

In determining whether a person who is indigent should be appointed counsel, the court should ascertain “whether the nature of the litigation is such that plaintiff as well as the court will benefit from the assistance of counsel.” *Nelson v. Redfield Lithograph Printing*, 728 F.2d 1003, 1005 (8th Cir. 1984). In addition, the court should consider the factual complexity, the plaintiff’s ability to investigate facts, the existence of conflicting testimony, the plaintiff’s ability to present her claim, and the complexity of the legal issues. *See Johnson v. Williams*, 788 F.2d 1319, 1322-23 (8th Cir. 1986); *Abdullah v. Gunter*, 949 F.2d 1032, 1035 (8th Cir. 1991), *cert. denied*, 504 U.S. 930, 112 S. Ct. 1995, 118 L.Ed.2d 591 (1992).

After consideration of the above factors, the undersigned concludes that it is not necessary that counsel be appointed for Plaintiff at this point in the litigation. The undersigned finds that Plaintiff has clearly presented his claims against Defendants, and that it does not appear that “plaintiff as well as the court will benefit from the assistance of counsel.” Thus, Plaintiff’s Motion for Appointment of Counsel will be denied without prejudice. “Without prejudice” means that Plaintiff may later ask for appointment of counsel if he feels it is necessary.

Finally, Plaintiff has also filed a Motion for Sanctions. (Doc. 36.) Plaintiff argues that Defendants have failed to “make disclosure by Wednesday, February 6th 2019 or at all, as ordered by this Court.” (Doc. 36.)

Defendants have filed a Response, in which they state that they served their Initial Disclosures on February 6, 2019, by depositing same with the U.S. Mail addressed to Plaintiff. (Doc. 37.) Defendants indicate that they did not at that time produce all of the discoverable documents; however, on February 14, 2019, Defendants sent a list of all documents produced and withheld and a statement of the basis for any such withholding. They further state that

Plaintiff failed to contact Defendants' counsel about their alleged failure to disclose discovery.

Any motion relating to discovery or disclosure must comply with Local Rule 3.04(A) and Rule 37(a)(1), Fed. R. Civ. P. These rules require that a discovery or disclosure-related motion include a statement of a good faith attempt to resolve the discovery dispute prior to the filing of the motion. Plaintiff has not filed such a statement, and Defendants state that they provided the required disclosures. As such, Plaintiff's Motion for Sanctions will be denied.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's pending motions (Docs. 24, 35, 36) are **denied**.



ABBIE CRITES-LEONI
UNITED STATES MAGISTRATE JUDGE

Dated this 27th day of March, 2019.