



1 California Corporations Code section 309. Mem. 12–13, ECF No. 45-1. The court denied the  
2 motion because it found the FDIC had standing under section 309. Order July 27, 2015, at 9–10.  
3 The court reasoned that because “the shareholders and corporation would have standing under  
4 California law,” the FDIC-R would as well, as it “succeeds to all the rights of the Bank and  
5 stockholders.” *Id.* at 10. The court did not reach the question of the FDIC-R’s standing with  
6 respect to the Banks’ depositors; whether or not the FDIC-R could have maintained this action in  
7 the depositors’ stead, it may maintain its claims under section 309 as successor to the claims of  
8 the Bank and its shareholders.

9 Here, the defendants seek clarification that the FDIC-R would lack standing under  
10 section 309 were it to stand solely in the shoes of the Bank’s depositors. They request this  
11 clarification “because it would serve to narrow the case.” Mem. P. & A. at 1. As the FDIC-R’s  
12 standing under section 309 is established, the court disagrees that the requested additional finding  
13 would meaningfully narrow any dispute. The motion for clarification is denied.

## 14 II. RECONSIDERATION

15 The defendants request reconsideration of this court’s previous conclusion that  
16 “[a] director may be negligent and therefore liable under section 309, even if she complied with  
17 the specific statutes defining impermissible dividends and therefore is not liable under [California  
18 Corporations Code] section 316.” Order July 27, 2015, at 12. They argue this interpretation is  
19 incorrect, because whether or not a dividend complies with the specific statutes governing  
20 dividends, imposing liability under section 309 would run contrary to the California legislature’s  
21 intent. *See* Mem. P. & A. at 1–5.

22 A district court may reconsider a prior interlocutory order: “the power to grant  
23 relief from erroneous interlocutory orders, exercised in justice and good conscience, has long  
24 been recognized as within the plenary power of courts until entry of final judgment and is not  
25 inconsistent with any of the Rules.” *City of L.A., Harbor Div. v. Santa Monica Baykeeper*, 254  
26 F.3d 882, 887 (9th Cir. 2001) (citations and internal quotation marks omitted); *see also* Fed. R.  
27 Civ. P. 54(b). But “as a rule courts should be loathe [sic] to do so in the absence of extraordinary  
28 circumstances such as where the initial decision was ‘clearly erroneous and would work a

1 manifest injustice.” *Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 817 (1988)  
2 (quoting *Arizona v. California*, 460 U.S. 605, 618 n.8 (1983)). As a general matter, courts often  
3 deny requests for reconsideration based on arguments that should have been raised before the  
4 challenged order was issued. *See, e.g., Frietsch v. Refco, Inc.*, 56 F.3d 825, 828 (7th Cir.1995);  
5 *Daghlian v. DeVry Univ., Inc.*, 582 F. Supp. 2d 1231, 1257 (C.D. Cal. 2007)). The Local Rules  
6 of this District also impose specific requirements on motions for reconsideration, including that  
7 the moving party identify any “new or different facts or circumstances that are claimed to exist  
8 which did not exist or were not shown upon such prior motion, or what other grounds exist for the  
9 motion” and “why the facts or circumstances were not shown at the time of the prior motion.”  
10 E.D. Cal. L.R. 230(j).

11 Here, the defendants have not identified any “new or different facts or  
12 circumstances,” but argue the court’s previous decision is incorrect as a matter of law. They  
13 advance many of the same arguments raised in previous motions or variations of those arguments.  
14 *See generally* Mot. Summ. J., ECF No. 19; Reply Summ J., ECF No. 27; Mot. Summ. J., ECF  
15 No. 45; Reply Summ. J., ECF No. 66; Mem. P. & A. Recons, ECF No. 94-1; Reply Recons., ECF  
16 No. 108. The court previously has recognized the same similarity across filings. *See* Order Aug.  
17 27, 2015, at 10 (*comparing* Mot. Summ. J. 1, ECF No. 19 *with* Mot. Summ. J. 1, ECF No. 45).  
18 The paragraphs the defendants now challenge were also addressed in the alternative and as an  
19 additional reason for denial of summary judgment. *See* Order Aug. 27, 2015, at 10–12. The  
20 court declines to reconsider yet again.

21 III. CONCLUSION

22 The motion is DENIED. This order resolves ECF No. 94.

23 IT IS SO ORDERED.

24 DATED: December 1, 2015.

25  
26   
27 UNITED STATES DISTRICT JUDGE  
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