

1 Without a reasonable method of securing and compensating counsel, the court will seek
2 volunteer counsel only in the most serious and exceptional cases. In determining whether
3 “exceptional circumstances exist, the district court must evaluate both the likelihood of success on the
4 merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the
5 legal issues involved.” Id. (internal quotation marks and citations omitted).

6 In the present case, the court does not find the required exceptional circumstances. Even if it
7 assumed that plaintiff is not well versed in the law and that he has made serious allegations which, if
8 proved, would entitle him to relief, his case is not exceptional. Plaintiff alleges a claim of retaliation
9 for exercising his First Amendment rights. The legal issues present in this action are not complex, and
10 at this stage in the proceedings, the Court cannot make a determination that Plaintiff is likely to
11 succeed on the merits, and based on a review of the record in this case, the court does not find that
12 plaintiff cannot adequately articulate his claims. Id. Accordingly, Plaintiff motion for the
13 appointment of counsel shall be denied without prejudice.

14 **II. Motion Appoint of Expert Witness**

15 Plaintiff seeks the appointment of an expert witness if the Court finds appointment of counsel
16 is not warranted.

17 “If scientific, technical, or other specialized knowledge will assist the trier of fact to understand
18 the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill,
19 experience, training, or education, may testify thereto in the form of an opinion or otherwise,” Fed. R.
20 Evid. 702, and the Court has the discretion to appoint an expert and to apportion costs, including the
21 appointment of costs to one side, Fed. R. Evid. 706; Ford ex rel. Ford v. Long Beach Unified School
22 Dist., 291 F.3d 1086, 1090 (9th Cir. 2002); Walker v. American Home Shield Long Term Disability
23 Plan, 180 F.3d 1065, 1071 (9th Cir. 1999). However, at this stage in the proceedings, there are no
24 pending matters in which the Court requires special assistance, Ford ex rel Ford, 291 F.3d at 1090;
25 Walker, 180 F.3d at 1071, and Plaintiff’s pro se, in forma pauperis status alone is not grounds for the
26 appointment of an expert witness to assist Plaintiff with his case. Accordingly, Plaintiff’s motion for
27 appointment of an expert witness is DENIED without prejudice.

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Based on the foregoing, Plaintiff's motion for appointment of counsel and expert witness is DENIED without prejudice.

IT IS SO ORDERED.

Dated: March 18, 2014


UNITED STATES MAGISTRATE JUDGE