

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:10cv144**

**JOSHUA BAILEY and AMANDA
BAILEY, both indiviudally and as
executors of the Estate of Haiden
William Bailey,**)

Plaintiffs,)

Vs.)

ORDER

**ESTATE OF CARROLL JETT;
CORETRANS, LLC; MARLBORO
WAREHOUSE COMPANY;
MARLBORO MILL; DOMTAR
PAPER COMPANY, LLC; DOMTAR
INDUSTRIES, INC.; DOMTAR, INC.;
DOMTAR CORPORATION;
PEOPLEASE CORPORATION;
N&W HOLDINGS, LLC; C. H.
ROBINSON WORLDWIDE, INC.;
C. H. ROBINSON COMPANY;
GEOLOGIC SOLUTIONS, INC.; and
XATA CORPORATION,**)

Defendants.)

_____)

THIS MATTER is before the court on periodic case review at the specific direction of the district court. Such review reveals that the district court resolved the then-pending motions to dismiss on January 31, 2011. On that date, all defendants except **MARLBORO WAREHOUSE COMPANY** and **MARLBORO MILL** had

either answered or been dismissed from this litigation.

Review of the state court docket, which was transferred to this court, reveals that plaintiffs filed proof of service of their Complaint as to such defendants, indicating service on June 17, 2010, and July 12, 2010, respectively. This action was removed on July 16, 2010, making August 8, 2010, the last possible day for the later served defendant to Answer or otherwise respond after removal. See Fed.R.Civ.P. 81(c)(2). Despite the passage of seven months, plaintiffs have not moved to default or otherwise terminate such defendants, which has, since January 31, 2011, prevented joinder of the issues and the entry of a Pretrial Order. See L.Cv.R. 16.1(D).

ORDER

IT IS, THEREFORE, ORDERED that plaintiffs file appropriate motions for default or take other appropriate action as to defendants **MARLBORO WAREHOUSE COMPANY** and **MARLBORO MILL** within seven days. Within 21 days of today's date, the parties shall conduct their Initial Attorneys Conference and file within seven days of that conference their Certificate of Initial Attorneys Conference.

Signed: March 2, 2011

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

