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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOE HAND PROMOTIONS, INC.,

vs.

WILLIAM S. HEIMBUECHER,

Defendant.

CASE NO. 10cv1655 DMS (AJB)

**ORDER DENYING
DEFENDANT’S MOTION FOR
APPOINTMENT OF COUNSEL**

Pending before the Court is Defendant’s motion for appointment of counsel. For the following reasons, Defendant’s motion is denied.

**I.
DISCUSSION**

This action arises out of Defendant’s alleged unlawful displaying of the telecast entitled *Ultimate Fighting Championship 101: “Declaration”*. (Complaint at ¶¶ 9, 12.) Plaintiff, who claims to have been granted the exclusive nationwide commercial distribution rights to the program, filed a Complaint on August 6, 2010. (Doc. 1.) In the Complaint, Plaintiff states claims for relief for violation of 47 U.S.C. § 605, violation of 47 U.S.C. § 553, conversion, and violation of California Business & Professions Code § 17200. Defendant filed an answer to the Complaint on October 28,

1 2010. (Doc. 8.) Defendant also filed the instant motion for appointment of counsel on the same day.
2 (Doc. 6.)

3 A party has no constitutional right to appointed counsel in a civil action. *Rand v. Rowland*, 113
4 F.3d 1520, 1525 (9th Cir. 1997), *rev'd on other grounds*, 154 F.3d 952 (9th Cir. 1998) (en banc),
5 (citing *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981)). However, pursuant to 28 U.S.C.
6 § 1915(e)(1), courts may request an attorney to represent an indigent civil litigant. 28 U.S.C. §
7 1915(e)(1) (“The court may request an attorney to represent any person unable to afford counsel.”).
8 The decision to appoint counsel is within the sound discretion of the trial court and is granted only in
9 exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *see also*
10 *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). A finding of “exceptional circumstances”
11 requires the court to evaluate both (1) the likelihood of success on the merits and (2) the ability of the
12 litigant to articulate his claims *pro se* in light of the complexity of the legal issues involved. *Wilborn*,
13 789 F.2d at 1331 (quotation omitted).

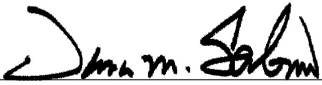
14 The Court denies Defendant’s motion, as no exceptional circumstances exist that warrant
15 appointment of counsel at this time. However, Defendant may renew his request for counsel at a later
16 stage of the proceedings, if appropriate.

17 **II.**
18 **CONCLUSION**

19 For the reasons set forth above, Defendant’s motion for appointment of counsel is DENIED
20 without prejudice.

21 **IT IS SO ORDERED.**

22 DATED: November 8, 2010

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24 _____
25 HON. DANA M. SABRAW
26 United States District Judge
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