

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

8 In his motion, Plaintiff requests a District Judge “to reconsider rulings on [his] need for
9 appointment of counsel” and explains that he declined Magistrate Judge jurisdiction, has not
10 received any order signed by a District Judge in this action, and feels that the Magistrate Judge “is
11 not in [his] best interest and does not take [his] statements as being true and correct and Plaintiff
12 does not receive rulings in (sic) favor.” (Doc. 27.)

13 Plaintiff has not shown any new or different facts or circumstances, newly discovered
14 evidence, or an intervening change of law to support his motion. Plaintiff contends that he suffers
15 from severe mental illness and needs an attorney to represent him. While this assertion may be
16 valid, it does not show that the Magistrate Judge’s denial without prejudice of Plaintiff’s motion
17 for counsel to be appointed was clearly erroneous.

18 Further, as stated in the Magistrate Judge’s order denying appointment of counsel,
19 Plaintiff does not have a right to appointed counsel, *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th
20 Cir. 1997); the Court cannot require an attorney to represent Plaintiff pursuant to 28 U.S.C. §
21 1915(e)(1), *Mallard v. United States District Court for the Southern District of Iowa*, 490 U.S.
22 296, 298, 109 S.Ct. 1814, 1816 (1989), and exceptional circumstances are not present at this time
23 for the Court to seek the voluntary assistance of counsel pursuant to section 1915(e)(1), *Rand*,
24 113 F.3d at 1525.

25 Plaintiff’s trepidation with pursuing this case on his own, while understandable, is not
26 sufficient grounds for reconsideration of the Magistrate Judge’s order denying appointment of
27 counsel without prejudice. Further, nothing in the Magistrate Judge’s order, nor this order,
28 prohibits Plaintiff from attempting to secure counsel on his own. Finally, while the Court wishes

1 it were able to appoint counsel for all indigent *pro se* litigants who desire representation, there is a
2 dearth of attorneys who are willing to undertake such appointments.

3 This Court has reviewed the Magistrate Judge's pending Findings and Recommendations
4 to dismiss the action with prejudice (Doc. 24) with which it concurs, since Plaintiff's factual
5 allegations simply do not amount to a cognizable violation of his civil rights and are not capable
6 of correction to state a cognizable claim. It appears highly unlikely that Plaintiff, even if counsel
7 were appointed, would be able to state any objections to cause this Court not to adopt the
8 Findings and Recommendations. However, since it is possible that Plaintiff was waiting for a
9 ruling on this motion before attempting to draft and file objections, he is given a thirty day
10 extension of time from the date of service of this order to do so.

11 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 303, this
12 Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the
13 Court finds the Magistrate Judge's order denying Plaintiff's request for appointment of counsel
14 that issued on September 14, 2017 (Doc. 26), to be supported by the record and proper analysis.

15 Accordingly, Plaintiff's motion for reconsideration of the Magistrate Judge's order
16 denying Plaintiff's motion for counsel to be appointed in this case, filed September 27, 2017
17 (Doc. 27), is **HEREBY DENIED**; Plaintiff is granted **thirty (30) days** from the date of service of
18 this order to file objections to the Findings and Recommendations to dismiss, that issued on
19 August 30, 2017 (Doc. 24); alternatively within that same time, Plaintiff may file a notice of
20 voluntary dismissal.

21 IT IS SO ORDERED.

22 Dated: September 28, 2017

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