1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 DENNIS LYN BROOKS, No. 2:17-cv-2172 JAM KJN P 12 Plaintiff, 13 **ORDER** V. 14 M. E. SPEARMAN, et al., 15 Defendants. 16 17 Plaintiff is a former state prisoner, proceeding without counsel, with a civil rights action 18 pursuant to 42 U.S.C. § 1983. Pending before the court are plaintiff's motions for appointment of 19 counsel (ECF Nos. 39, 45, 46). 20 Generally, a person has no right to counsel in civil actions. See Campbell v. Burt, 141 21 F.3d 927, 931 (9th Cir. 1998). A court has discretion to appoint counsel for indigent civil 22 litigants pursuant to 28 U.S.C. § 1915(e)(1), but an appointment of counsel should only be 23 granted under "exceptional circumstances." Agyeman v. Corrections Corp. of Am., 390 F.3d 1101, 1103 (9th Cir. 2004). When determining whether "exceptional circumstances" exist, the 24 25 court considers "the likelihood of success on the merits as well as the ability of the [plaintiff] to 26 articulate his claims pro se in light of the complexity of the legal issues involved." Weygandt v. 27 Look, 718 F.2d 952, 954 (9th Cir. 1983). 28 //// 1

After reviewing the record, the undersigned finds that appointment of counsel is not warranted. Accordingly, plaintiff's motions for appointment of counsel are denied.

This action is set for a settlement conference before the undersigned on September 11, 2018. Plaintiff, who is no longer incarcerated, may appear at the settlement conference either in person or by phone. On or before August 1, 2018, plaintiff shall inform the court whether he intends to appear at the settlement conference in person or by phone.

Accordingly, IT IS HEREBY ORDERED that:

- 1. Plaintiff's motions for appointment of counsel (ECF Nos. 39, 45, 46) are denied;
- 2. On or before August 1, 2018, plaintiff shall inform the court whether he intends to appear at the September 11, 2018 settlement conference in person or by phone.

Dated: May 16, 2018

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KENDALL J. NEWMAN

UNITED STATES MAGISTRATE JUDGE