

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**1:14cv57**

**JAMES MARVIN TRIPLETT and** )  
**MARY JANE TRIPLETT,** )  
 )  
 **Plaintiffs,** )  
 )  
 **v.** )  
 )  
 **CYPRUS AMAX MINERALS** )  
**COMPANY, et al.,** )  
 )  
 **Defendants.** )  
\_\_\_\_\_ )

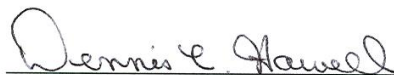
**ORDER**

Pending before the Court are the Motions to Dismiss [# 8, # 15, & # 21]. On April 3, 2014, Plaintiff filed its Amended Complaint. The filing of an amended complaint supersedes the original complaint and renders it void of any legal function in the case. Young v. City of Mount Ranier, 238 F.3d 567, 572 (4th Cir. 2001). Accordingly, the Court **DENIES as moot** the Motions to Dismiss [# 8, # 15, & # 21].

In addition, the Court **DIRECTS** Plaintiffs, who are represented by counsel, to respond to the Motion to Dismiss [# 25] within five (5) days of the entry of this Order. The failure to file a timely response that addresses the legal arguments raised in Defendant Cyprus Amax Minerals Company’s (“Cyprus”) Motion to

Dismiss will result in the Court considering Plaintiffs to concede the merits of Defendant Cyprus's argument and to consent to the dismissal of Count Four in the Amended Complaint. Moreover, the Court will construe any future failure to respond to a defendant's motion to dismiss in a timely manner as Plaintiffs having no opposition to the motion, conceding the merits of the motion, and consenting to the dismissal of the claims the defendant moves to dismiss.

Signed: April 28, 2014

  
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Dennis L. Howell  
United States Magistrate Judge

