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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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LIBERTY MUTUAL INSURANCE GROUP,  
Plaintiff,  
v.  
PANELIZED STRUCTURES, INC., ET AL.,  
Defendants.

Case No. 2:10-cv-01951-MMD-PAL

ORDER

(Def's Motion to Review and Set Aside Order of Dismissal Based on Newly Revealed Evidence of LM Insurance Corporation's Issuance of Insurance Policy, Delayed Admission of Liberty Mutual's False Claim and Manifest Injustice of Dismissal- dkt. no. 143; PSI's Motion for Partial Summary Judgment Against LM Insurance Corporation based on Bar of Statute of Limitations - dkt. no. 152)

PANELIZED STRUCTURES, INC.,  
Counterclaimant,  
v.  
LIBERTY MUTUAL INSURANCE GROUP,  
LM INSURANCE CORPORATION, and  
LIBERTY MUTUAL INSURANCE  
GROUP/BOSTON,  
Counterdefendants.

PANELIZED STRUCTURES, INC.,  
Third-Party Plaintiff,  
v.  
ARIZONA LABOR FORCE, INC., an  
Arizona corporation, dba ALLIED FORCES  
TEMPORARY SERVICES,  
Third-Party Defendant.

CONSOLIDATED WITH:  
Case No. 2:12-cv-00264-MMD-PAL

Before the Court are Defendant Panelized Structures, Inc.'s ("Defendant") Motion to Review and Set Aside Order of Dismissal Based on Newly Revealed Evidence of LM Insurance Corporation's Issuance of Insurance Policy, Delayed Admission of Liberty

1 Mutual's False Claim and Manifest Injustice of Dismissal ("Motion to Set Aside") (dkt. no.  
2 143), and Defendant's Motion for Partial Summary Judgment Against LM Insurance  
3 Corporation based on Bar of Statute of Limitations ("Motion for Partial Summary  
4 Judgment") (dkt. no. 152). Both of these Motions are part of a group of motions that  
5 Defendant filed in response to Plaintiff Liberty Mutual Insurance Group's ("Liberty  
6 Mutual") Motion to Substitute LM Insurance Corporation as the Real Party in Interest.  
7 Because the Court's Order granting Liberty Mutual's motion resolves the arguments  
8 presented in these Motions, both Motions are denied.

9 The facts of this case are set forth in the Court's other Orders. Pertinent to these  
10 Motions is only that the Court's Order entered February 26, 2008 (dkt. no. 185), granted  
11 the Motion to Substitute LMIC as the real party in interest for plaintiff Liberty Mutual.

12 Defendant's Motions presently before the Court do little more than repeat the  
13 arguments made in Defendant's Response in Opposition to the Liberty Mutual's Motion  
14 to Substitute. Both Motions are premised on the arguments that because Liberty Mutual  
15 was not a real party in interest, any actions taken by it were of no effect. However, this  
16 is not the law. Upon substitution, an "action proceeds as if it had been originally  
17 commenced by the real party in interest." Fed. R. Civ. P. 17(a)(3). Thus, after  
18 substitution, all actions taken by Liberty Mutual in the prosecution of the action are  
19 considered to have been taken by LMIC. Thus, none of the analysis changes in the  
20 Court's prior Order which Defendant seeks to set aside, and LMIC's prosecution of the  
21 action relates back to the date of Liberty Mutual's original filing.

22 IT IS THEREFORE ORDERED that Defendant's Motion to Review and Set Aside  
23 Order of Dismissal Based on Newly Revealed Evidence of LM Insurance Corporation's  
24 Issuance of Insurance Policy, Delayed Admission of Liberty Mutual's False Claim and  
25 Manifest Injustice of Dismissal (dkt. no. 143) is DENIED.

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IT IS FURTHER ORDERED that Defendant's Motion for Partial Summary Judgment Against LM Insurance Corporation based on Bar of Statute of Limitations (dkt. no. 152) is DENIED.

DATED THIS 12<sup>th</sup> day of March 2013.

  
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MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE