

## Court Dismisses Private Claim for CERCLA Contribution Based on Potentially Responsible Party's Failure to Explicitly Waive CERCLA Contribution Protection in Private Tolling Agreement

**Prepared for the Katten Environmental Advisory Group**

July 9, 2013

On July 1, 2013, Judge Joseph Bataillon of the U.S. District Court for the District of Nebraska (the "Court") issued summary judgment for Union Pacific Railroad Company (Union Pacific) in a suit for contribution under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq. (CERCLA) filed by Asarco LLC (Asarco). *Asarco LLC v. Union Pac. R.R. Co.*, No. 8:12CV416, 2013 WL 3322003 (D. Neb. July 1, 2013). Asarco sought contribution for remediation costs associated with the Omaha Lead Superfund Site (Site) in Omaha, Nebraska. Asarco and Union Pacific had jointly operated a metals refinery and smelter at the Site....

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### CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.



**Nancy J. Rich**

+1.312.902.5536

[nancy.rich@katten.com](mailto:nancy.rich@katten.com)

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