

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MICHAEL PATRICK CONETTA,
Plaintiff,
v.
SAN DIEGO UNIFIED PORT
DISTRICT, INCORPORATED, *et al.*
Defendants.

Civil No. 09cv1903-L(RBB)

**ORDER GRANTING MOTION TO
PROCEED IN FORMA PAUPERIS
AND DENYING REQUEST FOR
APPOINTMENT OF COUNSEL**

Plaintiff, proceeding *pro se*, filed a complaint pursuant to the Americans with Disabilities Act, a motion to proceed *in forma pauperis* (“IFP Motion”) and a request for appointment of counsel. For the reasons which follow, the IFP Motion is **GRANTED** and the request for appointment of counsel is **DENIED**.

All parties instituting any civil action, suit or proceeding in a United States District Court must pay a filing fee. *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff’s failure to prepay the fee only if the plaintiff is granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). Plaintiff’s declaration shows he has insufficient income and assets to pay the filing fee. Accordingly, Plaintiff’s IFP Motion is **GRANTED**.

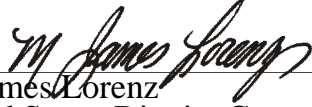
Plaintiff also requested appointment of counsel to represent him in this case. The

1 Constitution provides no right to appointment of counsel in a civil case. *See Lassiter v. Dept. of*
2 *Soc. Servs.*, 452 U.S. 18, 25 (1981). Under 28 U.S.C. § 1915(e)(1), the court may appoint
3 counsel only under exceptional circumstances. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir.
4 1991). “A finding of exceptional circumstances requires an evaluation of both the likelihood of
5 success on the merits and the ability of the petitioner to articulate his claims *pro se* in light of the
6 complexity of the legal issues involved.” *Id.* (internal quotation marks and citation omitted).

7 The allegations in Plaintiff’s complaint demonstrate he has sufficient writing ability and
8 legal knowledge to articulate his claim. The facts and issues raised are not particularly complex.
9 At this early stage of the case, the likelihood of success on the merits is uncertain. Based on the
10 foregoing, Plaintiff’s request for appointment of counsel is **DENIED**.

11 **IT IS SO ORDERED.**

12
13 DATED: September 3, 2009

14 
15 M. James Lorenz
16 United States District Court Judge
17
18
19
20
21
22
23
24
25
26
27
28