



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

6 In the present case, the Court does find that neither the interests of justice nor exceptional  
7 circumstances warrant appointment of counsel at this time. LaMere v. Risley, 827 F.2d 622, 626 (9th  
8 Cir. 1987); Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). This action is proceeding on a  
9 claim under the Americans with Disabilities Act for exclusion of a job position based solely on his  
10 disability, and Plaintiff has thoroughly set forth his allegations in the complaint. Plaintiff contends  
11 that his classification as a participant in the Developmental Disability Program has rendered him  
12 unable to effectively prosecute this action. While Plaintiff has presented documentation that he is a  
13 participant in the Developmental Disability Program, the Court does not find that the exceptional  
14 factors necessary to justify appointment of counsel exist in this case, at the present time.  
15 Circumstances common to most prisoners, such as lack of legal education and limited law library  
16 access, do not establish exceptional circumstances that would warrant a request for voluntary  
17 assistance of counsel. In addition, Plaintiff’s current motion demonstrates that Plaintiff understands  
18 the process and how to file documents. The record in this case demonstrates sufficient writing ability  
19 and legal knowledge to articulate the claims asserted, even if such filings are done with the assistance  
20 of other inmates and/or prison officials. In addition, the likelihood of success on the merits is not yet  
21 clear at this stage of the proceedings. While a pro se litigant may be better served with the assistance  
22 of counsel, so long as a pro se litigant, such as Plaintiff in this instance, is able to “articulate his claims  
23 against the relative complexity of the matter,” the “exceptional circumstances” which might require  
24 the appointment of counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no abuse of  
25 discretion under 28 U.S.C. § 1915(e) when district court denied appointment of counsel despite fact  
26 that pro se prisoner

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“may well have fared better-particularly in the realm of discovery and the securing of expert testimony.”) Accordingly, Plaintiff’s motion for appointment of counsel is denied, without prejudice.

IT IS SO ORDERED.

Dated: September 28, 2017

  
UNITED STATES MAGISTRATE JUDGE