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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ITALIA MARITTIMA, S.P.A.

Plaintiff,

No. C 10-0803 PJH

v.

ORDER

SEASIDE TRANSPORTATION
SERVICES, LLC, et al.,

Defendants.

_____ /

Plaintiff Italia Marittima, S.p.A. (“Italia Marittima”) seeks leave to file a motion for reconsideration of the court’s September 7, 2010, order granting the motion of defendant Marine Terminals Corporation (“MTC”) to dismiss the claims asserted against it, without leave to amend. Plaintiff claims that the court did not consider that Italia Marittima’s indemnity claims against MTC did not accrue until Italia Marittima made payment or judgment was affixed, and that Italia Marittima should be permitted leave to amend its claims against MTC (just as it was permitted leave to amend its claims against Seaside Transportation Services LLC (“Seaside”) on the same theory).

As the court noted in the September 7, 2010 order, the complaint does not mention indemnity. However, as to Seaside, Italia Marittima did mention in its opposition to the motion to dismiss that it was proceeding under theories of indemnity and contribution. On that rather thin basis, the court agreed to permit Italia Marittima to amend its claims against Seaside. However, Italia Marittima did not make the same assertion in its opposition to MTC’s motion. Moreover, it is the court’s recollection that the discussion at the hearing

United States District Court
For the Northern District of California

1 regarding indemnity was in the context of Italia Marittima's opposition to Seaside's motion,
2 not its opposition to MTC's.

3 The court will consider granting the motion for reconsideration only if Italia Marittima
4 can establish that it previously asserted that its claims against MTC were based on an
5 indemnity theory.

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7 **IT IS SO ORDERED.**

8 Dated: September 29, 2010



9 PHYLLIS J. HAMILTON
10 United States District Judge

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