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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
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7 CHARTIS SPECIALTY INSURANCE
8 COMPANY, *et al.*,

No. C-13-1527 EMC

9 Plaintiffs,

10 v.

11 UNITED STATES OF AMERICA,

12 Defendant.
13 _____/

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

(Docket No. 105)

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

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

25 Despite the fact that Chartis' "motion is technically defective, the Court nonetheless has the
26 inherent authority to revisit and modify any interlocutory orders at any time prior to final
27 judgement." *Gong v. City of Alameda*, No. C03-5495 TEH, 2007 WL 1223693, at *1 (N.D. Cal.
28 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 **Tuesday, 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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22 EDWARD M. CHEN
23 United States District Judge
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