



1 district court must evaluate both the likelihood of success on the merits [and] the ability of the  
2 [plaintiff] to articulate his claims pro se in light of the complexity of the legal issues involved.” *Id.*  
3 (internal quotation marks and citations omitted).

4 In this case, the Court does not find the required exceptional circumstances for the appointment  
5 of counsel. Even if it is assumed that Plaintiff is not well versed in the law and that he has made  
6 serious allegations which, if proved, would entitle him to relief, his case is not exceptional. A review  
7 of the record in this case shows that Plaintiff can articulate his claim and arguments, and the legal  
8 issue he proceeds upon is not complex. Furthermore, at this stage in the proceedings, the Court cannot  
9 make a determination that Plaintiff is likely to succeed on the merits.

10 Plaintiff asserts that he requires counsel to assist with his deposition as the Court has ordered  
11 the parties to meet and confer to agree on setting a date for his deposition. The Court found that  
12 Plaintiff willfully refused to be deposed at his prior scheduled deposition, but the record reflects that  
13 he can be deposed and had originally agreed to be deposed. (Doc. 287.) On May 4, 2018, the Court  
14 also denied Plaintiff’s recent motion for a protective order, confirming that he is required to submit to  
15 a deposition, which must occur no later than June 18, 2018. (Doc. 320.) The Court does not find any  
16 exceptional circumstances that would require counsel for Plaintiff for the taking of his deposition,  
17 upon consideration of the record and the factors discussed above.

18 Accordingly, Plaintiff’s motion for the appointment of counsel to assist Plaintiff with  
19 deposition, (Doc. 319), is HERBY DENIED.

20  
21 IT IS SO ORDERED.

22 Dated: May 9, 2018

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE