



1 monetary damages. (ECF No. 1 at 12.) The matter was referred to a United States Magistrate  
2 Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

3 The Magistrate Judge found that Plaintiff sufficiently alleged a serious medical condition  
4 (ECF No. 7 at 5) but had not sufficiently demonstrated connection between a Defendant's actions  
5 and a claimed deprivation of constitutional rights. (ECF No. 7 at 6.) Plaintiff filed additional  
6 documents (ECF Nos. 9, 10) and the Magistrate Judge found that the whole appeared to state a  
7 cognizable claim but required further amendment. (ECF No. 11 at 5.) Plaintiff filed a Second  
8 Amended Complaint (ECF No. 17) and Motion for Appointed Counsel stating that he did not  
9 believe he would be able to draft a satisfactory complaint without assistance. (ECF No. 18.)

10 On October 19, 2016, the Magistrate Judge filed findings and recommendations agreeing  
11 that further amendment without counsel would be futile. (ECF No. 20 at 5.) Plaintiff filed  
12 objections to the findings and recommendations and renewed his request for the Court to appoint  
13 counsel. (ECF No. 21.)

## 14 **II. REQUEST FOR APPOINTMENT OF COUNSEL**

15 Plaintiff does not have a constitutional right to appointed counsel in this civil action.  
16 *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997). A court cannot require an attorney to  
17 voluntarily represent indigent prisoners in § 1983 cases. *Mallard v. United States Dist. Court*,  
18 490 U.S. 296, 298 (1989). A court may request the voluntary assistance of counsel pursuant to 28  
19 U.S.C. § 1915(e)(1) in certain exceptional circumstances. *Terrell v. Brewer*, 935 F.2d 1015, 1017  
20 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). The court must  
21 evaluate the plaintiff's likelihood of success of the merits and ability to "articulate his claims *pro*  
22 *se* in light of the complexity of the legal issues involved. *Rand v. Rowland*, 113 F.3d 1520, 1525  
23 (9th Cir.1997); *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir.2009).

24 The Magistrate Judge found that Plaintiff may have a cognizable Eighth Amendment  
25 claim regarding his serious injury. (ECF Nos. 11 at 5.) Plaintiff, however, was unable to amend  
26 his complaint to connect any of the conduct he challenges to the medical providers. (ECF No. 20  
27 at 5.) Both the Court and Plaintiff agree that further amendment without the assistance of counsel  
28 would be futile. (ECF No. 20 at 5 and ECF No. 17 at 5.) The Court has determined that this case

1 may be appropriate for appointment of volunteer counsel. The Court will try to secure volunteer  
2 counsel to assist Plaintiff. However, the Court cannot require an attorney to represent Plaintiff in  
3 this civil action. Plaintiff is advised that it may not be possible to secure volunteer counsel for his  
4 case.

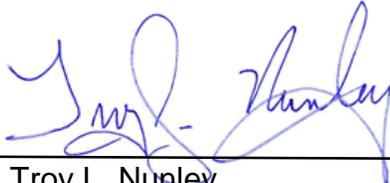
5 **III. CONCLUSION**

6 Accordingly, IT IS HEREBY ORDERED that the Court declines to adopt the findings and  
7 recommendations filed on October 19, 2016 (ECF No. 20).

8 IT IS FURTHER ORDERED:

- 9 1. Plaintiff's Second Amended Complaint (ECF No. 17) is dismissed with leave to  
10 amend; and  
11 2. This matter is referred to Sujean Park, Program Director of the Pro Bono Program of  
12 the Eastern District of California, to seek voluntary counsel to represent Plaintiff in this  
13 action.

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15 Dated: March 30, 2017

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20 Troy L. Nunley  
21 United States District Judge  
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