

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

**MARC E. OLIVER, d/b/a GULF COAST ENVIRONMENTAL AND RECOVERY, and T.M. JEMISON CONSTRUCTION CO. INC. d/b/a JEMISON MARINE, INC.,**  
Plaintiffs, : **CA 11-0223-KD-C**

**MIDSOUTH BANK, N.A.,**  
Plaintiff/Counter-Defendant : **IN ADMIRALTY  
*In Personam and In Rem***

vs. :

**M/V BARBARY COAST, her engines, tackle, furniture, and appurtenances, etc., In Rem, and RODD CAIRNS, an individual, and ATCHAFALAYA MARINE, LLC, In personam,**  
Defendants/Counter-Plaintiffs/  
Third-Party Plaintiffs, :

vs. :

**EAGLE RIVER TOWING, L.L.C., p/k/a or a/k/a EAGLE INLAND TOWING, NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, LOUISIANA LIMESTONE & LOGISTICS, L.L.C., and CURTIS BUFORD,**  
Third-Party Defendants. :

**ORDER**

This matter is before the Court on a “Motion to Dismiss With Prejudice” filed by Defendants/Third-Party Plaintiffs Atchafalaya Marine, LLC (“Atchafalaya”) and Rodd Cairns (“Cairns”) (Doc. 203).

At the outset, even though the motion indicates that it is “being filed with the consent of all parties[.]” (Doc. 203 at 2), the motion is construed as a Rule 41(a)(2) voluntary motion to

dismiss “at the plaintiff’s request only by court order, on terms that the court considers proper[.],” given that the motion is not signed by all parties to this case, is not a joint stipulation, and the opposing parties have served answers. (Docs. 93, 107).

Presently, Defendants/Third-Party Plaintiffs Atchafalaya and Cairns seek dismissal with prejudice of their third-party complaint claims against Louisiana Limestone & Logistics, LLC (“Louisiana Limestone”) and Curtis Buford \*(“Buford”). Specifically, Atchafalaya and Cairns filed a Second Amended Third-Party Complaint asserting, in relevant part, two (2) claims against Louisiana Limestone for breach of contract (Count X) and against Louisiana Limestone and Buford for fraud in the inducement (Count IX). (Doc. 60 at 18-19). Accordingly, the “Motion to Dismiss With Prejudice” filed by Defendants/Third-Party Plaintiffs Atchafalaya Marine, LLC and Rodd Cairns (Doc. 203) is **GRANTED** such that their third-party claims against Louisiana Limestone & Logistics, LLC and/or Curtis Buford for breach of contract (Count X) and fraud in the inducement (Count IX) (Doc. 60 at 18-19), are hereby **DISMISSED with prejudice**.

**DONE and ORDERED** this the 4<sup>th</sup> day of **April 2012**.

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