

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:14-cv-00057-MR-DLH**

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

**ORDER**

**THIS MATTER** is before the Court on the Motions to Dismiss filed by Defendants Cyprus Amax Minerals Company, Red Devil, Inc., and Georgia-Pacific LLC [Docs. 25, 41, 44] and the Magistrate Judge’s Memorandum and Recommendation [Doc. 49].

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider the motions to dismiss and to submit a recommendation for their disposition.

On May 15, 2014, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed conclusions of law in

support of a recommendation regarding the Defendants' motions. [Doc. 49]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the claims asserted against Defendants Cyprus Amax Minerals Company and Red Devil, Inc. in Count Four of the Amended Complaint be dismissed.

For the reasons stated in the Memorandum and Recommendation, the Court further concludes that Count Four of the Amended Complaint should be dismissed as to Defendant Georgia-Pacific LLC as well.

### **ORDER**

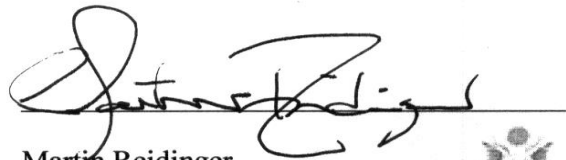
**IT IS, THEREFORE, ORDERED** that the Memorandum and Recommendation [Doc. 49] is **ACCEPTED**.

**IT IS FURTHER ORDERED** that the Motions to Dismiss [Docs. 25, 41, 44] are **GRANTED**, the claims asserted against Defendants Cyprus Amax Minerals Company, Red Devil, Inc., and Georgia-Pacific LLC in Count Four of the Amended Complaint are hereby **DISMISSED**.

**IT IS FURTHER ORDERED** that Defendant Cyprus Amax Minerals Company shall file its Answer to the Amended Complaint within fourteen (14) days of the entry of this Order.

**IT IS SO ORDERED.**

Signed: June 6, 2014

  
Martin Reidinger  
United States District Judge

