

1 As Plaintiff was previously advised, he does not have a constitutional right to appointed
2 counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot
3 require any attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States
4 District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain
5 exceptional circumstances the court may request the voluntary assistance of counsel pursuant to
6 section 1915(e)(1). Rand, 113 F.3d at 1525.

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

12 Plaintiff has not demonstrated that the Court committed clear error, or presented the Court with
13 new information of a strongly convincing nature, to induce the Court to reverse its prior decision. In
14 the present motion for reconsideration, Plaintiff presents the same arguments raised and considered by
15 the Court in denying his request for appointment of counsel. As stated in the Court’s February 28,
16 2017, order, circumstances common to most prisoners, such as lack of legal education and limited law
17 library access, do not establish exceptional circumstances that would warrant a request for voluntary
18 assistance of counsel. While a pro se litigant may be better served with the assistance of counsel, so
19 long as a pro se litigant, such as Plaintiff in this instance, is able to “articulate his claims against the
20 relative complexity of the matter,” the “exceptional circumstances” which might require the
21 appointment of counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no abuse of
22 discretion under 28 U.S.C. § 1915(e) when district court denied appointment of counsel despite fact
23 that pro se prisoner “may well have fared better-particularly in the realm of discovery and the securing
24 of expert testimony.”) Plaintiff has not shown anything in the record that makes this case
25 “exceptional” or the issues in it particularly complex. The existence of factual disputes and
26 anticipated cross-examination of witnesses do not indicate the presence of complex legal issues
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warranting a finding of exceptional circumstances. Id. Further, based on the record in this case, Plaintiff has demonstrated that he is capable of representing himself. Accordingly, Plaintiff's motion for reconsideration of the Court's February 28, 2017, order is denied.

IT IS SO ORDERED.

Dated: March 17, 2017


UNITED STATES MAGISTRATE JUDGE