

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

In re: SS Body Armour I, Inc. et al.,  
Debtors.  
\_\_\_\_\_  
D. David Cohen,  
Appellant,  
v.  
SS Body Armour I, Inc.  
Appellee,

C. A. No. 15-633-SLR  
Bankruptcy Case No. 10-11255 (CS)

FILED  
CLERK U.S. DISTRICT COURT  
DISTRICT OF DELAWARE  
2015 DEC 15 AM 8:44

**RECOMMENDATION**

At Wilmington this 15<sup>th</sup> day of **December, 2015**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process.

This appeal is from an order entered by the United States Bankruptcy Court for the District of Delaware on July 9, 2015 approving a settlement between the Debtor and lead plaintiffs in a pre-petition securities class action in the United States District Court

for the Eastern District of New York. Appellant's appeal was stayed pending the confirmation of the Debtor's chapter 11 plan which was confirmed by the Bankruptcy Court on November 10, 2015. Thus, the stay of Appellant's appeal has expired.

Neither party believes mediation would be helpful in this matter. The parties have engaged in litigation for approximately eight years. Previous settlement negotiations among the parties have been pursued throughout the litigation with no success.

The parties request the following briefing schedule be entered for this appeal:

Appellant's Opening Brief	February 29, 2016
Appellee's Response	May 2, 2016
Appellant's Reply	June 1, 2016

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. In light of the parties' position regarding mediation, no objections to this Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1 are expected.

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng  
UNITED STATES MAGISTRATE JUDGE