1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 WILBUR ATCHERLEY, No. 2:13-cv-0576 AC P 12 Plaintiff. 13 v. **ORDER** 14 J. HANNA, et al., 15 Defendants. 16 17 Plaintiff has requested the appointment of counsel. ECF No. 11. Plaintiff has also moved 18 for appointment of expert witnesses. ECF No. 12. 19 The United States Supreme Court has ruled that district courts lack authority to 20 require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. 21 Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the 22 voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 23 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In 24 the present case, the court does not find the required exceptional circumstances because, to date, 25 defendants have not yet appeared in the action. Plaintiff's motions for appointment of counsel, 26 and the appointment of an expert witness, which seek relief in part based upon the complexity of 27 the issues to be raised at trial or in a summary judgment motion, are accordingly premature. The 28 Plaintiff's request for the appointment of counsel and for appointment of an expert witness will 1

1	therefore be denied without prejudice to renewal at a later stage of the proceeding.
2	Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the
3	appointment of counsel (ECF No. 11) and for appointment of an expert witness (ECF No. 12) are
4	denied without prejudice to renewal at a later stage in the proceedings.
5	DATED: June 10, 2013 Allen Clane
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7	ALLISON CLAIRE UNITED STATES MAGISTRATE JUDGE
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