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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

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UNITED STATES OF AMERICA,

No. C 08-02458 SBA

Plaintiff,

ORDER

v.

[Docket No. 19]

APPROXIMATELY \$73,562 IN
UNITED STATES CURRENCY,

Defendant.

INTRODUCTION

Before the Court is claimant Raashida J. Moore-Brisco's Request for Appointment of Legal Counsel (the "Motion") [Docket No. 19] and the government's Memorandum in Opposition to the Motion (the "Opposition") [Docket No. 21]. For the reasons discussed below, the Motion is denied without prejudice.

BACKGROUND

In May 2007, a confidential informant informed members of the Alameda County Narcotics Task Force that Eugene Brisco was selling cocaine from his barbershop. Docket No. 22 at 1. The informant witnessed purchases and made a controlled purchase. *Id.* Searches pursuant to warrant obtained approximately 60 grams of cocaine and \$394 from Brisco's underwear, and from his and Raashida J. Moore-Brisco's master bedroom: 10 grams of cocaine, three handguns, two scales with residue, bags with residue, a hot plate, two pots, a spoon, and \$73,562 sorted by denomination into five \$10,000 stacks, one \$5,000 stack, 17 \$1,000 stacks, and one \$176 pack. *Id.* From the barbershop, law enforcement seized approximately 40 grams of cocaine and 20 grams of base. *Id.* Brisco admitted ownership of all items. *Id.* at 2. Moore-Brisco signed a form disclaiming any interest in the money. *Id.*

On May 13, 2008, the government brought a judicial forfeiture action, under 21 U.S.C. § 881(a)(6), against the \$73,562. *See* Docket No. 1. On June 27, 2008, Eugene Brisco and Raashida J. Moore-Brisco filed a claim, in propria persona, asserting ownership of the money and requesting

1 its return. *See* Docket No. 9. On October 29, 2008, Moore-Brisco filed a more detailed Claim
2 Contest of Forfeiture. *See* Docket No. 14. She asserts that the money has no connection to any
3 illegal activity, but is income from legal business ventures, including the barber shop, legal
4 gambling trips, wedding gifts, and savings. *See id.* She further asserts that this money represents
5 the sum total of her and Brisco’s work over several years, and without it, she has had to seek public
6 assistance to support three minors. *See id.* On November 13, 2008, the court held a case
7 management conference. *See* Docket No. 15. The government had indicated it was going to file a
8 motion to strike the claim, *see* Docket No. 22 at 5, and the Court ordered it to do so for the Court’s
9 next available hearing date, *see* Docket No. 15. The government did not do so.¹ On February 18,
10 2009, Moore-Brisco filed the Motion before the Court. *See* Docket No. 19. She asserts that she
11 requires counsel to vindicate the issues raised in her Claim Contest of Forfeiture. *See id.* The
12 government opposes on the grounds that she does not qualify for an appointment under 18 U.S.C. §
13 983(b). *See* Docket No. 21.

14 **LEGAL STANDARD**

15 An indigent litigant who may lose his or her physical liberty, if they lose a litigation, has a
16 right to the appointment of counsel. *See Lassiter v. Dep’t of Soc. Servs.*, 452 U.S. 18, 25 (1981).
17 Also, under 28 U.S.C. § 1915(e)(1), a district court has the discretion to appoint counsel to represent
18 an “indigent civil litigant,” but only under “exceptional circumstances.” *Aldabe v. Aldabe*, 616 F.2d
19 1089, 1093 (9th Cir. 1980). In addition, under 18 U.S.C. § 983(b)(1)(A):

20 If a person with standing to contest the forfeiture of property in a judicial civil
21 forfeiture proceeding under a civil forfeiture statute is financially unable to obtain
22 representation by counsel, and the person is represented by counsel appointed under
23 section 3006A of this title in connection with a related criminal case, the court may
24 authorize counsel to represent that person with respect to the claim.

25 Further, under 18 U.S.C. § 983(b)(2)(A):

27 ¹ In its March 13, 2009 Case Management Conference Statement, it states that it served
28 discovery on Moore-Brisco on March 6, 2009, in preparation for filing its motion. Docket No. 22
at 5-6.

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

USA,

 Plaintiff,

 v.

$73,562 U.S. CURRENCY et al,

 Defendant.

Case Number: CV08-02458 SBA
CERTIFICATE OF SERVICE

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 March 17, 2009, 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.

Raashida J. Moore-Brisco
1946 Country Club #19
Stockton, CA 95204

Dated: March 17, 2009

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk