

1 DENNIS M. PRINCE
 Nevada Bar No. 5092
 2 **PRINCE & KEATING**
 3 3230 South Buffalo Drive
 Suite 108
 4 Las Vegas, Nevada 89117
 Phone: (702) 228-6800
 5 Facsimile: (702) 228-0443
Email: dprince@princekeating.com
 6 Attorney for Defendant/Counterclaimant
 7 *SMITH'S FOOD & DRUG CENTERS, INC.*

8
 9 **UNITED STATES DISTRICT COURT**
 10 **SOUTHERN DISTRICT OF NEVADA**

11	USF INSURANCE COMPANY,)	
12	a Michigan corporation,)	
13)	CASE NO.: 2:10-cv-01513 RLH VCF
	Plaintiff,)	
14)	
	vs.)	
15)	
16	SMITH'S FOOD AND DRUG CENTER,)	
17	INC. d/b/a SMITH'S FOOD AND DRUG)	
	CENTER, #377, an Ohio corporation and)	<u>MOTION TO ENLARGE TIME TO</u>
	J&I MAINTENANCE, a Utah corporation,)	<u>FILE OPPOSITION TO MOTION</u>
18)	<u>FOR SUMMARY JUDGMENT</u>
	Defendants.)	
19)	
	_____)	
20	AND ALL RELATED CLAIMS)	
21)	

22 Defendant Smith's Food and Drug Center, Inc.'s (Smith's) by and through their
 23 attorneys of record, PRINCE & KEATING, hereby submits this Motion to Enlarge Time to
 24 File Opposition to Plaintiff USF Insurance Company's ("USF") Motion for Summary
 25 Judgment Against Smith's' Counterclaims.

26 ...
 27 ...
 28 ...

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

I.

INTRODUCTION

This is an action for, among other things, that USF Insurance Company's bad faith refusal to settle the third party liability claim of Tammy Bell when it had a reasonable opportunity to do so. In this action Smith's is seeking, among other things, to recover the \$2,000,000.00 it paid as a result of USF's failure to timely settle the claim of Bell when it had a commercially reasonable opportunity to do so.

On March 1, 2012, USF filed Plaintiff/Counterdefendant USF Insurance Company's Motion for Summary Judgment Against Defendant/Counterclaimant Smith's Food and Drug Center, Inc.'s Counterclaim. Smith's Opposition is due March 26, 2012. Due to counsel for Smith's trial calendar and other matters, counsel for Smith's sought an extension commencing on March 22, 2012 from counsel for USF. Two telephone calls were placed to Ms. McKay's office as well as two emails requesting an extension of time. As of the time of signing this Motion, counsel for USF has not responded. Counsel for Smith's requests a one week extension to file an Opposition to USF's Motion.

The purpose of this Motion is to request an enlargement of time to timely file its Opposition to the Motion. Smith's is requesting up to and including April 2, 2012 to file its Opposition.

II.

LEGAL ARGUMENT

FRCP 6(b) governs requests for extensions of time. Pursuant to FRCP 6(b) provides, in relevant part, as follows:

- (1) ***In General.*** When an act may or must be done within a specified time, the court may, for good cause, extend the time:

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
27
28

- (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or
- (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

Due to counsel for Smith's trial calendar and other matters, Smith's sought a one week extension of time. An extension of time was sought starting on March 22, 2012. However, counsel for USF has failed to respond to the request for an extension of time. Moreover, a medical emergency has arisen with the family of Eric Tran, counsel for USF which has further impacted the ability to file an Opposition on or before the due date.

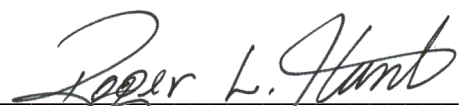
Based upon the foregoing, Smith's requests that the time to file its Opposition be extended up to and including April 2, 2012. This Motion is made in good faith and not for the purpose of any delay.

DATED this 26th day of March, 2012.

PRINCE & KEATING

/s/ DENNIS M. PRINCE
 DENNIS M. PRINCE
 Nevada Bar No. 5092
 3230 South Buffalo Drive
 Suite 108
 Las Vegas, Nevada 89117
 Attorney for Defendant/Counterclaimant
 SMITH'S FOOD & DRUG CENTERS, INC.

IT IS SO ORDERED.



UNITED STATES DISTRICT JUDGE

DATED: March 27, 2012

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
27
28

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of March, 2012, caused service of the foregoing
MOTION TO ENLARGE TIME TO FILE OPPOSITION TO MOTION FOR SUMMARY
JUDGMENT to be made by facsimile and by depositing a true and correct copy of same in
the United States Mail, postage fully prepaid, addressed to the following:

Pamela A. McKay, Esq.
McKAY LAW FIRM, CHTD.
3295 North Fort Apache Road, Suite 150
Las Vegas, Nevada 89129
Facsimile: (702) 835-6957
Attorney for Plaintiff/Counterdefendant


An employee of PRINCE & KEATING