

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.

)
)
)
) **Civil Action No. 3:10-cv-00743**
)
)

) **DECLARATION OF**
) **SCOTT D. GREENSPAN**
)

SCOTT D. GREENSPAN, an attorney duly admitted to practice before this Court *pro hac vice*, affirms the following under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am a partner at Sedgwick, Detert, Moran & Arnold LLP, counsel for the Plaintiff/Counter-Defendant, National Union Fire Insurance Company of Pittsburgh, Pa. (“National Union”), in the above-captioned action.

2. I submit this declaration in support of National Union’s motion to dismiss in its entirety the Counterclaim interposed by Defendant/Counter-Plaintiff, Small Smiles Holding Co., LLC’s (“SSHC”), pursuant to FED. R. CIV. P. 12(b)(6). This declaration is based upon my personal knowledge.

3. On August 5, 2010, National Union commenced this action in this Court. A true and correct copy of the Complaint, together with certified copies of each of the applicable dental professional liability insurance policies attached thereto, is annexed hereto as Exhibit A.

4. On September 10, 2010, SSHC served its Answer to the Complaint. A true and correct copy of the Answer is annexed hereto as Exhibit B.

5. On October 28, 2010, SSHC interposed its Counterclaim against National Union. A true and correct copy of the Counterclaim is annexed hereto as Exhibit C.

6. A true and correct copy of the reservation of rights letter dated July 27, 2010 responding to the action styled *Parnell, et al. v. FORBA Holdings, LLC, et al.*, then pending in the U.S. District Court for the Northern District of Ohio, Case No. 10-CV-00172 (the “Parnell Action”) is annexed hereto as Exhibit D.

7. A true and correct copy of the reservation of rights letter dated November 9, 2010 responding to the action styled *Hernandez, et al. v. FORBA Holdings, LLC, et al.*, pending in the District Court of Oklahoma County, State of Oklahoma, Case No. CJ-2010-1632 (the “Hernandez Action”) is annexed hereto as Exhibit E.

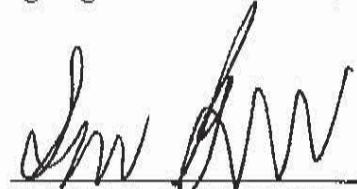
8. A true and correct copy of the reservation of rights letter dated June 29, 2010 responding to the action styled *Havens, et al. v. Dighton, et al.*, pending in the Second Judicial District Court, County of Bernalillo, State of New Mexico, Case No. CV-2009-14194 (the “Havens Action”) is annexed hereto as Exhibit F.

9. A true and correct copy of the reservation of rights letter dated December 22, 2009 responding to the action styled *Wingo, et al. v. Small Smiles Dentistry, et al.*, then pending in the District Court, County of El Paso, State of Colorado, Case No. 2009CV2177 (the “Wingo Action”) is annexed hereto as Exhibit G.

10. A true and correct copy of the Notice of Dismissal, dated October 29, 2010, filed in the Parnell Action is annexed hereto as Exhibit H.

11. A true and correct copy of the Order and Judgment, dated October 29, 2010, entering a jury verdict in favor of the defense in the Wingo Action is annexed hereto as Exhibit I.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 2, 2010.



SCOTT D. GREENSPAN