



1 **A. Motion for Counsel**

2 Plaintiff does not have a constitutional right to the appointment of counsel in this action.  
3 Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009); Storseth v. Spellman, 654 F.2d 1349, 1353  
4 (9th Cir. 1981). The Court may request the voluntary assistance of counsel pursuant to 28  
5 U.S.C. § 1915(e)(1), but it will do so only if exceptional circumstances exist. Palmer, 560 F.3d  
6 at 970; Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986). In making this  
7 determination, the Court must evaluate the likelihood of success on the merits and the ability of  
8 Plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved.  
9 Palmer, 560 F.3d at 970 (citation and quotation marks omitted); Wilborn, 789 F.2d at 1331.  
10 Neither consideration is dispositive and they must be viewed together. Palmer, 560 F.3d at 970  
11 (citation and quotation marks omitted); Wilborn 789 F.2d at 1331.  
12

13 In the present case, the Court does not find the required exceptional circumstances. Even  
14 if it is assumed that Plaintiff is not well versed in the law and that he has made serious  
15 allegations which, if proved, would entitle him to relief, his case is not exceptional.  
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17 Plaintiff also states that he has been diagnosed with bipolar disorder and clinical  
18 depression. However, his medical diagnoses, alone, do not warrant appointment of counsel. A  
19 review of Plaintiff's pleadings reveals that he has been able to adequately present his claims, file  
20 motions on his behalf and oppose motions filed by Defendants.

21 This Court is faced with similar cases almost daily. Therefore, Plaintiff's request for the  
22 appointment of counsel is HEREBY DENIED.

23 **B. Motion for Appointment of Medical Expert**

24 Plaintiff requests the appointment of a medical expert to opine on (1) his mental illness;  
25 and (2) the issues in this action relating to his hunger strike and denial of Hepatitis C treatment.

26 "If scientific, technical, or other specialized knowledge will assist the trier of fact to  
27 understand the evidence or to determine a fact in issue, a witness qualified as an expert by  
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1 knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion  
2 or otherwise,” Fed. R. Evid. 702, and the Court has the discretion to appoint an expert and to  
3 apportion costs, including the apportionment of costs to one side, Fed. R. Evid. 706; Ford ex rel.  
4 Ford v. Long Beach Unified School Dist., 291 F.3d 1086, 1090 (9th Cir. 2002); Walker v.  
5 American Home Shield Long Term Disability Plan, 180 F.3d 1065, 1071 (9th Cir. 1999).  
6 However, at this stage in the proceedings, there are no pending matters in which the Court  
7 requires special assistance, Ford ex rel. Ford, 291 F.3d at 1090; Walker, 180 F.3d at 1071. The  
8 Court’s docket is comprised of an overwhelming number of civil rights cases filed by prisoners  
9 proceeding pro se and in forma pauperis, and the facts of this case are no more extraordinary and  
10 the legal issues involved no more complex than those found in the majority of the cases now  
11 pending before the Court. Wilds v. Gines, No., 2011 WL 737616, at \*4 (N.D. Cal. 2011);  
12 Honeycutt v. Snider, 2011 WL 6301429, at \*1 (D. Nev. 2011).

14 Moreover, insofar as Plaintiff seeks an expert regarding his mental health issues, those  
15 issues are not necessarily relevant to the claims before the Court.

16 Plaintiff also recognizes that Rule 706 is not a means to avoid the in forma pauperis  
17 statute and its prohibition against using public funds to pay for the expenses of witnesses.  
18 Manriquez v. Huchins, 2012 WL 5880431, at \*12 (E.D. Cal. 2012) (quotation marks and  
19 citations omitted). He requests that the Court appoint counsel, and then counsel can obtain an  
20 expert. However, the Court is not appointing counsel at this time. Even if the Court appointed  
21 counsel, it could not compel counsel to obtain an expert witness.

22 Accordingly, Plaintiff’s motions for the appointment of counsel and for the appointment  
23 of an expert witness are DENIED.

24 IT IS SO ORDERED.

25 Dated: November 11, 2014

26 /s/ Dennis L. Beck  
27 UNITED STATES MAGISTRATE JUDGE  
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