

1 attorney to voluntarily to represent such a plaintiff. *See* 28 U.S.C. § 1915(e)(1); *Terrell v.*
2 *Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th
3 Cir. 1990). When determining whether “exceptional circumstances” exist, the court must
4 consider the likelihood of success on the merits as well as the ability of the plaintiff to articulate
5 his claims pro se in light of the complexity of the legal issues involved. *Palmer v. Valdez*, 560
6 F.3d 965, 970 (9th Cir. 2009). Having considered those factors, the court finds there are no
7 exceptional circumstances in this case.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The October 31, 2013 findings and recommendations (ECF No. 12) are vacated.
- 10 2. Within 30 days from the date of this order, plaintiff shall file a completed affidavit in
11 support of his application to proceed in forma pauperis. Failure to comply with this
12 order may result in another recommendation of dismissal.
- 13 3. The Clerk of the court is directed to send to plaintiff a new form Application to
14 Proceed In Forma Pauperis by a Prisoner.
- 15 4. Plaintiff’s request for appointment of counsel (ECF No. 10) is denied without
16 prejudice.

17 DATED: January 29, 2014.

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19 EDMUND F. BRENNAN
20 UNITED STATES MAGISTRATE JUDGE
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