

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

MARK MONSOUR, SHEILA MONSOUR,)
and MONSOUR’S INC.,)

Plaintiffs,)

vs.)

Case No. 05-1204-MLB

MENU MAKER FOODS, INC.,)

Defendants.)

_____)

**DEFENDANT’S MOTION FOR EXTENSION OF TIME WITHIN WHICH TO FILE
RESPONSE TO PLAINTIFFS’ MOTION REQUIRING DEFENDANT TO PAY COSTS
ASSOCIATED WITH DEPOSITION OF PLAINTIFFS’ EXPERT**

COMES NOW the defendant, by and through its attorney of record, John Val Wachtel of Klenda, Mitchell, Austerman & Zuercher, L.L.C., and hereby moves this Court for an order extending the time within the defendant must file a response to the Plaintiffs’ Motion Requiring Defendant to Pay Costs Associated with Deposition of Plaintiffs’ Expert (Doc. 90) hereinafter, “the Motion.” In support of the Motion, the Defendant states:

1. Plaintiffs filed the Motion on November 10, 2006, and served a copy of the Motion along with a brief in support upon counsel for the defendant.
2. Defendant’s counsel has and has had pneumonia, which has prevented defendant’s counsel from responding to the Motion within the amount of time allotted by the rules.
3. Counsel for the defendant seeks additional time within which to respond to the Motion.
4. Counsel for the defendant has discussed this matter with plaintiffs’ counsel and plaintiffs’ counsel does not object to an order extending defendant’s response date to the 29th day of November, 2006.

5. No prior request for an extension of the date of the defendant's response has been made.

6. This Motion is made in good faith and not for the purpose of delay.

7. Granting this Motion will not delay these proceedings.

WHEREFORE, the Defendant prays for an order of this Court granting an extension of time within which to file a response to the Motion until November 29, 2006.

Respectfully submitted,

KLEND, MITCHELL, AUSTERMAN &
ZUERCHER, L.L.C.

s/John Val Wachtel

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 20th day of November, 2006, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send electronic notice of this filing to:

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