

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DAVID JOHNSTON,

Plaintiff,

DECISION AND ORDER

06-CV-6001L

v.

GENESEE COUNTY SHERIFF MAHA,  
et al.,

Defendants.

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On February 21, 2012, the Court issued an Order (Dkt. #62), denying defendants' motion for summary judgment on Counts One, Two and Three of the complaint, pursuant to the February 2, 2012 order of the Court of Appeals for the Second Circuit vacating in part an earlier decision of this Court, and remanding for further proceedings. *See* \_\_ Fed. Appx. \_\_\_, 2012 WL 313571.

Plaintiff, who brought this action *pro se*, was represented on appeal by David H. Reichenberg, Esq., who was appointed by the Second Circuit as *pro bono* counsel. Plaintiff now moves before this Court for an order appointing Reichenberg as *pro bono* counsel for purposes of the proceedings in this Court. In a letter to the Court, Reichenberg has indicated his willingness to accept such an appointment, and has also requested that two other attorneys, Morris Fodeman,

Esq. and Jessica M. Patrick, Esq., be appointed as co-counsel. Apparently both Mr. Fodeman and Ms. Patrick have expressed their willingness to serve as co-counsel in this case.


The Court finds that plaintiff has demonstrated adequate grounds for appointment of counsel. Accordingly, plaintiff's motion is granted, and Reichenberg is appointed to represent plaintiff, as set forth in the Conclusion of this Order.

### **ORDER**

Plaintiff's motion for appointment of counsel (Dkt. #64) is granted. David H. Reichenberg, Esq., and Morris Fodeman, Esq., both of the law firm of Wilson Sonsini Goodrich and Rosati, are hereby appointed to represent plaintiff for all purposes in this matter, pursuant to 28 U.S.C. § 1915(e)(1) and Local Rule 83.1(f) of the Local Rules of Civil Procedure for this District. Jessica M. Patrick, Esq., of the law firm of Harter, Secrest & Emery LLP, is appointed to serve as local counsel.

The parties are directed to contact Magistrate Judge Marian W. Payson, to whom this action has previously been referred for pretrial purposes, to schedule a status conference in this case.

IT IS SO ORDERED.

  
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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
March 5, 2012.