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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

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J & J Sports Productions, Inc.,) CV 12-1324-PHX-PGR

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Plaintiff,

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v.

ORDER

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Jesus Valle,

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Defendant.

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Before the Court is Plaintiff’s Motion to Strike Defendant’s Answer. (Doc. 13.)

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Plaintiff J & J Sports Productions, Inc., filed a complaint on June 21, 2012,

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alleging that Defendant Jesus Valle, individually and doing business as Mariscos

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Chihuahua, violated the Communications Act of 1934, 47 U.S.C. § 605, et seq., and the

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Cable & Television Consumer Protection and Competition Act of 1992, 47 U.S.C. § 553,

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et seq., by unlawfully intercepting and exhibiting a closed circuit telecast for which

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Plaintiff had exclusive distribution rights. (Doc. 1.) Defendant did not appear or otherwise

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respond to the complaint. On December 19, 2012, Plaintiff applied for entry of default.

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(Doc. 10.) Default was entered on December 20. (Doc. 11.) On January 11, 2013,

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Defendant filed a pro se “answer” to the complaint. (Doc. 12.) The answer reads, in its

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entirety, “Answer to Case 2:12-CV-01324-PGR False And Untrue Asking for Cause of

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Action And Request for Complaint be drop.” (*Id.*)

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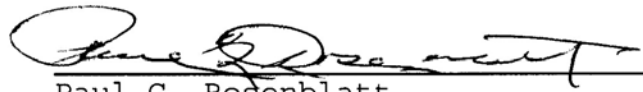
1 An entry of default cuts off a defendant's right to appear in an action or present
2 evidence. *Clifton v. Tomb*, 21 F.2d 893, 897 (4th Cir. 1927); *see also Great American Ins.*
3 *Co. v. M.J. Menefee Const., Inc.*, No. CV F 06-392-AWI-DLB, 2006 WL 2522408, at *2
4 (E.D.Cal. August 29, 2006) (clerk of court's entry of default cuts off defendant's right to
5 appear in the action, file counterclaims, or present evidence). However, a defendant may
6 file a motion to set aside the default, pursuant to Federal Rule of Civil Procedure 55(c).

7 Pursuant to the Ninth Circuit's "policy of liberal construction in favor of *pro se*
8 litigants," *Rand v. Rowland*, 154 F.3d 952, 957 (9th Cir. 1998), the Court construes
9 Defendant's motion as a motion to set aside the entry of default. The Court may set aside
10 an entry of default "for good cause." Fed.R.Civ.P. 55(c). Good cause exists where the
11 defendant is not culpable, where he has a meritorious defense, or where the plaintiff would
12 not be prejudiced. *See Franchise Holding II, LLC v. Huntington Rests. Group, Inc.*, 375
13 F.3d 922, 925-26 (9th Cir. 2004). Defendant has not shown a lack of culpability on his
14 part, nor has he shown that he has a meritorious defense or that Plaintiff would not suffer
15 prejudice if the default were set aside.

16 Accordingly,

17 IT IS ORDERED granting Plaintiff's motion to strike (Doc. 13). Defendant's
18 answer (Doc. 12) is stricken.

19 DATED this 6th day of May, 2013.

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22 Paul G. Rosenblatt
23 United States District Judge
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