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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FRANK AND DEBORAH MCDOWELL,

No. C 12-03192 JSW

Plaintiffs,

**ORDER TAKING FIFTH MOTION
FOR APPOINTMENT OF
COUNSEL UNDER ADVISEMENT
AND CONTINUING CASE
MANAGEMENT CONFERENCE**

v.

CITY AND COUNTY OF SAN FRANCISCO,

Defendants.

(Docket No. 33)

On December 21, 2012, Plaintiffs filed a fifth motion for appointment of counsel. Pursuant to 42 U.S.C. § 2000e-5(f)(1), a court may appoint counsel for a plaintiff “in such circumstances as the court may deem just.” There are three relevant factors to consider in determining “whether to appoint counsel: (1) the plaintiff’s financial resources; (2) the efforts made by the plaintiff to secure counsel on his or her own; and (3) the merit of the plaintiff’s claim.” *Johnson v. United States Treasury Department*, 27 F.3d 415, 416-17 (9th Cir. 1994). Ultimately, the decision on whether to appoint counsel is a matter left to the Court’s discretion. *Id.* at 416.

In their most recent motion, Plaintiffs attest that they have consulted five attorneys as well as the “the Bar Association Golden [G]ate Legal Help Center,” and that the attorneys declined to represent them in this matter. Plaintiffs have established the first and second requirements for appointment of counsel. Plaintiffs have recently filed their First Amended Complaint, and the time for Defendants to respond has not yet expired. At this stage, the Court still cannot evaluate whether Plaintiffs’ claims have merit. Accordingly, the Court takes the

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motion under advisement, and it shall resolve the motion pending further developments in this case.

It is FURTHER ORDERED that the case management conference scheduled for January 11, 2013, is HEREBY CONTINUED to March 8, 2013 at 1:30 p.m. The parties' case management conference statement shall be due by no later than March 1, 2013.

The Court AGAIN ADVISES Plaintiffs that the Handbook for Pro Se Litigants, which contains helpful information about proceeding without an attorney, is available through the Court's website or in the Clerk's office. The Court also advises Plaintiffs that they also may wish to seek assistance from the Legal Help Center. Plaintiffs may call the Legal Help Center at 415-782-9000, extension 8657, or sign up on the 15th Floor of the Courthouse, Room 2796, for a free appointment with an attorney who may be able to provide basic legal help, but not legal representation.

IT IS SO ORDERED.

Dated: January 4, 2013



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

FRANK AND DEBORAH MCDOWELL
et al,

Case Number: CV12-03192 JSW

Plaintiff,

CERTIFICATE OF SERVICE

v.

CITY AND COUNTY OF SAN
FRANCISCO et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 4, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Deborah McDowell
Frank McDowell
2800 Bellwort Court
Antioch, CA 94531

Dated: January 4, 2013


Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk