

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ROBERT J. PROPST,

Plaintiff,

Case # 17-CV-1004-FPG

v.

DECISION AND ORDER

SHERIFF GARY MAHA, et al.,

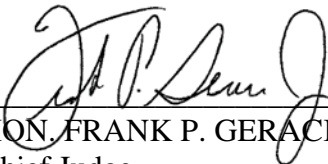
Defendants.

On November 13, 2018, *pro se* Plaintiff Robert J. Propst moved to appoint counsel. ECF No. 12. There is no constitutional right to appointed counsel in civil cases, although the Court may appoint counsel to assist indigent litigants pursuant to 28 U.S.C. § 1915(e). *See, e.g., Sears, Roebuck & Co. v. Charles Sears Real Estate, Inc.*, 865 F.2d 22, 23 (2d Cir. 1988). The Court must carefully consider whether to appoint counsel, because “every assignment of a volunteer lawyer deprives society of a volunteer lawyer available for a deserving cause.” *Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989). The Court must consider several factors, including whether the movant’s claims seem likely to be of substance. *See Hendricks v. Coughlin*, 114 F.3d 390, 392 (2d Cir. 1997); *Hodge v. Police Officers*, 802 F.2d 58 (2d Cir. 1986).

Here, it is unclear whether Plaintiff’s claims are likely to be of substance because this case is in the early stages of litigation. The Court has only recently issued an order allowing some of Plaintiff’s claims to proceed to service, ECF No. 13, and neither of the remaining defendants has answered. Therefore, Plaintiff’s Motion to Appoint Counsel (ECF No. 12) is DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

Dated: January 4, 2019
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court