

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF OHIO
 EASTERN DIVISION

FILED
 2004 AUG -6 AM 8:19
 CLERK OF COURT
 NORTHERN DISTRICT OF OHIO
 CLEVELAND

IN RE: WELDING ROD PRODUCTS) Case No. 1:03-CV-17000
 LIABILITY LITIGATION) (MDL Docket No. 1535)
)
 _____) JUDGE O'MALLEY

JOINT STIPULATED ORDER REGARDING EFFECT OF THE COURT'S MAY 21, 2004 REMAND ORDER ON ADDITIONAL CASES IN THE MDL PROCEEDING WITH PENDING REMAND MOTIONS

Plaintiffs' Lead Co-Counsel and Defendants' Liaison Counsel respectfully submit this joint stipulated order regarding the effect of this Court's May 21, 2004 Order ("May 21, 2004 Order") on additional cases transferred to this proceeding with pending remand motions. This stipulated order covers additional cases transferred to the MDL proceeding through CTO-10.

The parties stipulate as follows:

1. The following cases were removed on the same grounds and raise the same jurisdictional issues as the Mississippi cases that were remanded to state court under the Court's May 21, 2004 Order:

Deanes v. Lincoln Electric Co., <i>et al.</i>	1:03-17576
Redmond v. Lincoln Electric Co., <i>et al.</i>	1:03-17572
Richardson v. Lincoln Electric Co., <i>et al.</i>	1:03-17578
Smith v. Lincoln Electric Co., <i>et al.</i>	1:03-17580
Turbeville v. Lincoln Electric Co., <i>et al.</i>	1:03-17571
Adams v. Lincoln Electric Co., <i>et al.</i>	1:03-17085
Anderson v. Lincoln Electric Co., <i>et al.</i>	1:03-17094
Bolton v. Lincoln Electric Co., <i>et al.</i>	1:03-17086
Buck v. Lincoln Electric Co., <i>et al.</i>	1:03-17095
Carr v. Lincoln Electric Co., <i>et al.</i>	1:03-17088
Carter v. Lincoln Electric Co., <i>et al.</i>	1:03-17083
Dantzler v. Sanderson Farms, Inc., <i>et al.</i>	not yet assigned
Dykes v. Lincoln Electric Co., <i>et al.</i>	1:03-17081
Green v. Lincoln Electric Co., <i>et al.</i>	1:03-17092
Holloway v. B&R Industrial Supply, <i>et al.</i>	1:03-17087

Johnson v. Lincoln Electric Co., <i>et al.</i>	1:03-17082
Jones v. Lincoln Electric Co., <i>et al.</i>	1:03-17091
Lingle v. Lincoln Electric Co., <i>et al.</i>	1:03-17089
McWilliams v. Lincoln Electric Co., <i>et al.</i>	1:03-17339
Paige v. Lincoln Electric Co., <i>et al.</i>	1:03-17093
Ratliff v. Lincoln Electric Co., <i>et al.</i>	1:03-17569
Robinson v. Lincoln Electric Co., <i>et al.</i>	1:03-17084
Russell v. Lincoln Electric Co., <i>et al.</i>	1:03-17090

Accordingly, the parties agree that the Court's jurisdictional determination in the May 21 Order would apply equally to these cases and that the plaintiffs' motions for remand as to these cases should be granted.

2. The following cases were removed on federal officer grounds and raise the same legal issues as the Louisiana cases with regard to which the Court denied plaintiffs' remand motion in the May 21, 2004 Order:

Andre v. A.O. Smith, <i>et al.</i>	1:03-17269
Arceneaux v. A.O. Smith, <i>et al.</i>	1:03-17312
Bailey v. A.O. Smith, <i>et al.</i>	1:04-17351
Baptiste v. A.O. Smith, <i>et al.</i>	1:03-17284
Barnes v. A.O. Smith, <i>et al.</i>	1:03-17301
Barnhill v. A.O. Smith, <i>et al.</i>	1:03-17324
Bienvenu v. A.O. Smith, <i>et al.</i>	1:03-17319
Boudreaux v. A.O. Smith, <i>et al.</i>	1:04-17052
Bourge v. A.O. Smith, <i>et al.</i>	not yet assigned
Buteaux v. A.O. Smith, <i>et al.</i>	1:03-17300
Carter v. A.O. Smith, <i>et al.</i>	1:03-17320
Guilbeaux v. A.O. Smith, <i>et al.</i>	1:03-17311
Harris v. A.O. Smith, <i>et al.</i>	1:03-17318
Hebert v. A.O. Smith, <i>et al.</i>	1:03-17299
Theriot v. A.O. Smith, <i>et al.</i>	1:04-17065

Accordingly, the parties agree that the legal issues as to the Court's jurisdiction over these cases have been resolved by the Court's May 21, 2004 Order and that the plaintiffs' motions for remand as to these cases should be denied, subject to the resolution of plaintiffs' challenge to that Order and subject to the resolution of any factual challenges that any of the

plaintiffs in these cases may raise as to the applicability of federal officer removal to them. Any plaintiff in one of these cases who wished to raise such a factual challenge shall file a brief in support of his or her position by August 15. Defendants shall have until October 15 to conduct discovery on the factual challenges raised by any such plaintiff and shall file their opposition to such motion, if any, by November 8.

3. The following cases raise jurisdictional issues that were not addressed in the Court's May 21, 2004 Order, and would thus require additional briefing to resolve the pending remand motions:

Roberts v. Lincoln Electric Co., et al.	1:04-17331
Arredondo v. Lincoln Electric Co., et al.	not yet assigned

The *Roberts* case involves a fraudulent joinder argument under Arkansas law. The *Arredondo* case involves federal enclave removal in addition to federal officer removal. The parties propose the following schedule for briefing of the plaintiffs' motions for remand in these cases:

- 1) Plaintiffs to resubmit and supplement their motions for remand by July 16, 2004.
- 2) Defendants to file their opposition briefs by August 9, 2004.
- 3) Plaintiffs to file their reply briefs by August 27, 2004.

Dated: July 2, 2004 .

s/ Don Barrett

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IT IS SO ORDERED

Respectfully submitted,

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KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE