

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

WILLIE ABNER, et al.,		
Plaintiffs,		
v.		2:15-cv-02040-KOB
UNITED STATES PIPE & FOUNDRY COMPANY, LLC, et al.,		This Document Relates to All Cases
Defendants.		

MEMORANDUM OPINION AND ORDER

These 14 consolidated cases are before the court on Defendant USP Holdings, Inc.’s 14 identical Motions for Judgment on the Pleadings. (Doc. 6 in 2:15-cv-02040-KOB, Doc. 6 in 2:15-cv-02045-KOB, Doc. 3 in 2:15-cv-02046-KOB, Doc. 6 in 2:15-cv-02047-KOB, Doc. 6 in 2:15-cv-02048-KOB, Doc. 6 in 2:15-cv-02049-KOB, Doc. 6 in 2:15-cv-02050-KOB, Doc. 6 in 2:15-cv-02051-KOB, Doc. 6 in 2:15-cv-02052-KOB, Doc. 6 in 2:15-cv-02054-KOB, Doc. 6 in 2:15-cv-02055-KOB, Doc. 6 in 2:15-cv-02056-KOB, Doc. 6 in 2:15-cv-02057-KOB, Doc. 3 in 2:17-cv-00136-KOB).

Pursuant to Federal Rule of Civil Procedure 12(c), USP Holdings moves for judgment on the pleadings and requests that it be dismissed from these proceedings. Alabama law in force at the time this suit was filed¹ (1) provides that a member of a limited liability company may not be made a party to proceedings against the company, except to enforce the member’s rights against

¹ The two statutory provisions cited here were replaced as of January 1, 2017 by current Alabama Code § 10A-5A-3.01, which provides: “A member of a limited liability company is not liable, solely by reason of being a member, for a debt, obligation, or liability of the limited liability company or a series thereof, whether arising in contract, tort, or otherwise or for the acts or omissions of any other member, agent, or employee of the limited liability company or a series thereof.”

or liability to the company (an exception inapplicable here), *see* ALA. CODE § 10A-5-2.07, and (2) prohibits a member of a limited liability company from being liable for any debt, obligation, or liability of the company unless the member's own conduct makes it liable. *See* ALA. CODE § 10A-5-3.02. USP Holdings, the sole member of United States Pipe and Foundry Company, LLC, argues that it is not a proper party to these proceedings against the LLC. Further, USP Holdings submits that it cannot be liable to the Plaintiffs by virtue of its own conduct, as it was not incorporated until 2012, after the close in 2010 of the plant alleged to be the source of the contaminants at issue in these cases.

The court ordered Plaintiffs in the 13 originally consolidated cases to show cause in writing on or before March 6, 2017 why the court should not grant the Motions in those cases and dismiss USP Holdings from these proceedings. Plaintiffs filed no response. After consolidating case 2:17-cv-00136-KOB with the previously consolidated 13 cases on March 14, 2017, the court gave the parties until March 21, 2017 to object to the court considering the identical Motion for Judgment on the Pleadings in that case jointly with the first 13 Motions. The parties did not object.

The court has considered the information submitted to it and finds that Alabama law prevents USP Holdings, as a member of United States Pipe and Foundry Company, LLC, from being made a party to proceedings against the LLC and from liability to Plaintiffs for any alleged tort committed by the LLC. The court further finds that because it was not incorporated until 2012, USP Holdings cannot be liable to Plaintiffs by virtue of its own conduct. Accordingly, the court **GRANTS** the 14 Motions for Judgment on the Pleadings and **DISMISSES WITH PREJUDICE** USP Holdings, Inc. from these 14 cases.

DONE and **ORDERED** this 22nd day of March, 2017.


KARON OWEN BOWDRE
CHIEF UNITED STATES DISTRICT JUDGE