

1 **I. Plaintiff's Request for Counsel**

2 District courts lack authority to require counsel to represent indigent prisoners in
3 section 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In
4 exceptional circumstances, the court may request counsel voluntarily to represent such a
5 plaintiff. 28 U.S.C. § 1915(e)(1); *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wood*
6 *v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). The court finds that there are no
7 exceptional circumstances in this case.

8 **2. Plaintiff's Request for Sanctions and Defendants' Request for Clarification**

9 Plaintiff requests that the court sanction defendants on the ground that their motion to
10 dismiss "is replete with falsehood and misrepresentations." Dckt. No. 335 at 1. Plaintiff states
11 that he is currently unable to address defendant's motion to dismiss in its entirety, but requests
12 that the court deny defendants' motion on the grounds that it is "frivolous, malicious, and
13 harrasing [sic]." *Id.* at 1, 16. Plaintiff also asks the court to recommend that defense counsel's
14 license to practice law be revoked. *Id.* at 16.

15 Plaintiff's request for sanctions lacks merit and will be denied. Additionally, defendants'
16 request for clarification is understandable. Plaintiff implies that his April 26th filing is not his
17 opposition to defendants' motion to dismiss, yet many of the arguments raised therein could be
18 appropriately raised in an opposition, and plaintiff also requests that defendants' motion to
19 dismiss be denied. *See* Dckt. No. 335. Accordingly, the court will grant plaintiff 30 days to file
20 either an opposition the April 14, 2011 motion to dismiss, or a statement indicating that his
21 April 26th filing serves as his opposition to the pending motion to dismiss.

22 Accordingly, IT IS HEREBY ORDERED that;

23 1. Plaintiff's March 26, 2011, request for appointment of counsel and for sanctions is
24 denied.

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1 2. Defendants' May 6, 2011 request for clarification is granted in that within 30 days,
2 plaintiff shall file either (a) an opposition the April 14, 2011 motion to dismiss, or (b) a
3 statement indicating that plaintiff's April 26th filing serves as his opposition to the pending
4 motion to dismiss. Plaintiff's failure to comply with this order will result in a recommendation
5 that this action be dismissed without prejudice. *See* E.D. Cal. L. R. 110, 230(1).

6 DATED: May 27, 2011.

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8 EDMUND F. BRENNAN
9 UNITED STATES MAGISTRATE JUDGE
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