

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

BRIAN ANTHONY THORNTON, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Cause No. 1:14-CV-00178
)	
SCAN, INC., et al.,)	
)	
Defendants.)	

OPINION and ORDER

On July 1, 2014, the District Judge denied *pro se* Plaintiff Brian Anthony Thornton's *in forma pauperis* ("IFP") petition and struck his complaint in this 42 U.S.C. § 1983 civil rights action, affording him up to and including July 30, 2014, to file a renewed petition and an amended complaint on the forms provided. (Docket # 3, 4.) Now before the Court is Thornton's Motion Requesting More Time to Complete Forms and Request of Court Appointment of Counsel (Docket # 5), asking that the Court recruit counsel for him and afford him additional time within which to file the renewed IFP petition and an amended complaint.

At this point, it still remains to be seen whether Thornton will even be able to proceed IFP. Accordingly, his request for counsel is premature. *See, e.g., Richmond v. Cagle*, 920 F. Supp. 955, 959 (E.D. Wis. 1996) (dismissing plaintiff's IFP petition as legally frivolous, and therefore, denying plaintiff's request for appointment of counsel).

And even if Thornton's IFP petition were granted, Defendants have not yet appeared and filed an answer. That is, "the case [is] still in its infancy, thereby making it impossible at th[is] juncture to make any accurate determination regarding [Thornton's] abilities or the outcome of the lawsuit." *Romanelli v. Suliene*, 615 F.3d 847, 852 (7th Cir. 2010); *see also Mungiovi v.*

Chicago Housing Auth., No. 94 C 6663, 1994 WL 735413, at *2 (N.D. Ill. Dec. 19, 1994) (“The court’s general practice is to consider appointment of counsel if and when it appears that the action has sufficient merit to require complex discovery or an evidentiary hearing.”).

And in connection with the merits, Thornton’s modest efforts to obtain an attorney and his inability to secure one, may be a comment on the weakness of his case. *See Jackson v. Cnty. of McLean*, 953 F.2d 1070, 1073 (7th Cir. 1992) (considering plaintiff’s unsuccessful attempts to retain counsel when denying his motion to appoint counsel). One thing is clear from his recent submissions, however, and that is Thornton’s ability to at least prepare and file the IFP petition and an amended complaint.

Therefore, Thornton’s request that the Court recruit counsel for him (Docket # 5) is DENIED without prejudice. But to provide adequate time to comply with the Court’s directives, Thornton’s request for additional time to file a renewed IFP petition and to submit an amended complaint (Docket # 5) is GRANTED in that he shall have up to and including August 13, 2014, to file the renewed petition and an amended complaint. Failure to respond by the deadline will subject the case to dismissal without further notice.

SO ORDERED.

Enter for this 22nd day of July, 2014.

s/ Roger B. Cosby
Roger B. Cosby,
United States Magistrate Judge