

**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,** )

vs. )

**CIVIL ACTION NO. 10-00671-KD-C**

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

**ORDER**

This matter is before the Court on the Plaintiff’s “Rule 41(a)(1)(i) Notice of [Partial] Dismissal Without Prejudice as to Certain Defendants” (Doc. 10).

Specifically, Plaintiff voluntarily moves for all of his claims against Defendant Uniroyal Fiber & Textile Division of Uniroyal, Inc. (a division of Uniroyal, Inc.) and Defendant Viacom, Inc. (successor by merger to CBS Corporation as successor in interest to Westinghouse Electric Corporation), to be dismissed without prejudice.

A Rule 41(a)(1)(A)(i) Notice of Dismissal is permissible if filed “before the opposing party serves either an answer or a motion for summary judgment[.]” This action was commenced on December 3, 2010. (Doc. 1). The record reveals that neither of the two (2) named defendants have appeared in this case, or filed an answer or motion for summary judgment.

Accordingly, it is **ORDERED** that all of the Plaintiff's claims against the following two (2) defendants are hereby **DISMISSED without prejudice: Defendant Uniroyal Fiber & Textile Division of Uniroyal, Inc.**<sup>1</sup> (a division of Uniroyal, Inc.) and **Defendant Viacom, Inc.**<sup>2</sup> (successor by merger to CBS Corporation as successor in interest to Westinghouse Electric Corporation).

Each party shall bear his or its own costs.

Nothing herein shall be construed as dismissing any of the Plaintiff's claims against the remaining defendants.

**DONE and ORDERED** this the **22<sup>nd</sup>** day of **March 2011**.

/s/ Kristi K. DuBose

**KRISTI K. DuBOSE**

**UNITED STATES DISTRICT JUDGE**

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1 Per Plaintiff, dismissal of this company should not be construed as a dismissal of Uniroyal, Inc.

2 Per Plaintiff, dismissal of this company should not be construed as a dismissal of CBS Corporation f/k/a Viacom Inc. as successor by merger to CBS Corporation f/k/a Westinghouse Electric Corporation nor should it be construed as a dismissal of Westinghouse Electric Corporation n/k/a Westinghouse Licensing Corporation.