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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MADY CHAN,

Plaintiff,

No. CIV S-09-2006 MCE GGH P

vs.

COUNTY OF SACRAMENTO, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court are plaintiff's third motion for sanctions (Doc. 34), plaintiff's motion for appointment of counsel and for certification as a class action (Doc. 38) and plaintiff's motion for the court to make a ruling (Doc. 40).

Plaintiff seeks sanctions against defendants in the form of a default judgment for not timely answering the complaint. As noted before there were delays in effecting service upon defendants, but defendants have now answered the complaint and the court issued a Discovery and Scheduling Order. The court does not believe sanctions are warranted, thus plaintiff's motion is denied.

With respect to plaintiff's motion for appointment of counsel, the United States Supreme Court has ruled that district courts lack authority to require counsel to represent

1 indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298
2 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of
3 counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir.
4 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the
5 court does not find the required exceptional circumstances. Plaintiff's request for the
6 appointment of counsel will therefore be denied.

7 The court will separately decide the motion for class certification.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's motion for sanctions (Doc. 34) is denied;
- 10 2. Plaintiff's motion for appointment of counsel (Doc. 38) is denied.
- 11 3. Plaintiff's motion for the court to make a ruling (Doc. 40) is denied.

12 DATED: July 8, 2010

13 /s/ Gregory G. Hollows

14 _____
UNITED STATES MAGISTRATE JUDGE

15 GGH: AB
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