



1 As has been explained, Plaintiff does not have a constitutional right to appointed counsel  
2 in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other  
3 grounds, 154 F.3d 952 n.1 (9th Cir. 1998), and the Court cannot require an attorney to represent  
4 Plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the  
5 Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain  
6 exceptional circumstances, the Court may request the voluntary assistance of counsel pursuant to  
7 section 1915(e)(1). Rand, 113 F.3d at 1525. Without a reasonable method of securing and  
8 compensating counsel, the Court will seek volunteer counsel only in the most serious and  
9 exceptional cases. In determining whether “exceptional circumstances exist, the district court  
10 must evaluate both the likelihood of success on the merits [and] the ability of the [plaintiff] to  
11 articulate his claims pro se in light of the complexity of the legal issues involved.” Id. (internal  
12 quotation marks and citations omitted).

13 In the present case, the Court does not find the required exceptional circumstances, and  
14 Plaintiff has not identified any circumstances warranting appointment of counsel. Even if it is  
15 assumed that Plaintiff is not well versed in the law and that he has made serious allegations  
16 which, if proved, would entitle him to relief, his case is not exceptional. This Court is faced with  
17 similar cases almost daily from indigent prisoners proceeding without representation. Further, at  
18 this early stage in the proceedings, the Court cannot make a determination that Plaintiff is likely  
19 to succeed on the merits. Plaintiff’s second amended complaint has not been screened, and there  
20 has been no determination that Plaintiff has set forth a cognizable claim for relief.<sup>1</sup> More  
21 importantly, based on a review of the record in this case, the Court does not find that Plaintiff  
22 cannot adequately articulate his claims. For these reasons, Plaintiff’s motion for the appointment  
23 of counsel is HEREBY DENIED, without prejudice.

24  
25 IT IS SO ORDERED.

26 Dated: June 5, 2017

26 /s/ Barbara A. McAuliffe  
27 UNITED STATES MAGISTRATE JUDGE

28 <sup>1</sup> Plaintiff’s second amended complaint, filed on March 27, 2017, will be screened in due course.