

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CHARTIS SPECIALTY INSURANCE  
COMPANY, *et al.*,

No. C-13-1527 EMC

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

**ORDER GRANTING PLAINTIFFS’  
REQUEST FOR LEAVE TO FILE A  
MOTION FOR RECONSIDERATION**

**(Docket No. 105)**

Pending before the Court is Plaintiff Chartis Specialty Insurance Company’s (“Chartis”) request for leave to file a motion for reconsideration. Chartis' request is **GRANTED** and the proposed motion for reconsideration, located at docket number 105-1, will be filed.

The Court concludes that Plaintiff’s reliance on the Ninth Circuit’s recent decision in *ASARCO, LLC v. Union Pacific R.R. Co.*, 765 F.3d 999 (9th Cir. 2014), as intervening authority is misplaced. *ASARCO* addressed a narrow question of first impression regarding the application of Rule 15’s relation back doctrine: “Can an amended pleading relate back if it includes allegations that were expressly disclaimed in the original pleading?” *Id.* at 1005. Chartis’ original complaint in this action did not expressly disclaim any claim or allegation later alleged in the First Amended Complaint. *ASARCO* did not break new ground in any way material to this case. Accordingly, Chartis has failed to meet the standard for reconsideration under N.D. Cal. Local Rule 7-9(b).

Despite the fact that Chartis’ “motion is technically defective, the Court nonetheless has the inherent authority to revisit and modify any interlocutory orders at any time prior to final judgement.” *Gong v. City of Alameda*, No. C03-5495 TEH, 2007 WL 1223693, at \*1 (N.D. Cal. Apr. 24, 2007). “A district court may reconsider and reverse a previous interlocutory decision for

1 any reason it deems sufficient, even in the absence of new evidence or an intervening change in or  
2 clarification of controlling law.” *Abada v. Charles Schwab & Co., Inc.*, 127 F. Supp. 2d 1101, 1102  
3 (S.D. Cal. 2000).


4 Chartis is correct that the Court in its prior order on the United States’ motion to dismiss  
5 determined, *sua sponte*, that the statute of limitations for Chartis’ subrogation claims should be  
6 based on the date of the filing of the First Amended Complaint. Accordingly, the Court did not have  
7 the benefit of briefing by the parties on whether the subrogation claims should relate back to the  
8 filing of the original complaint for purposes of the statute of limitations. Chartis’ motion for  
9 reconsideration raises a substantial question as to whether its subrogation claim should be deemed to  
10 relate back to the filing of the original complaint.

11 The United States is **ORDERED** to file a response to Chartis’ substantive arguments in  
12 favor of applying the relation back doctrine in these circumstances. This response shall not exceed  
13 seven pages and shall be filed by **Friday, December 9, 2014 at 5:00pm**. Chartis may file a reply  
14 not to exceed three pages by **Tuesday, December 16, 2014 at 5:00pm**.

15 This order disposes of docket number 105.

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17 IT IS SO ORDERED.

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19 Dated: December 2, 2014

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21 EDWARD M. CHEN  
22 United States District Judge  
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