

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JET IMPORTS, L.L.C.,
Plaintiff/Counter-Defendant,
v.
WHAK SAK INDUSTRIES, INC.,
Defendant/Counter-claimant.

Case No. 2:10-CV-00266-KJD-RJJ

ORDER

Presently before the Court is Counter-claimant Whak Sak Industries, Inc.’s Motion to Strike Answer to Counterclaim (#19). Counter-defendant Jet Imports, L.L.C. filed a response in opposition (#20) to which Counter-claimant replied (#21). The answer to the counterclaim was due no later than April 2, 2010. The action had been transferred to this Court on February 25, 2010 from the United States District Court, Southern District of Iowa. The Verified Petition for Permission to Practice *Pro Hac Vice* (#16) on behalf of Plaintiff/Counter-defendant was filed on April 9, 2010, and granted (#17) on April 12, 2010. Counter-defendant then filed its Answer (#18) on April 22, 2010.

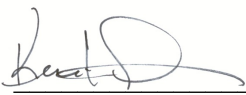
Counter-claimant correctly asserts that Counter-defendant should have sought leave to file a late answer to the counterclaim. However, the Court construes Counter-defendant’s late filed answer and opposition to the motion to strike as a motion to file the answer late. Having read and considered the pleadings and finding good cause, the Court grants Counter-defendant’s motion for an

1 extension of time. The Court notes that had Counter-claimant's counsel merely extended the
2 courtesy of inquiring about Counter-defendant's intention to proceed before seeking entry of default,
3 as required by Nevada Rule of Professional Conduct 3.5A, then the unnecessary motion for default
4 judgment and motion to strike could have been avoided.

5 Accordingly, IT IS HEREBY ORDERED that Counter-claimant Whak Sak Industries, Inc.'s
6 Motion to Strike Answer to Counterclaim (#19) is **DENIED**.

7 DATED this 4th day of March 2011.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26



Kent J. Dawson
United States District Judge