

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

In Re SLEP-TONE ENTERTAINMENT CORP.
consolidated cases

Case No. 5:11cv32/RS/CJK

ORDER SETTING SETTLEMENT CONFERENCE

The district court referred this case to the undersigned for a settlement conference (*see* doc. 134). The conference will be held on **MAY 2, 2012, at 1:00 p.m. (CDT)** in Courtroom 3 North of the United States District Courthouse, 1 North Palafox Street, Pensacola, Florida. The conference will conclude no later than the close of business on May 2, 2012. All parties and, if represented, their lead counsel will attend the conference. An insured party must send a representative, in person, with full and complete authority to make settlement decisions. An uninsured corporate party must send a representative, in person, with full and complete authority to bind the company. A governmental entity must send a representative, in person, authorized to act on its behalf. **In order for this conference to have a reasonable chance of success, counsel must very carefully review, and comply with, the remainder of this Order.**

Settlement conferences are often unproductive unless the parties have exchanged demands and offers before the conference and made a serious effort to settle the case on their own. Therefore, before arriving at the settlement conference,

the parties shall negotiate and make a good-faith effort to settle the case without the involvement of the court. Any settlement will be immediately communicated to the court by filing a joint notice of settlement.

Additionally, on or before **APRIL 30, 2012**, each party must provide to the office of the Magistrate Judge, via hand-delivery, mail or e-mail, marked “confidential”, a settlement statement. The statement will not be filed with the clerk or served on or disclosed to opposing counsel, as it will not become a part of the file of this case and will be for the exclusive use of the Magistrate Judge in preparing for and conducting the conference. The statement must contain: (1) a brief description of the remaining claims and applicable law and defenses; (2) a concise recitation of the facts and evidence the party expects to present at trial, including evidence that supports any claim for damages; (3) a brief description of the relief that may be afforded to the prevailing party at trial (e.g., the nature and extent of damages, entitlement to attorney fees); (4) an estimate of attorney fees and costs of litigation to date and through trial; (5) an outline of settlement negotiations to date, including the most recent proposals and counter proposals; and (6) a statement regarding whether any settlement terms are believed to be “nonnegotiable” and, if so, a description of those terms. The statement should not be lengthy, but it should contain enough information to be useful to the undersigned in analyzing the factual and legal issues in the case.

The settlement conference will begin by each counsel giving his or her final argument to the court, in the presence of the opposing party. You will have ten minutes per side to do this. Because the undersigned was a trial lawyer for twelve years, a state court of appeal judge for twenty years, having tried many cases on

temporary assignment as a circuit judge, and is now a federal trial judge (although not in this case), the court may offer an opinion on the respective strengths of the parties' positions, and may even recommend a settlement. None of the court's opinions, nor any recommendations, will be made known to the trial judge or to the finder of fact, and of course a recommendation is intended as only that. In all likelihood, the parties will be separated for individual, private, discussion with the court.

Although the purpose of the settlement conference is to facilitate settlement of this case, it will be conducted in such a manner as not to prejudice any party in the event settlement is not reached. To that end, all matters communicated to the Magistrate Judge in confidence before or during the conference will be kept confidential and will not be disclosed to any other party or to the district judge. To make the best use of the time allotted, counsel should consider, and where appropriate discuss with his or her client, the following matters that may arise during the separate caucuses: (1) the Magistrate Judge may address the client personally; (2) the Magistrate Judge may ask counsel to assess the weaknesses/strengths of the claims and defenses; (3) the Magistrate Judge may inquire as to whether issues other than simple payment of money or entry of a court order are at play in the particular case; and (4) the Magistrate Judge may ask counsel to discuss whether attorney fees or other expenses are affecting settlement and, if so, whether this has been communicated to the opposing party. In appropriate cases the Magistrate Judge may also bring up questions, both factual and legal, that would appear likely to arise at trial.

The conference will end when settlement is reached, or when the Magistrate Judge concludes that further negotiation is unlikely to result in settlement. If

settlement is reached, the court will, upon request, activate a recording device, or obtain a court reporter, so that the parties may place the terms of their settlement on the record, and recommend dismissal of this action.

SO ORDERED this 26th day of April, 2012.

Charles J. Kahn, Jr.

CHARLES J. KAHN, JR.

UNITED STATES MAGISTRATE JUDGE