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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

IDEAFLOOD, INC.,  
Plaintiff,  
v.  
ABOUT, INC., et al.,  
Defendants.

Case No. CV 05-3618 RGK (FMOx)

ORDER Re: SETTLEMENT PROCEEDINGS

The above-captioned matter has been referred to the undersigned United States Magistrate Judge for a Settlement Conference. Accordingly, IT IS ORDERED as follows:

1. The parties and their trial counsel shall appear for the Settlement Conference at 2:00 p.m., Wednesday, March 1, 2006, in the United States Courthouse, 312 North Spring Street, Courtroom F, 9th Floor, Los Angeles, California.

2. Counsel who will try the case must be present. In addition, the person with full settlement authority shall be present at the conference.<sup>1</sup> This requirement contemplates the physical presence of each party or, if a corporate or governmental entity, of an authorized and

<sup>1</sup> This means that Local Rule 16-14.5 relating to appearance by parties residing outside the District does not apply (except to the United States or any of its agencies), i.e., all parties, including those residing outside the District, must appear in person.

1 knowledgeable representative of the entity. Plaintiff's representative must have full and final  
2 authority, in the representative's discretion, to authorize dismissal of the case with prejudice, or  
3 to accept a settlement amount recommended by the settlement judge down to defendant's last  
4 offer made prior to the Settlement Conference. Defendant's representative must have final  
5 settlement authority to commit the defendant to pay, in the representative's discretion, a  
6 settlement amount recommended by the settlement judge up to plaintiff's prayer (excluding  
7 punitive damage prayers), or up to plaintiff's last demand made prior to the settlement conference,  
8 whichever is lower. The purpose of this requirement is to have representatives present who can  
9 settle the case during the course of the conference without consulting a superior.

10 3. If a proposed settlement must be presented for approval to a board or committee,  
11 the person whose recommendation is normally followed must be the person present at the  
12 Settlement Conference.

13 4. Any insurance company that is contractually required to defend or to pay damages  
14 assessed within policy limits also shall have a settlement representative present at the  
15 conference. Such representative must have final settlement authority to commit the company to  
16 pay, in the representative's discretion, an amount recommended by the settlement judge within  
17 the policy limits. The purpose of this requirement is to have an insurance representative present  
18 who can settle the outstanding claim or claims during the course of the conference without  
19 consulting a superior. An insurance representative authorized to pay, in his or her discretion, up  
20 to the plaintiff's last demand made prior to the settlement conference will also satisfy this  
21 requirement. Counsel of record will be responsible for timely advising any involved non-party  
22 insurance company of the requirements of this Order.

23 5. The settlement judge may, in his discretion, converse with the lawyers, the parties,  
24 the insurance representatives, or any one of them outside of the hearing of the others. The  
25 comments of the judge during such separate sessions are not to be used by counsel in settlement  
26 negotiations with opposing counsel. This is a necessary requirement in order to avoid intentional  
27 or unintentional misquotation of the judge's comments. Violation of this policy may be misleading  
28 and therefore a hindrance to settlement.

1 6. Prior to the Settlement Conference, the attorneys shall discuss settlement with their  
2 respective clients and insurance representatives, so that the parameters of a possible settlement  
3 will have been explored well in advance of the Settlement Conference. At the Settlement  
4 Conference, each party shall be fully prepared to discuss all economic and non-economic factors  
5 relevant to a full and final settlement of the case.

6 7. Each party shall deliver to the chambers of the Magistrate Judge a Confidential  
7 Settlement Conference Statement on or before **February 22, 2006, at 4:00 p.m.** The Statement  
8 **shall be in the form of a letter, and shall not exceed five (5) pages in length. The Statement**  
9 **shall be submitted in a sealed envelope clearly marked confidential, and shall not be filed.**

10 The Statement shall contain the following information:

11 A. A brief statement of the facts of the case, including each party's claims and  
12 defenses. The Statement shall include citations to the applicable statutory or other  
13 grounds upon which claims or defenses are based. The Statement should identify the  
14 major factual and legal issues in dispute, and cite any controlling authorities.

15 B. An itemized statement of the damages claimed, and of any other relief  
16 sought.

17 C. A summary of the proceedings to date, including any case management  
18 dates/deadlines already set by the District Judge, as well as the estimated length of trial,  
19 and whether a court or jury trial is contemplated. The Statement shall also set forth the  
20 date(s) any party filed or intends to file any dispositive motion.

21 D. A history of past settlement discussions, offers and demands.

22 E. A forthright evaluation of the party's likelihood of prevailing on each of its  
23 claims and/or defenses.

24 F. The approximate amount of attorney's fees, time and costs expended to date,  
25 and an estimate of the fees, time and costs to be expended for (i) further discovery, (ii)  
26 pretrial, and (iii) trial.

27 G. The party's evaluation of the terms on which the case could be settled fairly,  
28 taking into account the litigation position and settlement position of the other side.

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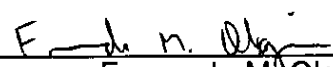
H. Any other relevant circumstances that counsel believe will assist the court in conducting the Settlement Conference.

8. In the event any party believes, in good faith, after the above described steps have been completed, that a settlement conference at this point in the litigation would not be meaningful, the party may contact Judge Olguin's courtroom deputy clerk at (213) 894-0215 and inform her of this information. The court will then contact the parties to discuss with them how to proceed.

9. Counsel appearing without their clients (whether or not counsel purportedly have been given settlement authority) will cause the settlement conference to be canceled. The noncomplying party, attorney, or both, may be assessed the costs and expenses incurred by other parties as a result of such cancellation and rescheduling.

10. The failure of any party or attorney to comply with the requirements of this Order may result in sanctions being imposed. The sanctions may include, but not be limited to, the fees and costs expended by the other parties in preparing and attending the Settlement Conference.

Dated this 18 day of October, 2005.

  
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Fernando M. Olguin  
United States Magistrate Judge