

amended complaint or file an answer. It is not until these matters are resolved will the Court be able to more thoroughly examine the threshold question of the arguable factual and legal merit of Mr. Heim's claims for the purpose of appointing him counsel. There is no evidence, at this point, that any prejudice will result in the absence of counsel, especially given the very early procedural posture of this case.

Accordingly, Mr. Heim's second request for counsel will be denied. In the event, however, that future proceedings demonstrate the need for counsel, the matter may be reconsidered, either by the court on its on motion, or upon another motion filed by Plaintiff.

AND NOW, this 4th day of **AUGUST, 2011**, it is ordered that Mr. Heim's Second Motion for Appointment of Counsel (doc. 82) is denied.

/s/ A. Richard Caputo
A. RICHARD CAPUTO
United States District Judge