

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.: CV 10-5604-GHK (MAN)

Date: August 25, 2010

Title: Scott E. Pombrio v. City-County of Los Angeles, et al.

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DOCKET ENTRY: ORDER DENYING REQUEST

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PRESENT:

Hon. Margaret A. Nagle _____, United States Magistrate Judge

Earlene Carson _____
Deputy Clerk

N/A _____
Court Reporter/Tape No.

ATTORNEYS PRESENT FOR PLAINTIFF:

ATTORNEYS PRESENT FOR DEFENDANTS:

N/A _____

N/A _____

PROCEEDINGS (In Chambers):

The Court is in receipt of plaintiff's "Appointment of Counsel Request . . .," filed on August 20, 2010 ("Request"). Plaintiff asserts that counsel should be appointed, pursuant to 28 U.S.C. § 1915 and Rule 23 of the Federal Rules of Civil Procedure, because this case purportedly is a "class action." Plaintiff also asks the Court to order the U.S. Marshall to effect service of process.

With respect to plaintiff's request that the U.S. Marshall serve defendants with process, as the Court advised plaintiff on August 17, 2010, this case is subject to the screening requirements of 28 U.S.C. § 1915(e)(2). Until the Court determines that the First Amended Complaint survives screening, service of process cannot occur. Plaintiff is advised that, if the Court determines that the First Amended Complaint, or any subsequent amended complaint, survives screening, the Court will order the U.S. Marshall to effect service of process; no further request by plaintiff will be necessary.

With respect to plaintiff's request that counsel be appointed, plaintiff is advised that there is no constitutional or statutory right to appointed counsel in a civil action of this nature. *See, e.g., Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009); *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). The Court has no direct means by which to compensate counsel for representing plaintiff, and 28 U.S.C. § 1915(e)(1), the statute that provides this Court with the discretion to request counsel to provide voluntary representation, does not authorize this Court to make coercive appointments of counsel to represent indigent civil plaintiffs. *Mallard v. U.S. Dist. Court*, 490 U.S. 226, 298, 309-10, 109 S. Ct. 1814, 1816, 1822-23 (1989). However, in exceptional circumstances, a district court may request that counsel voluntarily provide representation to indigent civil litigants pursuant to 28 U.S.C. § 1915(e). *Palmer, supra*; *Aldabe v. Aldabe*, 616 F.2d 1089, 1093 (9th Cir. 1980). A district court must evaluate the "likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved." *Palmer*, 560 F.3d at 970 (citations omitted).

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No such exceptional circumstances have been shown here. Plaintiff's assertion that this case is a class action is frivolous. Apart from the fact that the First Amended Complaint does not allege that this action has been brought as a class action, plaintiff, as a *pro se* litigant, may not pursue "claims on behalf of others in a representative capacity." Simon v. Hartford Life, Inc., 546 F.3d 661, 664-65 (9th Cir. 2008) (holding that *pro se* litigants have no authority to appear on behalf of others); *see also* C.E. Pope Equity Trust v. United States, 818 F.2d 696, 697 (9th Cir. 1987) (a layperson acting in *pro per* may not appear or seek relief on behalf of others); McShane v. United States, 366 F.3d 286, 288 (9th Cir. 1966) (same). Moreover, given plaintiff's numerous submissions to this Court to date, it appears that plaintiff is fully able to represent himself in this action.

Accordingly, the Request is DENIED.

IT IS SO ORDERED.