

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Sara Burgess, et al. v. Alternative Sierra Investments, LLC, et al.

Burgess · No. 1:23-cv-01641 JLT BAM · Decided December 15, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted findings and recommendations concerning Alternative Sierra Investments, LLC’s motion for leave to file a third-party complaint in a CERCLA action. The court granted the motion and ordered ASI to file the third-party complaint within 21 days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jennifer L. Thurston
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 15, 2025
DOCKET	1:23-cv-01641 JLT BAM
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's findings and recommendations concerning Alternative Sierra Investments, LLC's motion for leave to file a third-party complaint under Federal Rule of Civil Procedure 14. No party filed objections.
STANDARD OF REVIEW	De novo review under 28 U.S.C. § 636(b)(1)(C).
PRECEDENTIAL VALUE	unknown

TOPICS

- third party practice
- cercla
- environmental law
- civil procedure

PRACTICE AREAS

- Civil procedure
- Environmental law
- Commercial litigation

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's findings and recommendations regarding ASI's motion for leave to file a third-party complaint.
2. Whether ASI should be granted leave under Federal Rule of Civil Procedure 14 to file its untimely third-party complaint.

HOLDINGS

1. The district court adopted the magistrate judge's findings and recommendations after conducting de novo review.
2. ASI was granted leave to file its third-party complaint despite the untimeliness of its motion.

KEY QUOTATIONS

“The Court concludes that the Findings and Recommendations are supported by the record and proper analysis.” (at 1)

FACTUAL BACKGROUND

The action arises under CERCLA and concerns alleged tetrachloroethylene and trichloroethylene contamination originating from Heritage Dry Cleaners, with contamination present in and migrating through groundwater beneath or near the property. The plaintiffs settled their claims, leaving crossclaims between Alternative Sierra Investments, LLC and Frederick and Judy A. Wentworth. ASI sought leave to bring a third-party complaint against the estate of Russell L. Hoenes and Greg L. Hoenes as trustee, although its motion was untimely.

PROCEDURAL HISTORY

Plaintiffs' CERCLA claims had been settled, leaving crossclaims between Alternative Sierra Investments, LLC and Frederick and Judy A. Wentworth. ASI moved for leave to file a third-party complaint against the estate of Russell L. Hoenes and Greg L. Hoenes as trustee. The magistrate judge recommended granting leave despite the motion's untimeliness. After the objection period expired without objections, the district court conducted de novo review, adopted the findings and recommendations, granted leave, and ordered ASI to file the third-party complaint within 21 days.

DISPOSITION

other

CASES CITED

- Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)

OPINION

1 2 3 4 5 6 UNITED STATES DISTRICT COURT 7 EASTERN DISTRICT OF CALIFORNIA 8
9 SARA BURGESS, et al., No. 1:23-cv-01641 JLT BAM 10 Plaintiffs, ORDER ADOPTING
FINDINGS AND RECOMMENDATIONS AND GRANTING 11 v. ALTERNATIVE SIERRA

INVESTMENTS, LLC LEAVE TO FILE THIRD-PARTY 12 ALTERNATIVE SIERRA
COMPLAINT INVESTMENTS, LLC, et al., 13 (Docs. 98, 103) Defendants. 14 15 AND
RELATED CROSSCLAIMS 16 17 This action arises under the Comprehensive Environmental
Response, Compensation and 18 Liability Act, 42 U.S.C. §§ 9601 to 9675.

Plaintiffs, who have settled their claims, alleged that 19 Heritage Dry Cleaners was the source of
the alleged contamination of tetrachloroethylene and its 20 breakdown chemical trichloroethylene
on and under the property that remains present in the 21 groundwater below the property and is
migrating to or from the property.

The only remaining 22 claims at issue are the respective crossclaims of Alternative Sierra
Investments, LLC (“ASI”) and 23 Frederick and Judy A. Wentworth. 24 On August 5, 2025, ASI
filed a motion for leave to file a third-party complaint against the 25 estate of Russell L. Hoenes,
M.D., Deceased, and Greg L. Hoenes, as Trustee of The Hoenes 26 1992 Revocable Trust under
Rule 14 of the Federal Rules of Civil Procedure.¹ (Doc.

98.) The 27 1 ASI also filed a motion for substitution of parties in an amended crossclaim on
August 5, 2025. (Doc. 95.) That 28 motion remains pending. 1 | motion was referred to the
assigned magistrate judge for the preparation of findings and 2 | recommendations. (Doc. 101.) 3
On November 18, 2025, the magistrate judge issued findings and recommendations that 4 |
recommended ASI’s motion for leave to file a third-party complaint be granted.

(Doc. 103.) The 5 | magistrate judge determined that despite the untimeliness of ASI’s motion, the
relevant factors 6 | weighed in favor of granting leave. (/d. at 4-5.) 7 The Court served the findings
and recommendations on the parties and notified them that 8 | any objections were due within 14
days. (Ud. at 5.)

The Court advised the parties that “failure to 9 | file objections within the specified time may result
in the waiver of the ‘right to challenge the 10 | magistrate’s factual findings’ on appeal.” Ud.,
quoting *Wilkerson v. Wheeler*, 772 F.3d 834, □□□□ 11 } 39 (9th Cir. 2014)). No objections have
been filed, and the time to do so has expired. 12 According to 28 U.S.C. § 636 (b)(1)(c), this Court
performed a de novo review of this 13 | case.

Having carefully reviewed the matter, the Court concludes that the Findings and 14 |
Recommendations are supported by the record and proper analysis. Thus, the Court ORDERS: 15
1. The Findings and Recommendations issued on November 18, 2025 (Doc. 103) are 16
ADOPTED. 17 2. ASI’S motion for leave to file a third-party complaint (Doc. 98) is GRANTED.
18 3. ASI shall file its third-party complaint within 21 days of the date of this order.

19 Failure to file a third-party complaint will result in this action proceeding on the 20 existing
crossclaims. 21 IT IS SO ORDERED. 23 Dated: _ December 15, 2025 Charis [Tourn TED
STATES DISTRICT JUDGE 24 25 26 27 28

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