

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 12-cv-03216-REB-MJW

ASARCO LLC, a Delaware limited liability company,

Plaintiff,

v.

UNION PACIFIC RAILROAD COMPANY, a Delaware corporation;
UNION PACIFIC CORPORATION, a Utah corporation;
PEPSI-COLA METROPOLITAN BOTTLING CO., INC., a New Jersey corporation; and
BOTTLING GROUP, LLC, a Delaware limited liability company,

Defendants.

FINAL JUDGMENT

This **Final Judgment** is entered pursuant to Fed. R. Civ. P. 58(a) and in accordance with the **Order Adopting Recommendation of United States Magistrate Judge** [#52] entered by Judge Robert E. Blackburn on September 19, 2013, which order is incorporated herein by this reference.

THEREFORE, IT IS ORDERED as follows:

1. That the plaintiff's objections [#48] to the recommendation are **OVERRULED**;
2. That the **Recommendation on Defendants Union Pacific Railroad Company's and Union Pacific Corporation's Motion to Dismiss (Docket No. 20) and Defendant Pepsi-Cola Metropolitan Bottling Co., Inc's and Bottling Group, LLC's Motion to Dismiss (Docket No. 27)** [#47] filed July 8, 2013, is **APPROVED** and **ADOPTED** as an order of this court;
3. That under FED. R. CIV. P. 12(b)(6), the **Defendants Union Pacific Railroad**

Company's and Union Pacific Corporation's Motion To Dismiss [#20] filed January 9, 2013, is **GRANTED**;

4. That under FED. R. CIV. P. 12(b)(6), the **Defendant Pepsi-Cola Metropolitan Bottling Co., Inc's and Bottling Group, LLC's Motion To Dismiss** [#27] filed January 10, 2013, is **GRANTED**;

5. That under FED. R. CIV. P. 12(b)(6), the Complaint [#1] is **DISMISSED** with prejudice;

6. That **JUDGMENT IS ENTERED** in favor of the defendants, Union Pacific Railroad Company, a Delaware corporation, Union Pacific Corporation, a Utah corporation, Pepsi-Cola Metropolitan Bottling Co., Inc., a New Jersey corporation, and Bottling Group, LLC, a Delaware limited liability company, and against the plaintiff, ASARCO LLC, a Delaware limited liability company; and

7. That the defendants are **AWARDED** their costs to be taxed by the Clerk of the Court in the time and manner prescribed by Fed.R.Civ.P. 54(d)(1) and D.C.COLO.LCivR 54.1.

DATED at Denver, Colorado, this 20th day of September, 2013.

FOR THE COURT:

JEFFREY P. COLWELL, CLERK

By: s/Edward P. Butler
Edward P. Butler
Deputy Clerk