

1 **WO**

2

3

4

5

6

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

7

8

9

Kathy Fushi,

)

No. CV-10-2519-PHX-GMS

10

Plaintiff,

)

ORDER

11

vs.

)

12

Bashas', Inc.,

)

13

Defendant.

)

14

15

16

Pending before the Court is Plaintiff's Motion for Appointment of Counsel (Doc. 6).

17

For the following reason(s) the Court will deny the Motion.

18

There is no constitutional right to appointed counsel in a civil case. *See Ivey v. Bd.*

19

of Regents of Univ. of Alaska, 673 F.2d 266, 269 (9th Cir. 1982). The Court, however, does

20

have the discretion to appoint counsel in "exceptional circumstances." *See* 28 U.S.C.

21

§ 1915(e)(1); *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Aldabe v. Aldabe*,

22

616 F.2d 1089, 1093 (9th Cir. 1980). "A finding of exceptional circumstances requires an

23

evaluation of both 'the likelihood of success on the merits and the ability of the petitioner to

24

articulate his or her claim *pro se* in light of the complexity of the legal issues involved.'" *See*

25

Wilborn, 789 F.2d at 1331(quoting *Weygant v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)); *see*

26

Richards v. Harper, 864 F.2d 85, 87 (9th Cir. 1988). "Neither of these factors is dispositive

27

and both must be viewed together before reaching a decision on request of counsel" under

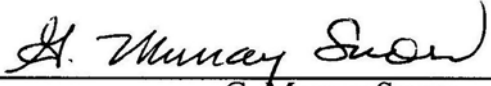
28

section 1915(e)(1). *Wilborn*, 789 F.2d at 1331.

1 Having considered both factors, the Court finds that Plaintiff has not demonstrated a
2 likelihood of success on the merits or that any difficulty she is experiencing in attempting to
3 litigate her case is due to the complexity of the issues involved. While Plaintiff has pointed
4 to financial difficulties that she is experiencing, such difficulties do not make her case
5 exceptional. To the extent that the Plaintiff further alleges that she has learning disabilities,
6 she provides no evidence to the Court either of the existence of such disabilities or that they
7 constitute, in this context, an exceptional circumstance. Accordingly, at the present time, this
8 case does not present “exceptional circumstances” requiring the appointment of counsel.
9 Therefore,

10 **IT IS HEREBY ORDERED** denying the Motion for Appointment of Counsel (Doc.
11 6).

12 DATED this 7th day of December, 2010.

13
14 
15 _____
16 G. Murray Snow
17 United States District Judge
18
19
20
21
22
23
24
25
26
27
28