

1 requests for preliminary injunction. Accordingly, the court will disregard the documents at ECF
2 Nos. 71-73.

3 Plaintiff has also requested the appointment of counsel to assist him with conducting a
4 deposition and trial. ECF Nos. 78, 81. The United States Supreme Court has ruled that district
5 courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard
6 v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the
7 court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell
8 v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36
9 (9th Cir. 1990). In the present case, the court does not find the required exceptional
10 circumstances. Additionally, the time for conducting depositions has passed and any requests
11 related to trial are premature, as a trial has yet to be scheduled. Plaintiff's requests for the
12 appointment of counsel will therefore be denied.

13 Finally, plaintiff seeks an order compelling defendant "to be present at the deposition and
14 answer all questions." ECF no. 78 at 1. There is no evidence that plaintiff has attempted to
15 depose defendant or that defendant has refused to be deposed, and it appears that plaintiff may be
16 seeking the court's assistance in arranging defendant's deposition.

17 "A party who wants to depose a person by oral questions must give reasonable written
18 notice to every other party." Fed. R. Civ. P. 30(b)(1). "The party who notices the deposition
19 must state in the notice the method for recording the testimony." Fed. R. Civ. P. 30(b)(3)(A).
20 The noticing party must also bear costs of recording the deposition. Id. In addition, that party
21 must arrange for an officer to conduct the depositions (absent a stipulation by all parties
22 otherwise). Fed. R. Civ. P. 30(b)(5)(A). To the extent he is seeking it, plaintiff does not require
23 the court's permission to take defendant's deposition and the court cannot order defendant to
24 arrange for plaintiff to take her deposition. Additionally, as defendant points out, the time for
25 discovery and motions to compel has passed (ECF No. 42), making plaintiff's motion untimely.

26 Plaintiff's argument that good cause exists because he was hospitalized and subsequently
27 housed at a county facility from May to September 2014, is unconvincing, especially in light of
28 the various requests for preliminary injunction filed after his return to state custody and prior to

1 the discovery deadline (ECF Nos. 63, 64, 66). The fact that plaintiff “spent the remainder of the
2 summer of 2014 fighting his criminal case” does not excuse him from his obligations in this case,
3 and he fails to offer any explanation as to why he was unable to at least file a timely motion to
4 extend the deadlines if such an extension was necessary. ECF No. 80. For these reasons, the
5 court will deny plaintiff’s motion to compel.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. The documents at ECF Nos. 71, 72, and 73 are disregarded.
- 8 2. Plaintiff’s motions for the appointment of counsel (ECF Nos. 78, 81) are denied.
- 9 3. Plaintiff’s motion to compel (ECF No. 78) is denied.

10 DATED: March 24, 2015

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12 ALLISON CLAIRE
13 UNITED STATES MAGISTRATE JUDGE
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