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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
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10 NATIONAL UNION FIRE INSURANCE
11 COMPANY OF PITTSBURGH, PA,

Plaintiff,

12 vs.

13 TOKIO MARINE & NICHIDO FIRE
14 INSURANCE CO, LTD,

15 Defendant.

CASE NO. 10CV1733 JLS (MDD)

**ORDER GRANTING PLAINTIFF'S
MOTION TO ALTER OR AMEND
AND/OR GRANT RELIEF FROM
ORDER**

(Doc. No. 22.)

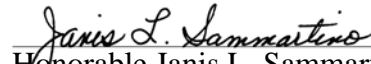
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17 Presently before the Court is Plaintiff National Union Fire Insurance Company of
18 Pittsburgh, PA's motion to alter or amend and/or grant relief from order. (Doc. No. 22.) On
19 February 1, 2011, this Court granted Defendant's motion to dismiss Plaintiff's first cause of
20 action. (Doc. No. 19 (Order).) In that motion, Defendant asserted that Plaintiff's allegations were
21 insufficient on their face to establish standing for the first cause of action. (*See* Doc. No. 10 at 3.)
22 The Court agreed with Defendant's facial challenge and dismissed Plaintiff's first cause of action.
23 (Order at 3.) But the Court did not indicate whether Plaintiff could amend its complaint.

24 Plaintiff's motion requests, among other things, that the Court reconsider its silence.
25 Defendant opposes, arguing that Plaintiff's motion improperly invokes Federal Rules of Civil
26 Procedure 59(e) and 60(b). (Doc. No. 28 at 6.) Indeed, Defendant argues, even if Plaintiff's
27 motion were properly styled as a Rule 54(b) motion, the motion fails because Plaintiff cannot point
28 to any new facts or law. (*Id.* at 8.)

1 But as Defendant—with great candor—indicates, the Court has discretion to reconsider its
2 interlocutory orders. (*See id.* at 7–8 (citing *U.S. v. Martin*, 226 F.3d 1042, 1049 (9th Cir. 2000).)
3 And the Court finds it appropriate here to clarify its Order on the issue whether Plaintiff can
4 amend its complaint to remedy its failure to allege standing. The Court hereby **GRANTS**
5 **PLAINTIFF LEAVE TO AMEND** its complaint. It is appropriate under the circumstances. *See*
6 *United Union of Roofers, Waterproofers, & Allied Trades No. 40 v. Ins. Corp. of Am.*, 919 F.2d
7 1398, 1402 (9th Cir. 1990) (stating that “[o]ften a plaintiff will be able to amend its complaint to
8 cure standing deficiencies. To deny any amending of the complaint places too high a premium on
9 artful pleading and would be contrary to the provisions and purpose of Fed.R.Civ.P. 15”). Any
10 amended complaint **SHALL BE FILED** within 14 days of this order being electronically
11 docketed.

12 **IT IS SO ORDERED.**

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14 DATED: May 16, 2011

15 
16 Honorable Janis L. Sammartino
17 United States District Judge
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