

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

**WILLIAM M. CUNNINGHAM, JR.,** )  
***PERSONAL REPRESENTATIVE AND*** )  
***EXECUTOR OF THE ESTATE OF*** )  
***REBECCA C. CUNNINGHAM, DECEASED,*** )  
**Plaintiff,** )

v. ) **CIVIL ACTION NO. 1:10-00671-KD-C**

**HONEYWELL INTERNATIONAL, INC.,** )  
***et al.,*** )  
**Defendants.** )

**ORDER**

This matter is before the Court on the “Joint Stipulation for Dismissal” (Doc. 166) filed by the Plaintiff and the defendant identified as Oglebay Norton Company, whose true and proper name is Ferro Engineering Division of ON Marine Services Company (“Oglebay Norton”). The parties stipulate that claims asserted against Oglebay Norton in Plaintiff’s original Complaint (Doc. 1) are to be dismissed without prejudice. The Court construes this stipulation as one filed pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii).

On April 5, 2011, the Plaintiff filed an Amended Complaint (Doc. 92), in which Oglebay Norton was not included as a defendant. “An amended pleading supersedes the former pleading; the original pleading is abandoned by the amendment, and is no longer a part of the pleader’s averments against his adversary.” Dresdner Bank AG v. M/V Olympia Voyager, 463 F.3d 1210, 1215 (11th Cir. 2006) (internal quotation marks omitted). Thus, there are no claims pending in this case against Oglebay Norton.

Accordingly, it is **ORDERED** that Plaintiff's and Oglebay Norton's "Joint Stipulation for Dismissal" (Doc. 166) is **MOOT**.

**DONE** and **ORDERED** this the **14<sup>th</sup>** day of **April 2011**.

/s/ Kristi K. DuBose  
**KRISTI K. DuBOSE**  
**UNITED STATES DISTRICT JUDGE**