

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Atlantic Richfield Company v. NL Industries, Inc. and NL Environmental Management Services

Atlantic Richfield · No. 20-cv-00234-NYW-KAS · Decided February 26, 2026

SUMMARY

The United States District Court for the District of Colorado grants NL Industries, Inc. and NL Environmental Management Services leave to file and serve a third-party complaint against El Paso Remediation Company. The court finds good cause under Federal Rule of Civil Procedure 16(b)(4), no undue delay, prejudice, or apparent futility under Rule 15(a), appropriate supplemental jurisdiction, and a proper indemnification claim under Rule 14(a).

CASE DETAILS

COURT	United States District Court for the District of Colorado
WRITING FOR THE COURT	Nina Y. Wang
JURISDICTION	United States District Court for the District of Colorado
DECIDED	February 26, 2026
DOCKET	20-cv-00234-NYW-KAS
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for leave to file and serve a third-party complaint against El Paso Remediation Company after the deadline for joinder and amendment had passed. The court granted the motion under Federal Rules of Civil Procedure 16(b)(4), 15(a), and 14(a), and exercised supplemental jurisdiction over the proposed state-law indemnity claim.
STANDARD OF REVIEW	The decision whether to find good cause under Rule 16(b)(4), allow amendment under Rule 15(a), and permit a third-party complaint under Rule 14(a) is committed to the district court's discretion. Futility is evaluated functionally under the Rule 12(b)(6) standard, but amendment may be denied on futility grounds when the proposed claims are patently futile.
PRECEDENTIAL VALUE	unknown

TOPICS

third party practice

joinder

motion to amend

civil procedure

cercla

PRACTICE AREAS

civil procedure

environmental law

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QUESTIONS PRESENTED

1. Whether NL established good cause under Federal Rule of Civil Procedure 16(b)(4) to seek amendment and joinder after the scheduling-order deadline.
2. Whether leave to amend should be granted under Federal Rule of Civil Procedure 15(a) despite ARCO's arguments concerning undue delay, prejudice, and futility.
3. Whether the court should decline supplemental jurisdiction under 28 U.S.C. § 1367(c)(2) because the proposed indemnity claim would substantially predominate over ARCO's CERCLA claims.
4. Whether NL's proposed indemnity claims against El Paso are proper third-party claims under Federal Rule of Civil Procedure 14(a)(1).

HOLDINGS

1. NL established good cause to seek leave after the amendment deadline because it acted with reasonable or general diligence, promptly moved after discovering the 1940 Lease Agreement, and was not required to exhaust every possible avenue of inquiry or conduct a title search.
2. Assuming Rule 15(a) applies, leave to amend should be granted because NL did not unduly delay, ARCO would not suffer undue prejudice, and the proposed claims were not patently futile.
3. The court should exercise supplemental jurisdiction over NL's proposed indemnity claims because those claims did not substantially predominate over ARCO's CERCLA claims.
4. NL's proposed indemnity claims against El Paso were proper third-party claims because El Paso's potential liability depended at least in part on the outcome of ARCO's primary CERCLA action.

KEY QUOTATIONS

“The fact that NL was incorrect—and failed to pursue other avenues that, in hindsight, would have revealed a specific 85-year-old document—does not mean that NL failed to exercise reasonable diligence.” (Analysis I)

“The Court thus finds it preferable to reserve a ruling on NL’s proposed claims for a Rule 12 or Rule 56 motion, where El Paso (and NL, if appropriate) can fully brief the substantive legal issues.” (Analysis II)

“The proposed claims thus depend at least partly on the resolution of the primary lawsuit.” (Analysis IV)

FACTUAL BACKGROUND

ARCO seeks to recover a portion of environmental cleanup costs for the Rico-Argentine Site in Colorado under CERCLA, alleging liability based on mining activities by predecessors of NL Industries and NL Environmental Management Services. NL alleges that in 1940 Rico Argentine Mining Company, the predecessor of proposed third-party defendant El Paso Remediation Company, leased property from St. Louis Smelting and Refining Co.,

NL's predecessor, and agreed to indemnify St. Louis for losses and claims arising from RAMCO's operations. NL learned of the lease through discovery and moved approximately three weeks later for leave to assert indemnity claims against El Paso.

PROCEDURAL HISTORY

ARCO filed a CERCLA action seeking recovery of environmental cleanup costs from NL based on alleged mining activities by NL's predecessors at the Rico-Argentine Site. NL previously asserted third-party claims against several entities, including El Paso, but those claims were dismissed. The district court later granted NL partial summary judgment, the Tenth Circuit reversed, and the case was remanded. After remand, NL sought leave to assert new third-party claims against El Paso based on a 1940 lease and indemnity agreement that NL discovered through discovery.

DISPOSITION

other

CASES CITED

- *Gorsuch, Ltd., B.C. v. Wells Fargo Nat'l Bank Ass'n*, 771 F.3d 1230, 1240, 1242 (10th Cir. 2014)
- *Pumpco, Inc. v. Schenker Int'l, Inc.*, 204 F.R.D. 667, 668 (D. Colo. 2001)
- *Tesone v. Empire Mktg. Strategies*, 942 F.3d 979, 988 (10th Cir. 2019)
- *Husky Ventures, Inc. v. B55 Invs., Ltd.*, 911 F.3d 1000, 1021 (10th Cir. 2018)
- *Mathews v. Kidder, Peabody & Co.*, 260 F.3d 239, 255 (3d Cir. 2001)
- *Foman v. Davis*, 371 U.S. 178, 182 (1962)
- *Openwater Safety IV, LLC v. Great Lakes Ins. SE*, 435 F. Supp. 3d 1142, 1151 (D. Colo. 2020)
- *Bylin v. Billings*, 568 F.3d 1224, 1229–30 (10th Cir. 2009)
- *Burks v. Okla. Publ'g Co.*, 81 F.3d 975, 978–79 (10th Cir. 1996)
- *Minter v. Prime Equip. Co.*, 451 F.3d 1196, 1205 n.4, 1207–08 (10th Cir. 2006)
- *Philippus v. Aetna Health, Inc.*, No. 07-cv-02682-JLK-KLM, 2010 WL 148282, at *4 (D. Colo. Jan. 8, 2010)
- *Hirt v. Unified Sch. Dist. No. 287*, 308 F. Supp. 3d 1157, 1168 (D. Kan. 2018)
- *SMHG Phase I LLC v. Eisenberg*, No. 1:22-cv-00035-DBB-JCB, 2023 WL 3821132, at *4–5 (D. Utah June 6, 2023)
- *Gohier v. Enright*, 186 F.3d 1216, 1218 (10th Cir. 1999)
- *Combs v. Nordstrom, Inc.*, No. 22-cv-00150-RMR-NRN, 2022 WL 2865985, at *4 (D. Colo. July 21, 2022)
- *Electro-Mechanical Prods., Inc. v. Alan Lupton Assocs.*, No. 22-cv-00763-PAB-SBP, 2023 WL 5152627, at *3 (D. Colo. July 10, 2023)
- *Gen. Steel Domestic Sales, LLC v. Steelwise, LLC*, No. 07-cv-01145-DME-KMT, 2008 WL 2520423, at *4 (D. Colo. June 20, 2008)
- *Pollack v. Boulder Cnty.*, No. 17-cv-02444-CMA-NRN, 2019 WL 1292858, at *4–5 (D. Colo. Mar. 21, 2019)
- *Faircloth v. Hickenlooper*, No. 18-cv-01249-RM-STV, 2019 WL 1002935, at *3 (D. Colo. Mar. 1, 2019)

- *Stender v. Cardwell*, No. 07-cv-02503-WJM-MJW, 2011 WL 1235414, at *3 (D. Colo. Apr. 1, 2011)
- *United Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 726–27 (1966)
- *Est. of Harshman v. Jackson Hole Mountain Resort Corp.*, 379 F.3d 1161, 1165 (10th Cir. 2004)
- *Arc of the Pikes Peak Region v. Nat’l Mentor Holdings, Inc.*, No. 10-cv-01144-REB-BNB, 2011 WL 1047222, at *3 (D. Colo. Mar. 18, 2011)
- *Borough of West Mifflin v. Lancaster*, 45 F.3d 780, 789 (3d Cir. 1995)
- *Mathews v. Dow Chem. Co.*, 947 F. Supp. 1517, 1522 (D. Colo. 1996)
- *Polger v. Republic Nat’l Bank*, 709 F. Supp. 204, 210 (D. Colo. 1989)
- *Patter v. Knutzen*, 646 F. Supp. 427, 429 (D. Colo. 1986)
- *U.S. Fid. & Guar. Co. v. Perkins*, 388 F.2d 771, 773 (10th Cir. 1968)
- *Maxfour Eng’rs & Architects, LLC v. ARB, Inc.*, 233 F.R.D. 602, 605 (D. Colo. 2006)
- *Owen Equip. & Erection Co. v. Kroger*, 437 U.S. 365, 376 (1978)
- *First Nat’l Bank of Nocona v. Duncan Sav. & Loan Ass’n*, 957 F.2d 775, 777 (10th Cir. 1992)
- *Hinton v. 4871 Broadway, Inc.*, No. 19-cv-00467-RM-SKC, 2019 WL 2865380, at *2 (D. Colo. July 3, 2019)
- *Fid. State Bank of Garden City v. McNeilus Truck & Mfg. Inc.*, No. 96-cv-01253-JTM, 1997 WL 446422, at *3 (D. Kan. July 8, 1997)