## 1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 10 11 ANGEL LUIS GALLARDO, Case No.: 1:17-cv-00390-SAB (PC) 12 Plaintiff, ORDER GRANTING PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO SUBMIT 13 v. SERVICE DOCUMENTS AND DENYING, WITHOUT PREJUDICE, PLAINTIFF'S MOTION 14 STU SHERMAN, et al., FOR APPOINTMENT OF COUNSEL 15 Defendants. [ECF No. 19] 16 Plaintiff Angel Luis Gallardo is appearing pro se and in forma pauperis in this civil rights 17 18 action pursuant to 42 U.S.C. § 1983. Currently before the Court is Plaintiff's motion for an extension of time to submit the service 19 20 of process documents, filed August 18, 2017. Good cause having been presented to the Court, it is HEREBY ORDERED that Plaintiff is 21 granted thirty (30) days from the date of service of this order to submit the service of process 22 23 documents. 24 With regard to Plaintiff's motion for appointment of counsel, it shall be denied, without prejudice. Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. 25 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require any attorney to represent 26

plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern

District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the court

27

28

may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.

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

The test for exceptional circumstances requires the Court to evaluate the Plaintiff's likelihood of success on the merits and the ability of the Plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that would warrant a request for voluntary assistance of counsel. In the present case, the Court does not find the required exceptional circumstances. Accordingly, Plaintiff's motion for appointment of counsel will be DENIED without prejudice.

IT IS SO ORDERED.

Dated: **August 21, 2017** 

UNITED STATES MAGISTRATE JUDGE