

1 August 2nd motion to extend the discovery cut-off date, although
2 the time to file an opposition has passed. Having read the papers
3 filed by Plaintiff, the Court denies his motion for appointment of
4 counsel and orders Defendants to respond to Plaintiff's discovery
5 motions.

6 DISCUSSION

7 I. Motion to Appoint Counsel

8 Plaintiff argues that he requires representation by counsel
9 because the issues in this case are complex and require
10 significant research and investigation. He also argues that a
11 trial will likely involve conflicting testimony and counsel would
12 be better prepared to cross-examine witnesses and present
13 evidence.

14 The decision to request counsel to represent an indigent
15 litigant under § 1915 is within "the sound discretion of the trial
16 court and is granted only in exceptional circumstances." Franklin
17 v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984). A finding of the
18 "exceptional circumstances" of the plaintiff seeking assistance
19 requires an evaluation of the likelihood of the plaintiff's
20 success on the merits and an evaluation of the plaintiff's ability
21 to articulate his claims pro se in light of the complexity of the
22 legal issues involved. Agyeman v. Corrections Corp. of America,
23 390 F.3d 1101, 1103 (9th Cir. 2004). Neither the need for
24 discovery, nor the fact that the pro se litigant would be better
25 served with the assistance of counsel, necessarily qualify the
26 issues involved as complex. Rand v. Rowland, 113 F.3d 1520, 1525
27 (9th Cir. 1997), withdrawn on other grounds, 154 F.3d 952 (9th
28 Cir. 1998).

1 Plaintiff is capable of presenting his claims effectively,
2 and the issues, at least at this stage, are not complex. If the
3 circumstances of this case materially change, this decision will
4 be reconsidered by the Court on its own motion. Therefore, the
5 motion to appoint counsel is DENIED.

6 II. Discovery Motions

7 In his motion to extend the discovery cut-off date, Plaintiff
8 appears to be objecting to the Magistrate Judge's denial of a
9 protective order as well as requesting an extension of the
10 discovery cut-off date. To the extent that this is an objection
11 to the Magistrate Judge's ruling, it is DENIED. A court cannot
12 issue orders against individuals over whom it has no jurisdiction.
13 If Plaintiff believes that prison officers are committing
14 constitutional violations against him, he has the right to file a
15 separate lawsuit against them for those violations.

16 Turning to Plaintiff's discovery motions, Defendants are
17 ordered to respond to them. In Plaintiff's September 20, 2013
18 motion to compel discovery, he submits ten requests for production
19 of documents that he states he sent to Defendants on July 7, 2013,
20 but that Defendants have not responded. It appears that some of
21 the documents requested may be such that would be produced in the
22 ordinary course of discovery.

23 CONCLUSION

24 Based on the foregoing, the Court orders as follows:

- 25 1. Plaintiff's Motion to Appoint Counsel is Denied. Doc. no.
26 63.
- 27 2. Plaintiff's objection to the Magistrate's Judge's Order is
28 denied. Doc. no. 64.


1 3. Defendants are ordered to respond to Plaintiff's discovery
2 motions within two weeks from the date of this Order. Plaintiff
3 may file a reply within two weeks thereafter.

4 4. The date for Plaintiff's opposition to Defendants' summary
5 judgment motion is VACATED. The Court will issue a new schedule
6 for the opposition and reply when the discovery motions are
7 resolved.

8 5. This Order terminates Docket no. 63.

9 IT IS SO ORDERED.

10 Dated: 10/2/2013



CLAUDIA WILKEN
United States District Judge