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11 Attorneys For Defendant
 12 THE BOEING COMPANY

13 **UNITED STATES DISTRICT COURT**
 14 **NORTHERN DISTRICT OF CALIFORNIA**

16 DAVID SANBORN and CECILIA A.
 17 SANBORN,
 18 Plaintiffs,
 19 vs.
 20 ASBESTOS CORPORATION, LTD., et
 al,
 21 Defendants.

Case No. CV-08-05260 (PJH)

[Assigned to Hon. Phyllis J. Hamilton]

**JOINT STIPULATION TO DISMISS
 DEFENDANTS THE BOEING
 COMPANY, UNITED
 TECHNOLOGIES CORPORATION,
 AND PRATT & WHITNEY
 ENGINE SERVICES, INC. WITH
 PREJUDICE AND REMAND
 ACTION TO STATE COURT;
 [PROPOSED] ORDER**

[Local Civil Rules 7-1, 7-12; FRCP 41]

1 Come now Plaintiffs David Sanborn and Cecilia A. Sanborn (“Plaintiffs”) and
2 Defendants The Boeing Company, United Technologies Corporation, and Pratt & Whitney
3 Engine Services, Inc., who file the following joint stipulation pursuant to Northern District
4 Civil Local Rules 7-1 and 7-12.

5 WHEREAS, Plaintiffs have sued The Boeing Company, individually and as successor-
6 in-interest to Boeing North American, Rockwell International, North American Aviation, Inc.,
7 Rocketdyne, Douglas Aircraft Company, and McDonnell Douglas Corporation (collectively,
8 “Boeing”);

9 WHEREAS, Plaintiffs have sued United Technologies Corporation (“UTC”) and Pratt
10 & Whitney Engine Services, Inc. (“PWES”);

11 WHEREAS, Boeing removed this action to the United States District Court for the
12 Northern District of California on November 20, 2008, on the grounds that this Court has
13 “federal officer” subject matter jurisdiction under 28 U.S.C. § 1442(a) based on Plaintiff David
14 Sanborn’s allegations that his injury was caused by products designed and manufactured by
15 Boeing under the direct supervision and control of the United States Government;

16 WHEREAS, UTC removed this action to the United States District Court for the
17 Northern District of California on November 21, 2008, on the grounds that this Court has
18 “federal officer” subject matter jurisdiction under 28 U.S.C. § 1442(a) based on Plaintiff David
19 Sanborn’s allegations that his injury was caused by products designed and manufactured by
20 UTC under the direct supervision and control of the United States Government;

21 WHEREAS, Plaintiffs, Boeing, UTC, and PWES have now reached an agreement
22 whereby all of Plaintiffs’ claims against Boeing, UTC, and PWES are, by this stipulation, to be
23 dismissed with prejudice, each side to bear their own fees and costs;

24 WHEREAS, upon their dismissal, Boeing and UTC’s desire for a federal forum in this
25 action will be moot so that the action may be remanded back to state court, as Plaintiffs
26 desire; and

27 WHEREAS, Plaintiffs’ willingness to stipulate to the dismissal with prejudice of this
28

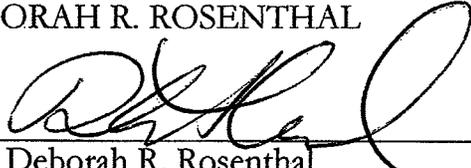
1 action against Boeing, UTC, and PWES is conditioned upon the remand of this case in its
2 entirety to the Superior Court of the State of California, County of Alameda; and the
3 willingness of Boeing, UTC, and PWES to stipulate to the remand of this action to state court
4 is conditioned upon the dismissal with prejudice of all of Plaintiffs' claims against them.

5 IT IS HEREBY STIPULATED among Plaintiffs, Boeing, UTC, and PWES that this
6 action and all claims related thereto by Plaintiffs as against Boeing and as against UTC and as
7 against PWES shall be and hereby are dismissed with prejudice pursuant to Federal Rule of
8 Civil Procedure 41.

9 IT IS FURTHER STIPULATED among Plaintiffs, Boeing, and UTC that, upon the
10 dismissal of Boeing and UTC, this action shall be and hereby is remanded to the Superior
11 Court of the State of California for the County of Alameda, where it was originally filed and
12 from which it was removed.

13
14 Dated: February 4, 2009

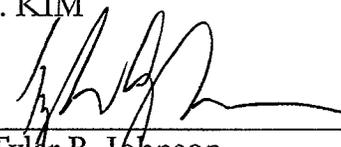
PAUL & HANLEY LLP
JOSEPH L. URBANSKI
DEBORAH R. ROSENTHAL

15
16
17 By: 
Deborah R. Rosenthal
18 Attorneys for Plaintiffs
19 DAVID SANBORN and CECILIA A.
SANBORN

20 Dated: February 4, 2009

BRYAN CAVE LLP
ROBERT E. BOONE III
TYLER R. JOHNSON

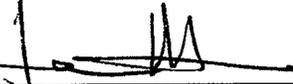
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BO W. KIM

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25 By: 
Tyler R. Johnson
26 Attorneys for Defendant
27 THE BOEING COMPANY

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Dated: February 5, 2009

TUCKER ELLIS & WEST LLP
LANCE D. WILSON
TIMOTHY C. CONNOR

By: 

Lance D. Wilson

Attorneys for Defendants
UNITED TECHNOLOGIES
CORPORATION and PRATT &
WHITNEY ENGINE SERVICES, INC.

[PROPOSED] ORDER

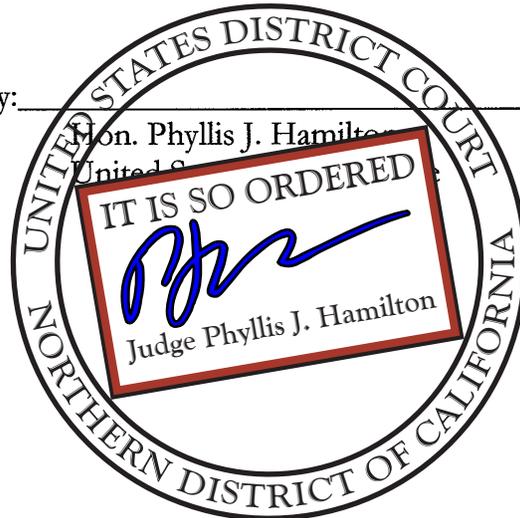
PURSUANT TO STIPULATION, IT IS SO ORDERED. All claims by Plaintiffs against Boeing, and all claims by Plaintiffs against any successor, predecessor or alternate entity of Boeing named in Plaintiffs' Complaint, including Boeing North American, Rockwell International, North American Aviation, Inc., Rocketdyne, Douglas Aircraft Company, and McDonnell Douglas Corporation, shall be and hereby are dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41.

IT IS FURTHER ORDERED that all claims by Plaintiffs against UTC, and all claims by Plaintiffs against any successor, predecessor or alternate entity of UTC named in Plaintiffs' Complaint, including Pratt & Whitney Engine Services, Inc., shall be and hereby are dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41.

IT IS FURTHER ORDERED that this action is remanded to the Superior Court of the State of California for the County of Alameda, Case No. RG08412471. The Clerk shall send a certified copy of this Order to the Clerk of the Court for the Superior Court of California, County of Alameda.

Dated: February 6, 2009

By: _____



1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of
3 18 and not a party to the within action. My business address is Bryan Cave LLP, 120
4 Broadway, Suite 300, Santa Monica, California 90401. My email address is
5 ddkinder@bryancave.com.

6 On February 5, 2009, I efiled the foregoing document, described as **JOINT**
7 **STIPULATION TO DISMISS DEFENDANTS THE BOEING COMPANY,**
8 **UNITED TECHNOLOGIES CORPORATION, AND PRATT & WHITNEY**
9 **ENGINE SERVICES, INC. WITH PREJUDICE AND REMAND ACTION TO**
10 **STATE COURT; [PROPOSED] ORDER**, through the United States District Court
Northern District of California Electronic Case File system; Per General Order No. 45;
Section 9 - Service of Electronic Filed Documents: Upon the filing of a document by a party,
an e-mail message will be automatically generated by the electronic filing system and sent to all
parties in the case. Receipt of this message shall constitute service on the receiving party.

11 Executed on February 5, 2009, at Santa Monica, California.

12 (FEDERAL ONLY) I declare that I am employed in the office of a member of
13 the bar of this Court at whose direction the service was made.

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

16 /s/ Diane Kinder
Diane Kinder