

1 complexity of the legal issues involved. See Terrell, 935 F.2d at 1017. Neither factor is
2 dispositive and both must be viewed together before reaching a decision. See id. In Terrell, the
3 Ninth Circuit concluded the district court did not abuse its discretion with respect to appointment
4 of counsel because:

5 . . . Terrell demonstrated sufficient writing ability and legal knowledge to
6 articulate his claim. The facts he alleged and the issues he raised were not
7 of substantial complexity. The compelling evidence against Terrell made it
8 extremely unlikely that he would succeed on the merits.

9 Id. at 1017.

10 In the present case, the Court does not at this time find the required exceptional
11 circumstances. As with his prior motions, Plaintiff states that he requires the assistance of
12 counsel to pursue discovery because he is indigent, incarcerated, and is vision impaired. A
13 review of the docket reflects that, despite Plaintiff's vision impairment, he has been able to file
14 documents and has presented the Court with a complaint stating potentially cognizable claims.
15 Further, as outlined in the Court's January 16, 2024, order directing service of the complaint,
16 Plaintiff's claims are neither legally nor factually complex. Finally, at this early stage of the
17 proceedings before an answer has been filed or any discovery conducted, the Court cannot say
18 that Plaintiff has demonstrated any particular likelihood of success on the merits.

19 To the extent Plaintiff seeks permission from the Court to engage in discovery in
20 this action, the request is premature. Currently pending is Defendants' motion to partially
21 dismiss, which will be addressed separately. Once that motion is resolved, the Court will issue a
22 discovery and scheduling order.

23 Plaintiff also asks the Court to direct Defendants to respond to the complaint. This
24 request, filed on March 11, 2024, has been rendered moot because Defendants responded to the
25 complaint with the pending motion to partially dismiss, filed on April 8, 2024. Following
26 resolution of that motion, Defendants will be directed to file an answer.

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Accordingly, IT IS HEREBY ORDERED as follows:

1. Plaintiff's renewed request for the appointment of counsel, ECF No. 25, is denied.
2. Plaintiff's request for the Court to permit discovery, ECF No. 25, is denied as premature.
3. Plaintiff's motion for the Court to direct Defendants to respond to the complaint, ECF No. 21, is denied as moot.

Dated: September 24, 2024



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE