

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

GULF COAST ASPHALT CO., L.L.C.,

Plaintiff,

vs.

CHEVRON U.S.A., INC.,

Defendant.

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: CIVIL ACTION 09-0187-CG-M

ORDER

After due and proper consideration of all pleadings in this file, and there having been no objections filed, the Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) is adopted as the opinion of this Court.

It is **ORDERED** that Defendant’s Motion to Dismiss (Doc. 21) be **GRANTED** and that Count II in the Complaint be **DISMISSED**, with prejudice.

DONE and ORDERED this 17th day of August, 2009.

/s/ Callie V. S. Granade

CHIEF UNITED STATES DISTRICT JUDGE