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CLERK OF DISTRICT COURT  
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1 **TARA KING**  
2 DJ TARA KING PRODUCTIONS  
3 1904 Chavez Court  
4 North Las Vegas, Nevada 89031  
5 Telephone 395-5464  
6 Email tara@djtara.com  
7 *Defendant in proper person*

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

11 SLEP-TONE ENTERTAINMENT  
12 CORPORATION,  
13 Plaintiff,  
14 v.  
15 TARA KING dba DJ TARA KING  
16 PRODUCTIONS,  
17 Defendant.

**CASE NO.: 2:13-cv-0352-APG-VCF**

**REPLY TO RESPONSE IN  
OPPOSITION TO DEFENDANT'S  
MOTION TO DISMISS**

18 **COMES NOW**, Defendant, TARA KING dba DJ TARA KING PRODUCTIONS, in  
19 proper person, and herein replies to Slep-Tone Entertainment Corporation's Response in  
20 Opposition to Defendant's Motion to Dismiss.

21 This Reply is made pursuant to Local Rule 7.2 (c), the Points and Authorities attached  
22 hereto, the pleadings and papers on file herein, and any oral argument given at time of hearing.

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24 ....  
25 ....  
26 ....  
27 ....  
28 ....

## POINTS AND AUTHORITIES

On February 15, 2012, Plaintiff, Slep-Tone Entertainment Corporation (“Slep-Tone”), filed in the District of Nevada the case of *Slep-Tone Entertainment Corporation v. Ellis Island Casino & Brewery, et al.*, Case No. 2:12-cv-0239-KJD-NJK (“*Ellis Island*”).

In the *Ellis Island* case, Slep-Tone had improperly joined multiple, unrelated defendants, including Defendant, Tara King dba DJ Tara King Productions (“King”), which resulted in Judge Dawson entering his Order of February 11, 2013 (*see* Doc. 1, Complaint, Ex. 1), which Order states in pertinent part,

. . . . If Plaintiff wishes to proceed against any Defendant severed from this action, including Defendants that were dismissed without prejudice, it must file a **new and separate action** on or before March 1, 2013. **Each case** by Plaintiff against Defendants severed from this action **will be assigned a new case number and proceed separately** before this Court. . . . Consistent with 28 U.S.C. § 1914(a), Plaintiff is ordered to pay a filing fee **for each newly opened case** at the time it files the complaint in each action. . . . *See* Doc. 1, Complaint, Ex. 1, p. 6, ll. 4-9 (**emphasis added**).

\* \* \* \*

**IT IS FURTHER ORDERED** that if Plaintiff wishes to proceed against any Defendant severed from this action, including Defendants that were dismissed without prejudice, **it must file a new and separate action**, consistent with this order, on or before March 1, 2013. *See* Doc. 1, Complaint, Ex. 1, p. 7, ll. 1-3 (**emphasis added**).

By the wording of Judge Dawson’s Order in the *Ellis Island* case, there should have been no question that Slep-Tone’s newly filed case in *Slep-Tone Entertainment Corporation v. Tara King dba DJ Tara King Productions* (the present case) was a separate action, a new case, and would need proceed separately from the *Ellis Island* case.

Slep-Tone argues in its response without a word of apology, “. . . when the new case was opened, counsel for the Plaintiff did not think it necessary to file a new petition for admission pro hac vice, since he had been admitted in the prior case, nor to obtain a summons, since Ms. King had already been served in the prior case.”

Slep-Tone’s argument does not mesh with Judge Dawson’s February 11, 2013 Order in *Ellis Island* which made it clear that the filing of the Complaint in the present case created a new

1 and separate action, and no reliance could be had on what had previously happened in the *Ellis*  
2 *Island* case, that Slep-Tone needed to pay a new filing fee, that Slep-Tone's out-of-state counsel,  
3 James M. Harrington ("Harrington"), needed to submit another application to proceed *pro hac*  
4 *vice*, that Harrington needed to pay a new application fee, that Harrington needed to designate  
5 local counsel, that Slep-Tone needed to have a new Summons issued, and that Slep-Tone needed  
6 to reserve King.

7 Slep-Tone does not deny that on March 1, 2013, the day Slep-Tone filed its present  
8 Complaint against King, a notice to counsel was issued which stated,

9 **Full docket text for document 4:**

10 NOTICE TO COUNSEL PURSUANT TO LOCAL RULE IA 10-2. Counsel  
11 Kerry P. Faughnan to comply with completion and electronic filing of the  
12 Designation of Local Counsel and Verified Petition. For your convenience, click  
13 on the following link to obtain the form from the Court's website -  
14 [www.nvd.uscourts.gov/Forms.aspx](http://www.nvd.uscourts.gov/Forms.aspx). Counsel is also required to register for the  
15 Court's Case Management and Electronic Case Filing (CM/ECF) system and the  
16 electronic service of pleadings. Please visit the Court's website  
17 [www.nvd.uscourts.gov](http://www.nvd.uscourts.gov) to register Attorney(s). Verified Petition due by  
18 4/15/2013. (no image attached) (RFJ)

19 If Harrington and Slep-Tone's local counsel, Kerry P. Faughnan ("Faughnan"), were  
20 confused and mistaken about their needing to comply with Local Rule IA 10-2 when Slep-Tone  
21 filed its present Complaint against King, such confusion should have been clarified and such  
22 mistake should have been corrected upon Slep-Tone's counsels' receipt of this Court's March 1,  
23 2013 Notice to Counsel. Said Notice to Counsel clearly specified that Local Rule IA 10-2  
24 needed to be followed, that a verified petition to practice needed to be filed, and that local  
25 counsel needed to be designated. Faughnan was responsible to see to it that Harrington fully  
26 complied with Local Rule IA 10-2. He did not. In consideration of the Notice to Counsel, no  
27 viable excuse has been proffered including Slep-Tone's argument that, "counsel for Plaintiff did  
28 not think it necessary. . ."

29 Out-of-state counsel and local counsel are responsible and charged with knowing and  
30 abiding by the local rules. Local Rule IA 10-2 states in pertinent part,

- 31 (a) An attorney who is not a member of the Bar of this Court, who has been  
32 retained or appointed to appear in a particular case, may do so only with  
33 permission of this Court. . . .

1 \* \* \* \*

2 (c) An attorney whose verified petition is pending shall take no action in this  
3 case beyond filing the first pleading or motion. The first pleading or  
4 motion shall state that the attorney "has complied with LR IA 10-2" or  
"will comply with LR IA 10-2 within \_\_\_ days." Until permission is  
granted, the Clerk shall not issue summons or other writ.

5 \* \* \* \*

6 (e) In civil cases, attorneys shall have forty-five (45) days after their first  
7 appearance to comply with all the provisions of this Rule.

8 \* \* \* \*

9 (j) When all the provisions of this Rule are satisfied, the Court may enter an  
10 order approving the verified petition for permission to practice in the  
particular case. Such permission is limited to the particular case and no  
certificate shall be issued by the Clerk.

11 (k) Failure to comply timely with this Rule may result in the striking of any  
12 and all documents previously filed by such attorney, the imposition of  
other sanctions, or both.

13 The Complaint in the present case was filed in violation of Local Rule IA 10-2 (c)  
14 because it states that Harrington is proceeding *pro hac vice* when it should state that Harrington  
15 "has complied with LR IA 10-2" or "will comply with LR IA 10-2 within 45 days." The "shall  
16 state" language of Local Rule IA 10-2 (c) makes it procedurally mandatory for the application to  
17 proceed *pro hac vice* be filed within 45 days of the filing of the Complaint, and that time limit  
18 should be considered jurisdictional and not subject to enlargement.

19 The Summons in the present case was issued in violation of Local Rule IA 10-2 (c)  
20 because it was issued before permission for Harrington to proceed *pro hac vice* had been granted.  
21 The Summons was issued on July 1, 2013, and Harrington's application to proceed *pro hac vice*  
22 was not granted until July 29, 2013, twenty-eight days later. Harrington did not submit his  
23 application to proceed *pro hac vice* until *after* King filed her motion to dismiss on July 19, 2013.  
24 Harrington was then prompted to file his application on July 27, 2013.

25 The "shall not issue" language of Local Rule IA 10-2 (c) makes it procedurally mandatory  
26 for the Summons not to be issued before the application to proceed *pro hac vice* is first granted,  
27 and this should be considered a jurisdictional requirement not subject to change, meaning that the  
28

.....

1 Summons should be stricken and found to be of no effect and meaning that Slep-Tone's  
2 Complaint should be dismissed for failure of proper service.

3 Harrington's violated Local Rule IA 10-2 (e) by failing to comply with all provisions of  
4 Local Rule IA 10-2. Within 45 days of its filing, Harrington did not correct the language of the  
5 Complaint to reflect that his application to proceed *pro hac vice* was pending. Within 45 days of  
6 the filing of the Complaint, Harrington did not pay his application fee or file his verified petition  
7 for permission to practice in this particular case.

8 Slep-Tone filed its Complaint in the present case on March 1, 2013. It did not submit a  
9 Summons to be issued until July 1, 2013 on the 122nd day after the filing of its Complaint.  
10 King's prior counsel in the *Ellis Island* case, who never made an appearance in the present case,  
11 was suspended from the practice of law on May 24, 2013. If Slep-Tone mistakenly felt it did not  
12 need to serve King, then, at the very least, it needed to serve someone. No one was served with  
13 the Complaint in the present case through the electronic filing system since no attorney was  
14 King's attorney of record in the present case, and King had not made an appearance. Slep-  
15 Tone's Complaint carries no certificate of mailing showing either King or any attorney  
16 representing King to have been mailed a copy of the Complaint. Thus, the argument made in  
17 Slep-Tone's response that Slep-Tone "likely would have proceeded to seek entry of Ms. King's  
18 default but for the fact that the attorney who had been representing her, Robert Kossack, was  
19 suspended. . ." is disingenuous. As in its previous litigations, Slep-Tone and its out-of-state  
20 counsel simply did not act until the last minute without any particular justification.

21 Slep-Tone's euphemistic comment that, "Ms. King brought to the Plaintiff's attention that  
22 no new *pro hac vice* petition had been filed," is just another way of saying that King brought her  
23 present Motion to Dismiss with Prejudice.

24 Slep-Tone's euphemistic comment that, "in an abundance of caution, the Plaintiff and its  
25 attorneys took the appropriate steps to have Mr. Harrington admitted," is just another way of  
26 saying that Slep-Tone's counsels committed grave error once again and then hustled in an  
27 attempt to save Slep-Tone's case by finally attempting to comply with the rules. By its

28 . . . .

1 “abundance of caution” language, Slep-Tone still effectively denies that its out-of-state counsel  
2 ever needed to comply with Local Rule IA 10-2 in the present case.

3 This failure to admit to its shortcomings somewhat explains why Slep-Tone has not  
4 followed proper procedure when deadlines are missed and an extension of time after the fact is  
5 sought. Slep-Tone has made no motion for an extension of time for its out-of-state counsel to  
6 comply with Local Rule IA 10-2. The applicable rule is Fed. R. Civ. P. 6 (b)(1)(B) which states  
7 in pertinent part,

8 When an act may or must be done within a specified time, the court may, for good  
9 cause, extend the time:

10 \* \* \* \*

11 (B) on motion made after the time has expired if the party failed to act  
12 because of excusable neglect.

13 Slep-Tone has filed no motion pursuant to Fed. R. Civ. P. 6 (b)(1)(B). Even if Slep-Tone  
14 had filed a motion to enlarge time pursuant to the Federal Rules of Civil Procedure, then Slep-  
15 Tone still would not have been able to show “excusable neglect.” Slep-Tone has submitted no  
16 affidavit or other admissible evidence in support of a motion to enlarge time. Slep-Tone’s  
17 excuse that in “similar situations in other districts” and in “the experience of counsel for  
18 Plaintiff,” that “neither new service of process nor a new pro hac vice admission [was] required,”  
19 is simply insufficient to show excusable neglect especially in consideration of this Court’s  
20 March 1, 2013 Notice to Counsel which instructed Slep-Tone’s counsels exactly what they  
21 needed to do and setting the deadline for them to do so.

22 The *Ellis Island* February 11, 2013 Order states in pertinent part,

23 **IS FURTHER ORDERED** that if Plaintiff wishes to proceed against any  
24 Defendant severed from this action, including Defendants that were dismissed  
25 without prejudice, it must file a new and separate action, consistent with this  
26 order, on or before March 1, 2013. *See* Complaint (Doc. 1), Exhibit 1, p. 7,  
27 ll. 1-3.

28 The time limit for Slep-Tone filing against King demonstrates that prejudice would begin  
to accrue to the dismissed defendants unless Slep-Tone expeditiously proceeded against the  
dismissed defendants after unnecessarily dragging them through litigation, of which they should  
never have been joined as defendants, since the *Ellis Island* case was first filed on February 15,

1 2012. In the present case, the Complaint should have been stricken after 45 days passed without  
2 Harrington filing his application to proceed *pro hac vice*, and the Summons never should have  
3 been issued. Slep-Tone will now need to file another Complaint, which will be filed at least five  
4 months after the expiration of the March 1, 2013 deadline set by Judge Dawson's Order in *Ellis*  
5 *Island* if this motion is heard in ordinary course and Slep-Tone is allowed to proceed. The  
6 Summons will then need to be reissued, and King served long after the 120 days for serving her  
7 with a Complaint filed by the March 1, 2013 deadline shall have passed. After dragging King  
8 through almost a year of needless litigation and then stalling out the process another half year  
9 because Slep-Tone and its counsels refuse to follow the rules is unconscionable and prejudicial to  
10 King.

11 Slep-Tone describes its violation of the rules as, "a minor, effectively inconsequential . . .  
12 error." Without submitting his application to proceed *pro hac vice*, Harrington was effectively  
13 attempting to practice law without a license in Nevada. By submitting a Summons to the Court  
14 Clerk to be issued without Harrington first being admitted *pro hac vice*, Slep-Tone defrauded the  
15 Court. Neither of these infractions are minor or effectively inconsequential.

16 In sum, Slep-Tone has shown no excusable neglect for its counsels missing any of the  
17 deadlines imposed by Local Rule IA 10-2. The language of Local Rule IA 10-2 is mandatory  
18 with respect to an attorney taking no action in the case beyond the filing of the Complaint,  
19 including applying for a Summons to be issued, until his verified petition to practice in this  
20 District has been granted. The language of Local Rule IA 10-2 is mandatory with respect to the  
21 Complaint needing to state that Harrington had complied with LR IA 10-2 or would comply with  
22 LR IA 10-2 within 45 days. The language of Local Rule IA 10-2 is mandatory with respect to the  
23 Court Clerk not issuing a Summons until Harrington's petition to practice in this District was  
24 granted. Slep-Tone's Complaint in the present case should be stricken. Slep-Tone's Summons  
25 in the present case should be stricken. Because Slep-Tone can no longer file a valid complaint by  
26 March 1, 2013 as required by Judge Dawson's February 11, 2013 Order in *Ellis Island*, and  
27 because King can no longer be served within 120 days of the March 1, 2013 complaint filing  
28 deadline, the Slep-Tone's Complaint in the present case should be dismissed with prejudice.

CONCLUSION

In conclusion, Defendant's Motion to Dismiss with Prejudice should be granted in its entirety, and Harrington should be sanctioned for attempting to perpetrate a fraud upon this Court.

Dated this 6th day of August, 2013.

By Tara King  
TARA KING  
DJ TARA KING PRODUCTIONS  
1904 Chavez Court  
North Las Vegas, Nevada 89031  
Telephone 395-5464  
Email tara@djaraking.com  
*Defendant in proper person*

This document was prepared under the direction of Jan Paul Koch, Esq., Nevada Bar No. 3094, for use by the filer in proper person:

LAW OFFICE OF JAN PAUL KOCH

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Telephone (702) 383-3322

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CERTIFICATE OF MAILING

1  
2  
3 I hereby certify that on the 8<sup>th</sup> day of August, 2013, I mailed a true and correct copy  
4 of the foregoing REPLY TO RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO  
5 DISMISS via first class mail, postage prepaid, in a sealed envelope, by depositing same in a  
6 receptacle marked for mailing with the United States Postal Service and addressed to the  
7 following:

8 Kerry P. Faughnan, Esq.  
9 LAW OFFICES OF KERRY FAUGHNAN  
10 P.O. Box 335361  
11 North Las Vegas, Nevada 89033

12 By

  
13 TARA KING  
14 DJ TARA KING PRODUCTIONS  
15 1904 Chavez Court  
16 North Las Vegas, Nevada 89031  
17 Telephone 395-5464  
18 Email tara@djtaraking.com  
19 *Defendant in proper person*