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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Dillon Real Estate Company Inc.;
Smith's Food & Drug Centers Inc.,

No. CV 08-1508-PHX-FJM

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Plaintiffs,

ORDER

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vs.

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American National Insurance Company,
Dollar Tree Stores Inc.,

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Defendants.

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The court has before it "Plaintiff's Motion to Enforce Permanent Injunction" (doc. 254), ANICO's Response, Dollar Tree's Response, plaintiff's Reply, and ANICO's Supplement to its Response. We held a hearing on the motion on November 23, 2010. These are the court's findings of fact and conclusions of law.

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Our Order of April 26, 2010 at 4 (doc. 210), enjoined ANICO from allowing Dollar Tree to sell groceries in the Heatherwood Plaza shopping center. The parties concede that Dollar Tree is still selling goods that constitute groceries. ANICO has written Dollar Tree and asked it to stop, but Dollar Tree has failed to stop and failed to respond. ANICO stated that it had no right to self help. However, it had no satisfactory explanation for failing to bring and vigorously prosecute an action against Dollar Tree. It has delayed doing so in the hope that the parties could sit down and settle the dispute before a magistrate judge appointed by the court.

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