

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**SLEP-TONE ENTERTAINMENT  
CORPORATION,**

**Plaintiff,**

**v.**

**Case No. 8:11-cv-1686-T-30EAJ**

**CHRIS CONRAD, et al.,**

**Defendants.**

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**ORDER**

THIS CAUSE comes before the Court upon the Motion to Vacate Default Judgment by Defendants Giuseppe Pirrone and Mona Lisa Italian Restaurant, Pizza and Lounge (Dkt. 108). Notably, Plaintiff failed to file a response to the motion and the time for doing so has passed. Upon consideration of the motion, and being otherwise advised of the premises, the Court concludes that the motion should be granted.

On April 5, 2012, the Court entered a Default Final Judgment and Permanent Injunction against numerous defendants, including Defendants Giuseppe Pirrone and Mona Lisa Italian Restaurant, Pizza and Lounge (Dkt. 93). On September 24, 2012, Defendants filed the instant motion (Dkt. 108). Defendants contend that Defendant Giuseppe Pirrone was proceeding in this matter *pro se* and had limited English proficiency. Defendants contend that Mr. Pirrone responded directly to Plaintiff's counsel and denied Plaintiff's allegations (Dkt. 96). Defendants also argue that they have meritorious defenses to

Plaintiff's claims and Plaintiff will not be unduly prejudiced if the Court vacates the Default Final Judgment and Permanent Injunction.

The Court concludes that the Default Final Judgment and Permanent Injunction should be vacated, solely as to Defendants Giuseppe Pirrone and Mona Lisa Italian Restaurant, Pizza and Lounge. Rule 60 of the Federal Rules of Civil Procedure permits relief from a final judgment in the event of "mistake, inadvertence, surprise, or excusable neglect." Defendants' motion establishes mistake and/or inadvertence. Also, Plaintiff did not file any opposition to the motion. And any slight prejudice to Plaintiff is clearly outweighed by the strong policy of determining cases on their merits.

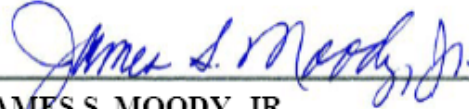
Finally, in light of Plaintiff's misjoinder of the Defendants in this case (which the Court has addressed previously) and Defendants Giuseppe Pirrone and Mona Lisa Italian Restaurant, Pizza and Lounge's intention to file a response to the complaint, Plaintiff shall file a new and separate case as to these Defendants (and pay a filing fee).

It is therefore ORDERED AND ADJUDGED that:

1. The Motion to Vacate Default Judgment by Defendants Giuseppe Pirrone and Mona Lisa Italian Restaurant, Pizza and Lounge (Dkt. 108) is GRANTED and the Default Final Judgment and Permanent Injunction (Dkt. 93) is VACATED solely as to Defendants Giuseppe Pirrone and Mona Lisa Italian Restaurant, Pizza and Lounge.

2. If Plaintiff intends to pursue its claims against Defendants Giuseppe Pirrone and Mona Lisa Italian Restaurant, Pizza and Lounge, Plaintiff shall file a new case and pay a filing fee within fourteen (14) days of this Order.

**DONE** and **ORDERED** in Tampa, Florida on October 12, 2012.



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**JAMES S. MOODY, JR.**  
**UNITED STATES DISTRICT JUDGE**

**Copies furnished to:**  
Counsel/Parties of Record

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