

Better understanding of this case will be developed by downloading and reading DTV v. Hamilton, which is available at www.piratecardblues.com.

This case was selected for publication on the site because it demonstrates the hazards of taking a lax approach to a judicial proceeding. As you can see, this case ended up with an award to DTV for a total of \$5,500 for what *might be* a one device (at most) case.

Copyright 2003 by Gary W. Ruff. All rights reserved. Contact information is available at www.piratecardblues.com

Copyright is claimed for only the above notes. Your editor subscribes to Westlaw (an excellent product), which is the conduit for (and source of) the information herein. Every effort has been made to edit out Westlaw's proprietary and/or copyrighted material. The basic draft of the case, being a government work, resides in the public domain. If any element of Westlaw's material survived my good faith effort to edit it out, then credit for the residue belongs to Thompson/Westlaw.

United States District Court,
S.D. New York.

DIRECTV, INC., Plaintiff,

v.

Denise **HAMILTON** and Majmud Salej, Defendants.

No. 02 Civ. 3518.

July 16, 2003.

DECISION AND ORDER

MARRERO, J.

Plaintiff DIRECTV, Inc. ("DIRECTV") brought this action alleging theft or satellite transmission in violation of [17 U.S.C. § 1201\(a\)\(1\)](#), [47 U.S.C. § 605\(a\)](#) and [18 U.S.C. §§ 2510-2521](#). A default judgment was entered against defendants Denise Hamilton and Majmud Salej on September 23, 2002 by the Honorable Allen G. Schwartz, who then referred the matter to Magistrate Judge George A. Yanthis for a report and recommendation concerning the amount of damages to be awarded plaintiff, plus reasonable attorneys' fees and costs. DIRECTV filed a timely written inquest submission. Defendant Salej ("Salej") failed to respond; defendant Hamilton ("Hamilton") responded by letter.

Magistrate Judge Yanthis issued a Report and Recommendation dated April 23, 2003 (the "Report") recommending to this Court, to which the case was subsequently reassigned, that it: (1) award DIRECTV damages against Salej in the amount of \$2,000.00, plus attorneys' fees and costs in the amount of \$1,500.00, and (2) vacate the default judgment against Hamilton. The Court received no objections or other responses from any of the parties. Consequently, by Decision and Order dated May 6, 2003, the Court accepted and adopted the Report in its entirety and entered judgment accordingly.

The Court also ordered that DIRECTV and Hamilton appear at a conference with the Court on May 16, 2003 at 9:30 a.m. to discuss the status of the case and scheduling of pretrial proceedings for the action as against Hamilton. Copies of the Court's Order was served upon Hamilton by DIRECTV and mailed to her by the Court itself. Hamilton failed to appear at the scheduled conference on May 16. The Court then rescheduled the conference to May 30, 2003 and ordered that Hamilton's failure to appear would

result in reinstatement of the default judgment. The Court mailed a copy of its May 30 Order to Hamilton. DIRECTV has represented to the Court, and submitted confirming proof of service, that it serve copies of the Order upon Hamilton by certified mail as well as federal express overnight delivery. On May 30 Hamilton again failed to appear. The Court then reinstated the default judgment against Hamilton and granted DIRECTV leave to file a supplemental request for damages, fees and costs. That application is now before the Court.

Upon review and consideration of DIRECTV's submission, the Court takes into account the amount of the judgment rendered as against co-defendant Salej for related conduct in this action, in accordance with Magistrate Judge's analysis and recommendation. The Court also considers that Hamilton's conduct has resulted DIRECTV's incurring higher fees and costs, specifically by her ignoring the Court's subsequent orders and failing to appear after causing the default judgment to be reopened and being given another opportunity to contest this matter. Accordingly, it is hereby ORDERED that DIRECTV recover as against Hamilton the following amounts: (1) damages of \$3,000.00, plus (2) attorneys' fees and costs in an amount of \$2,500.00. SO ORDERED.

S.D.N.Y., 2003.

Directv, Inc. v. **Hamilton**

(S.D.N.Y.)

END OF DOCUMENT