



1 to interview defense witnesses or obtain discovery from the prison, and he will be playing on  
2 an uneven playing field without counsel. (Doc. No. 13.)

3 “There is no constitutional right to appointed counsel in a §1983 action.” *Rand v.*  
4 *Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997) (citing *Storseth v. Spellman*, 654 F.2d 1349,  
5 1353 (9th Cir. 1981)); see also *Hedges v. Resolution Trust Corp. (In re Hedges)*, 32 F.3d 1360,  
6 1363 (9th Cir. 1994) (“[T]here is no absolute right to counsel in civil proceedings.”) (citation  
7 omitted). Thus, federal courts do not have the authority “to make coercive appointments of  
8 counsel.” *Mallard v. United States District Court*, 490 U.S. 296, 310 (1989); see also *United*  
9 *States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995).

10 Districts courts have discretion, however, pursuant to 28 U.S.C. §1915(e)(1), to  
11 “request” that an attorney represent indigent civil litigants upon a showing of “exceptional  
12 circumstances.” See *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir.  
13 2004); *Rand*, 113 F.3d at 1525. “A finding of the exceptional circumstances of the plaintiff  
14 seeking assistance requires at least an evaluation of the likelihood of the plaintiff’s success on  
15 the merits and an evaluation of the plaintiff’s ability to articulate his claims ‘in light of the  
16 complexity of the legal issues involved.’” *Agyeman*, 390 F.3d at 1103 (quoting *Wilborn v.*  
17 *Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)); see also *Terrell v. Brewer*, 935 F.2d 1015,  
18 1017 (9th Cir. 1991).


19 The Court denies Plaintiff’s request without prejudice, as neither the interests of justice  
20 nor exceptional circumstances warrant appointment of counsel at this time. *LaMere v. Risley*,  
21 827 F.2d 622, 626 (9th Cir. 1987); *Terrell*, 935 F.2d at 1017. The Court previously denied  
22 Plaintiff’s request and nothing has substantially changed in this case since that time to change  
23 the Court’s analysis. Plaintiff has thus far been able to articulate his claims, as the Court  
24 found that Plaintiff’s complaint contains allegations sufficient to survive the sua sponte  
25 screening required by 28 U.S.C. §§1915(e)(2) and 1915A(b). (See Doc. No. 4 at 4.) Although  
26 currently facing a motion to dismiss and Report and Recommendation to grant the motion to  
27 dismiss, the Court notes that the two defendants who have appeared in the action did not move  
28 to dismiss the entire complaint, and therefore some claims as articulated by Plaintiff will be

1 going forward.

2 Any pro se litigant “would be better served with the assistance of counsel.” *Rand*, 113  
3 F.3d at 1525 (citing *Wilborn*, 789 F.2d at 1331). Nonetheless, so long as a pro se litigant, like  
4 Plaintiff in this case, is able to “articulate his claims against the relative complexity of the  
5 matter,” the “exceptional circumstances” which might require the appointment of counsel do  
6 not exist. *Id.* (finding no abuse of discretion under 28 U.S.C. § 1915(e) when district court  
7 denied appointment of counsel despite fact that pro se prisoner “may well have fared better-  
8 particularly in the realms of discovery and the securing of expert testimony.”); *accord Palmer*  
9 *v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009). Therefore, the Court finds that Plaintiff’s  
10 arguments regarding his ability to obtain discovery, the potential need for experts, and his  
11 comparative ability to cross-examine witnesses are not exceptional circumstances warranting  
12 the appointment of counsel at this time. Most of Plaintiff’s arguments are not based on the  
13 complexity of the legal issues involved but rather on the general difficulty of litigating *pro se*.  
14 *See Wilborn v. Escalderon*, 789 F.3d 1328, 1331 (9th Cir. 1986) (noting that, “If all that was  
15 required to establish successfully the complexity of the relevant issues was a demonstration  
16 of the need for development of further facts, practically all cases would involve complex legal  
17 issues.”).

18 **IT IS SO ORDERED.**

19 DATED: June 22, 2011

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21 **BERNARD G. SKOMAL**  
22 United States Magistrate Judge  
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