

1 the prior motion.”

2 “A motion for reconsideration should not be granted, absent highly unusual
3 circumstances, unless the district court is presented with newly discovered evidence, committed
4 clear error, or if there is an intervening change in the controlling law,” and it “may *not* be used to
5 raise arguments or present evidence for the first time when they could reasonably have been
6 raised earlier in the litigation.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571
7 F.3d 873, 880 (9th Cir. 2009) (internal quotations marks and citations omitted) (emphasis in
8 original).

9 Plaintiff has not shown any new or different facts or circumstances, newly discovered
10 evidence, or an intervening change of law to support his motion. Plaintiff contends that he needs
11 an attorney as he has a disability, ADHD learning disability, and mental illness and he needs an
12 attorney to represent him. While this assertion is valid, it does not show that the Magistrate
13 Judge’s denial without prejudice of Plaintiff’s motion for counsel to be appointed was clearly
14 erroneous.

15 Further, Plaintiff does not have a constitutional right to appointed counsel in this action,
16 *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997); the Court cannot require an attorney to
17 represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1), *Mallard v. United States District Court for*
18 *the Southern District of Iowa*, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989), and exceptional
19 circumstances are not present at this time for the Court to seek the voluntary assistance of counsel
20 pursuant to section 1915(e)(1), *Rand*, 113 F.3d at 1525. Plaintiff’s trepidation with pursuing this
21 case on his own, while understandable, is not sufficient grounds for reconsideration of the
22 Magistrate Judge’s order denying appointment of counsel without prejudice. Further, nothing in
23 the Magistrate Judge’s order, nor this order, prohibits Plaintiff from continuing to attempt to
24 secure counsel on his own. Finally, while the Court wishes it were able to appoint counsel for all
25 indigent *pro se* litigants who desire representation, unfortunately, there simply is a dearth of
26 attorneys who are willing to be so appointed.

27 Having carefully considered this matter, the Court finds the Magistrate Judge’s order
28 denying Plaintiff’s request for appointment of counsel to be supported by the record and proper

1 analysis.

2 Accordingly, Plaintiff's motion for reconsideration of the Magistrate Judge's order
3 denying Plaintiff's motion for counsel to be appointed in this case, filed May 11, 2017 (Doc. 40),
4 is **HEREBY DENIED**.

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6 IT IS SO ORDERED.

7 Dated: September 6, 2017

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE

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