

1 **II. Motion to Appoint Counsel**

2 Plaintiff asks the court to appoint counsel to represent him. ECF No. 74. He states that
3 this case is factually complex and his ability to investigate those facts is limited. *Id.* at 5.
4 Plaintiff also states that this case is legally complex insofar as it involves four separate defendants
5 and, if it proceeds to trial, will be heard by a jury. *Id.* at 6. The court concludes that appointment
6 of counsel is not warranted at this time.

7 District courts lack authority to require counsel to represent indigent prisoners in section
8 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In exceptional
9 circumstances, the court may request an attorney to voluntarily to represent such a plaintiff. *See*
10 28 U.S.C. § 1915(e)(1); *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wood v.*
11 *Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether “exceptional
12 circumstances” exist, the court must consider the likelihood of success on the merits as well as the
13 ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues
14 involved. *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009). Having considered those factors,
15 the court finds there are no exceptional circumstances in this case. Despite plaintiff’s claim to the
16 contrary, the court finds that this case is not legally complex. And while plaintiff would
17 undoubtedly benefit from the greater investigative resources available to appointed counsel, the
18 same could be said of any prisoner litigant. *See Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir.
19 1997) (finding no abuse of discretion under 28 U.S.C. § 1915(e) where pro se prisoner was denied
20 counsel despite the fact that he “may well have fared better-particularly in the realms of discovery
21 and the securing of expert testimony.”). Thus far, plaintiff has demonstrated an ability to
22 adequately represent his interests in this litigation.

23 **III. Conclusion**

24 Accordingly, it is hereby ORDERED that:

25 1. Defendants’ request for extension of time (ECF No. 75) is GRANTED and their
26 reply to plaintiff’s opposition (ECF No. 73) is due on or before August 23, 2017; and

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2. Plaintiff's motion for appointment of counsel (ECF No. 74) is DENIED.

DATED: August 7, 2017.



EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE