

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

NATIONAL UNION FIRE INSURANCE)
COMPANY OF PITTSBURGH, PA,)
)
Plaintiff,)
)
v.)
)
SMALL SMILES HOLDING CO., LLC,)
)
Defendant.)

Case No. 3-10-0743

JURY DEMAND

PLAINTIFF'S MOTION TO DISMISS

PLEASE TAKE NOTICE that, upon the Declaration of Scott D. Greenspan dated December 2, 2010 and the exhibits annexed thereto, and the accompanying Memorandum of Law and Appendix of Unpublished Authorities, Plaintiff/Counter-Defendant, National Union Fire Insurance Company of Pittsburgh, Pa., by and through its attorneys, Bass, Berry & Sims, PLC and Sedgwick, Detert, Moran & Arnold LLP, will respectfully move this Court, located at 801 Broadway, Nashville, Tennessee 37203, for an Order pursuant to FED. R. CIV. P. 12(b)(6) dismissing in its entirety the Counterclaim asserted by Defendant/Counter-Plaintiff, Small Smiles Holding Company, LLC, for failure to state a claim upon which relief may be granted.

PLEASE TAKE FURTHER NOTICE that, answering affidavits and/or memoranda are to be served upon the undersigned in accordance with the Local Rules and the Joint Case Management Order of this Court, dated September 10, 2010.

Dated: Nashville, Tennessee
December 2, 2010

/s/ W. Brantley Phillips, Jr. _____

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CERTIFICATE OF SERVICE

I hereby certify that, on December 2, 2010, a true and correct copy of the foregoing was served via the Court's ECF system on all counsel listed below:

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