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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VILAYCHITH KHOUANMANY,
Plaintiff,
v.
UNITED STATES MARSHALS, *et al.*,
Defendants.

Case No. 2:17-cv-01326-TLN-JDP (PC)
ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL AND
MOTIONS FOR DISCOVERY, AND
DIRECTING DEFENDANTS TO FILE A
RESPOND TO PLAINTIFF’S MOTION TO
MODIFY THE SCHEDULING ORDER
ECF Nos. 151-154
FOURTEEN-DAY DEADLINE

Plaintiff is a federal prisoner proceeding without counsel with this action brought under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). Plaintiff has filed a renewed motion for appointment of counsel, two discovery related motions, and a motion to modify the scheduling order. ECF Nos. 151-154.

With respect to her motion for appointment of counsel, plaintiff again fails to demonstrate that appointing counsel is warranted. Plaintiff has been notified on several occasions that she does not have a constitutional right to appointed counsel in this action, see *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court lacks the authority to require an attorney to represent plaintiff, see *Mallard v. U.S. District Court for the Southern District of Iowa*, 490 U.S. 296, 298 (1989). See ECF Nos. 31, 42, 49, 60, 64, 67, 79, 104, 124, 146. The court may request the voluntary assistance of counsel. See 28 U.S.C. § 1915(e)(1) (“The court may request an

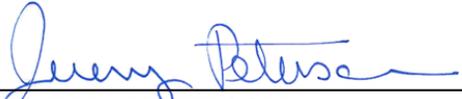
1 attorney to represent any person unable to afford counsel”); *Rand*, 113 F.3d at 1525. However,
2 without a means to compensate counsel, the court will seek volunteer counsel only in exceptional
3 circumstances. In determining whether such circumstances exist, “the district court must evaluate
4 both the likelihood of success on the merits [and] the ability of the [plaintiff] to articulate his
5 claims pro se in light of the complexity of the legal issues involved.” *Rand*, 113 F.3d at 1525
6 (internal quotation marks and citations omitted). Plaintiff once again fails to demonstrate that
7 these factors weigh in favor of appointing her counsel. Accordingly, her motion for appointment
8 of counsel is denied.

9 Plaintiff has also filed two discovery-related motions. In the first, plaintiff asks that she
10 be provided certain documents and information. ECF No. 153. In the second, she asks that
11 defendant Deppe be ordered to provide responses to twenty-five interrogatories. ECF No. 154.
12 Discovery requests shall be filed with the court only if they are at issue. *See* E.D. Cal. L.R.
13 250.2-250.4. Currently, there is no court proceeding that requires review of plaintiff’s discovery
14 requests. To the extent that plaintiff intended to serve defendants with her discovery requests by
15 filing them with the court, that approach is improper. Plaintiff must instead serve her discovery
16 requests on each defendant from whom she seeks discovery. *See* Fed. R. Civ. P. 30-36.
17 Accordingly, plaintiff’s motions for discovery, ECF No. 153-54, are denied.

18 Lastly, plaintiff has filed a motion to extend “any and all deadlines,” which I construe as a
19 motion to modify the June 22, 2020 supplemental discovery and scheduling order. ECF No. 151;
20 *see* ECF No. 138. Defendants will be afforded an opportunity to respond to this motion prior to
21 any decision from the court. Accordingly, within fourteen days of the date this order is filed,
22 defendants shall file an opposition or statement of non-opposition to plaintiff’s motion to modify
23 the June 22, 2020 supplemental discovery and scheduling order.

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25 IT IS SO ORDERED.

26 Dated: November 17, 2020

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28 JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE

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