

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DIRECTV INC.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 11-336-RGA
	:	
KENNETH HEAPS, and	:	
TCBT LLC,	:	
	:	
Defendants.	:	

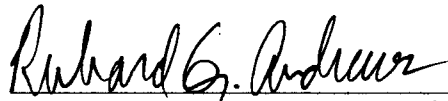
MEMORANDUM

The Plaintiff moved for default judgment against both defendants on September 1, 2011. The Clerk entered a default against both defendants on August 22, 2011. On September 7, 2011, the Defendant Heaps sent an unsworn letter to the Court (D.I. 17), stating among other things, that he had contacted the Plaintiff's counsel at some time shortly after the suit was filed, and had gotten the "impression that there was nothing to worry about."¹ He also states that he wrote Plaintiff's counsel a letter dated May 5, 2011, and provided with D.I. 17 a purported copy, which includes his explanation for why he was unaware of the corporate defendant's illegal activities. (The explanation does not sound terribly plausible). He further states that he cannot afford counsel. He asks the Court for assistance.

I will treat the letter – taking into account its *pro se* nature – as a request to vacate the default entered by the Clerk, and treat his letter as a denial of the Complaint's allegations that he has responsibility for the corporate defendant's wrongdoing. There should be no prejudice to the

¹ It also appears that Plaintiff gave written notice to the defendant well in advance of actually seeking default. (D.I. 7).

Plaintiff. The individual defendant will be given the opportunity to defend himself *pro se*. He may have a meritorious defense, even though it does not seem likely. I thus believe there is "good cause" to set aside the default. The Court will schedule a conference. If the individual defendant does not participate in the litigation, the Court is not foreclosing the granting of a default upon appropriate circumstances.


United States District Judge 3/22/12