1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 1:10-cv-01348 LJO SAB (PC) EFREN VALENCIA, 12 Plaintiff. ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL 13 v. (ECF No. 50) 14 DEAZEVEDO, 15 Defendant. 16 On June 18, 2014, plaintiff filed a motion seeking the appointment of counsel. Plaintiff 17 does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 18 19 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern 20 District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain 21 exceptional circumstances the court may request the voluntary assistance of counsel pursuant to 22 section 1915(e)(1). Rand, 113 F.3d at 1525. 23 Without a reasonable method of securing and compensating counsel, the court will seek 24 volunteer counsel only in the most serious and exceptional cases. In determining whether 25 "exceptional circumstances exist, the district court must evaluate both the likelihood of success of 26 the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the 27

complexity of the legal issues involved." Id. (internal quotation marks and citations omitted).

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In the present case, the court does not find the required exceptional circumstances. Even if it is assumed that plaintiff is not well versed in the law and that he has made serious allegations which, if proved, would entitle him to relief, his case is not exceptional. This court is faced with similar cases almost daily. Further, at this early stage in the proceedings, the court cannot make a determination that plaintiff is likely to succeed on the merits. Defendants have filed a motion for summary judgment alleging Plaintiff has not exhausted his administrative remedies in this action. Finally based on a review of the record in this case, the court does not find that plaintiff cannot adequately articulate his claims. Id. Plaintiff has filed a complaint that states a claim, and has filed objections and oppositions adequately articulating his position in this action.

For the foregoing reasons, plaintiff's motion for the appointment of counsel is HEREBY DENIED, without prejudice.

IT IS SO ORDERED.

Dated: **June 20, 2014**

UNITED STATES MAGISTRATE JUDGE