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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 SAMUEL PRICE STUART and
9 ANITA LOUISE STUART,

10 Plaintiffs,

C17-1508-TSZ

11 v.

MINUTE ORDER

12 ABB, Inc., et al.,

Defendants.

13 The following Minute Order is made by direction of the Court, the Honorable
14 Thomas S. Zilly, United States District Judge:

15 (1) Plaintiffs' motion to remand, docket no. 34, is GRANTED. The complaint
16 alleges, in part, that plaintiff Samuel Price Stuart worked at Newport News Shipbuilding
17 on Navy submarines. Defendants properly removed this matter on October 9, 2017,
asserting the Federal Officer Removal Statute, 28 U.S.C. §1441(a) in light of allegations
of exposure to asbestos and asbestos-containing products manufactured, used and/or sold
by defendants.

18 On October 13, 2017, plaintiffs filed this motion to remand stating in relevant part:

19 To resolve any uncertainty or differing interpretations concerning
20 Plaintiffs' claims, Plaintiffs now disclaim and waive any claims that could
possibly give rise to federal question jurisdiction. Plaintiffs disclaim,
21 forevermore, any and all causes of action for any exposures of any kind to
asbestos dust while Samuel Stuart was working on submarines at Newport
News Shipbuilding, and further disclaim, forevermore, any and all causes
22 of action that arise from the direction of a federal officer and/or from a
federal enclave.

1 Motion at 3.

2 As a result of plaintiff's express claim disclaimer of any claim relating to work at
3 Newport News Shipbuilding, remand is appropriate. *See Hayden v. 3M Co.*,
4 No. 15-2275, 2015 WL 4730741, at *3-4 (E.D. La. Aug 10, 2015); *Fisher v. Asbestos*
5 *Corp. Ltd.*, No. 2:14-cv-02338-WGY-(FFMx), 2014 WL 3752020, at *3-6 (C.D. Cal.
6 July 30, 2014); *Coury v. Air & Liquid Sys. Corp.*, No. 3:16-cv-01796-SB, 2017 WL
7 2345688, at *2-4 (D. Or. Mar. 21, 2017), *report and recommendation adopted*, No.
8 3:16-cv-01796-SB, 2017 WL 2345584 (D. Or. May 26, 2017). The form of plaintiff's
9 post-remand waiver does not undercut its effectiveness. *Lara v. CBS Corp.*, No. CV 13-
10 5569 ABC (MANx), 2013 WL 4807168 (C.D. Cal. Sept. 6, 2013). Similarly, plaintiffs'
11 discovery responses after its motion to dismiss do not prevent remand. Because plaintiffs
12 have made an express claim disclaimer of all exposures originating from Newport News
13 Shipbuilding, there are no claims giving rise to federal officer removal jurisdiction. *See*
14 *Batchelor v. Am. Optical Corp.*, 185 F. Supp. 3d. 1358, 1364-65 (S.D. Fla. 2016)
15 (remanding case when plaintiff made it "abundantly clear" that he only sought recovery
16 for asbestos exposure occurring at specific locations that have no relation to the U.S.
17 Navy). Accordingly, plaintiff's disclaimer is sufficient to warrant remand of this action
18 where removal was based on the Federal Officer Removal Statute. This action is
19 therefore REMANDED, effective immediately, to King County Superior Court.

20 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
21 record and to CLOSE this case.

22 Dated this 22nd day of November, 2017.

23
24 William M. McCool
25 Clerk

26 s/Karen Dews
27 Deputy Clerk