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9 Attorneys for Counterclaim Defendant  
 10 MARKEL AMERICAN INSURANCE COMPANY

11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA

13 LENSRAFTERS, INC.; and EYEXAM OF  
 14 CALIFORNIA, INC.,

15 Plaintiffs,

16 vs.

17 LIBERTY MUTUAL FIRE INSURANCE  
 18 COMPANY; EXECUTIVE RISK  
 19 SPECIALTY INSURANCE COMPANY;  
 20 UNITED STATES FIRE INSURANCE  
 21 COMPANY; MARKEL AMERICAN  
 22 INSURANCE COMPANY; and  
 23 WESTCHESTER FIRE INSURANCE  
 24 COMPANY,

25 Defendants.

CASE No. CV-07-2853 SBA

**STIPULATION TO DISMISS,  
 WITHOUT PREJUDICE,  
 COUNTERCLAIM OF UNITED STATES  
 FIRE INSURANCE COMPANY**

26 AND RELATED CROSS ACTIONS

27 Defendant and Counter-Claimant United States Fire Insurance Company (“U.S. Fire”) and Counterclaim Defendant Markel American Insurance Company (“Markel”) stipulate and agree as follows:

28 WHEREAS, on July 31, 2008, Defendant and Counter-Claimant United States Fire Insurance Company (“U.S. Fire”) filed an Answer and Counterclaim responding to the Counterclaim of Defendant and Counter-Claimant Markel American Insurance Company (“Markel”);

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WHEREAS, U.S. Fire and Markel have reached a Tolling Agreement regarding the claims made in U.S. Fire's Counterclaim, in which U.S. Fire agreed to dismiss, without prejudice, its Counterclaim against Markel;

NOW THEREFORE, U.S. Fire and Markel stipulate that U.S. Fire may and hereby does dismiss its Counterclaim against Markel, without prejudice.

Dated: November 4, 2008 LONG & LEVIT LLP

By \_\_\_\_\_  
/s/  
CHIP COX  
Attorneys for Counterclaim Defendant  
MARKEL AMERICAN  
INSURANCE COMPANY

DATED: November 4, 2008 SQUIRE, SANDERS & DEMPSEY L.L.P.

By \_\_\_\_\_  
/s/  
DAVID A. GABIANELLI  
Attorneys for Defendant and Counter-  
Claimant UNITED STATES FIRE  
INSURANCE COMPANY

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**ORDER**

For good cause, IT IS HEREBY ORDERED that United States Fire Insurance Company's Counterclaim against Markel American Insurance Company is hereby dismissed without prejudice.

DATED: 11/13/08

  
\_\_\_\_\_  
HON. SAUNDRA BROWN ARMSTRONG  
United States District Court Judge

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