007, I served the attached:

**STIPULATION AND [PROPOSED] ORDER PETITIONING COURT FO  
LIFTING OF STAY, DISMISSING DEFENDANT MCDONNELL DOUGLAS  
CORPORATION WITH PREJUDICE AND REMANDING CASE TO  
CALIFORNIA SUPERIOR COURT  
Charlie Wiggins v. Asbestos Defendants (McDonnell Douglas-Removing Def.)  
USDC No. C07-1322 CW (San Francisco Superior Court No. CGC-07-274006)**

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

McDONNELL DOUGLAS CORP.  
c/o Robert E. Boone, III  
Bryan Cave LLP  
120 Broadway, Suite 300  
Santa Monica, CA 90401  
Ph.: 310-576-2380

CHARLIE WIGGINS  
(party represented - addressed omitted per  
rules of court)

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 14, 2007 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

BRAYTON♦PURCELL  
ATTORNEYS AT LAW  
222 RUSH LANDING ROAD  
NOVATO, CALIFORNIA 94945  
(415) 898-1555