

1 **I. MOTION FOR RECONSIDERATION**

2 On August 29, 2018, Plaintiff filed a document titled “Objection for the Reconsideration
3 for the Response to Defendants[’] Requests.” (ECF No. 45 at 1.) The Court denied this request
4 pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. (ECF No. 46.) On January 14,
5 2019, Plaintiff filed a renewed motion for reconsideration citing “newly discovered evidence.”
6 (ECF No. 49 at 2.)

7 Rule 59(e) states, “[a] motion to alter or amend a judgment must be filed no later than 28
8 days after the entry of the judgment.” Fed. R. Civ. P. 59(e). The Court filed its Order (ECF No.
9 49) on October 23, 2018. Plaintiff filed the instant motion (ECF No. 49) on January 14, 2019,
10 nearly three months after the entry of judgment. Therefore, Plaintiff’s motion for reconsideration
11 is untimely.

12 Moreover, “[u]nder Rule 59(e), a motion for reconsideration should not be granted, absent
13 highly unusual circumstances, unless the district court is presented with newly discovered
14 evidence, committed clear error, or if there is an intervening change in the controlling law.” 389
15 *Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999). Plaintiff attached several
16 exhibits to his motion, including the decisions on several administrative appeals. (ECF No. 49 at
17 9.) Plaintiff’s attached exhibits fail to provide any information or new evidence that will change
18 the outcome of this case.

19 The Court has carefully reviewed the entire file, including Plaintiff’s request (ECF No.
20 49). The Court still finds the findings and recommendations to be supported by the record and by
21 proper analysis. Simply put, Plaintiff’s motion is untimely, and the Rule 59(e) standard is not met
22 here. Consequently, this motion is denied.

23 **II. MOTION TO APPOINT COUNSEL**

24 On January 14, 2019, Plaintiff filed a motion to appoint counsel. (ECF No. 50.) Plaintiff
25 previously filed a motion to appoint counsel (ECF No. 27), which the magistrate judge denied
26 (ECF No. 29).

27 District courts lack the requisite authority to require counsel to represent indigent
28 prisoners in section 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989).

1 In exceptional circumstances, a court may request an attorney to voluntarily represent such
2 plaintiffs. See 28 U.S.C. § 1915(e)(1); *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991);
3 *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether
4 “exceptional circumstances” exist, the court must consider a plaintiff’s “likelihood of success on
5 the merits as well as the ability of the [plaintiff] to articulate his claims *pro se* in light of the
6 complexity of the legal issues involved.” *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009)
7 (finding district court did not abuse discretion in declining to appoint counsel). The burden of
8 demonstrating exceptional circumstances is on the plaintiff. *Id.* Circumstances common to most
9 prisoners, such as lack of legal education and limited law library access, do not establish
10 exceptional circumstances that warrant a request for voluntary assistance of counsel.

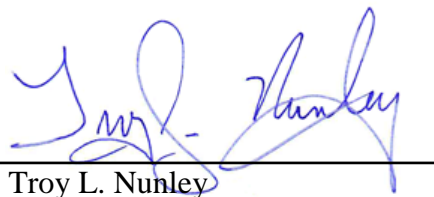
11 In evaluating the *Palmer* factors, this Court finds that Plaintiff has failed to establish
12 circumstances warranting the appointment of counsel. Therefore, Plaintiff’s motion to appoint
13 counsel is denied.

14 **III. CONCLUSION**

15 Both Plaintiff’s motion for reconsideration (ECF No. 49) and motion to appoint counsel
16 (ECF No. 50) are hereby DENIED. The Clerk of the Court is directed to close this case.

17 IT IS SO ORDERED.

18 Dated: March 13, 2019

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22 Troy L. Nunley
23 United States District Judge
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