

1 HONORABLE RICHARD A. JONES
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 INTERNATIONAL UNDERWATER DIVE
11 & EXPLORATIONS LLC, *et al.*,

12 Plaintiffs,

13 Case No. C16-1831-RAJ

14 v.
15 BOART LONGYEAR COMPANY, *et al.*,

16 Defendants.

17 ORDER

18 **I. INTRODUCTION**

19 This matter comes before the Court on Plaintiffs International Underwater Dive &
20 Explorations, LLC and Vernon W. Officer, Jr.'s Motion to Appoint Counsel (Dkt. # 12)
21 and Motion for Extension on Counsel (Dkt. # 13). For the reasons that follow, the Court
22 **DENIES** Plaintiffs' motions.

23 **II. BACKGROUND**

24 In this action, Plaintiffs allege an array of misconduct by numerous individuals,
25 entities, and government institutions, including Boart Longyear Company ("BLC"),
26 Richard P. Parkin, Ace American Insurance, Robert G. McCarthy, the Internal Revenue
27 Service, and the Department of Homeland Security. The Court describes the facts as
28 Plaintiffs allege them in the complaint, suggesting no opinion on whether these
allegations will prove true.

In short, Plaintiff Vernon W. Officer, Jr. is the C.E.O. of a corporation called

ORDER – 1

1 International Underwater Dive & Explorations, LLC (“Underwater Dive”). On
2 November 28, 2014, the driver of a vehicle owned by BLC fell asleep at the wheel and
3 caused an accident severely injuring Mr. Officer and damaging Underwater Dive’s
4 property. Dkt. # 1 at 5. In the aftermath of this accident, certain Defendants named in
5 this action mistreated and exploited Mr. Officer and Underwater Dive in numerous ways.
6 *Id.* at 5-7. As a consequence, Mr. Officer was wrongfully incarcerated. *Id.*

7 Plaintiffs both appear *pro se*. On November 30, 2016, the Court entered an order
8 stating that corporations cannot appear in federal court except through an attorney.
9 Dkt. # 6. The Court directed Underwater Dive to obtain counsel no later than December
10 30, 2016, or face *sua sponte* dismissal of its claims. *Id.* On December 13, 2016, the
11 Court granted Underwater Dive an extension to secure counsel, ordering that it must do
12 so by February 21, 2017. Dkt. # 9.

13 On February 3, 2017, Plaintiffs filed a motion requesting that the Court appoint
14 counsel to represent Underwater Dive. Dkt. # 12. On February 17, 2017, Plaintiffs filed
15 a motion reiterating their request for counsel, emphasizing Mr. Officer’s indigence and
16 lack of legal skills, and requesting a one-year extension to secure counsel. The Court will
17 construe these motions as requesting the appointment of counsel for Underwater Dive, as
18 well as Mr. Officer in his individual capacity.

19 III. DISCUSSION

20 Plaintiffs both request that counsel be appointed. This is a civil action and, as a
21 general matter, Plaintiffs have no right to counsel. *See, e.g., Storseth v. Spellman*, 654
22 F.2d 1349, 1353 (9th Cir. 1981). In “exceptional circumstances,” the Court may appoint
23 counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1). *Wilborn v.*
24 *Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). “A finding of exceptional
25 circumstances requires an evaluation of both ‘the likelihood of success on the merits and
26 the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the
27 legal issues involved.’” *Id.* (brackets omitted) (quoting *Weygandt v. Look*, 718 F.2d 952,

1 954 (9th Cir. 1983)). The Court, however, lacks authority to appoint counsel to represent
2 a corporation. *See, e.g., Specialty Vehicle Acquisition Corp. v. Am. Sunroof Corp.*, No.
3 07-13887, 2008 WL 344546, at *2 (E.D. Mich. Feb. 7, 2008) (“There is no provision in a
4 statute, the Federal Rules of Civil Procedure, or the Local Rules allowing this Court to
5 appoint counsel for a corporation in a civil matter.”).

6 As noted, the Court lacks authority to appoint counsel to represent a corporation.
7 Accordingly, the Court **DENIES** Underwater Dive’s motion to appoint counsel,
8 including its request for a one-year time extension. As Underwater Dive has not
9 complied with the Court’s order directing that it secure counsel by February 21, 2017
10 (Dkt. # 9), the Court *sua sponte* **DISMISSES without prejudice** all claims alleged by
11 Underwater Dive.

12 The Court also **DENIES** Mr. Officer’s motion. He maintains that counsel should
13 be appointed because he cannot afford to hire an attorney. He maintains that his lack of
14 funds is attributable to Defendants’ misconduct in damaging and misappropriating his
15 property. He also notes that he lacks the bar certification necessary to represent his
16 interests. Indigence and lack of legal skills, however, are not exceptional circumstances
17 that warrant the appointment of counsel. *See, e.g., Mahoney v. Kitsap Cty. Jail*, No. C10-
18 5140 RBL/KLS, 2010 WL 3239318, at *1 (W.D. Wash. Aug. 16, 2010). The Court has
19 reviewed the complaint and attached exhibits. Having done so, the Court finds that Mr.
20 Officer has not demonstrated that the legal issues underlying this matter are so complex
21 that he is unable to articulate his claims *pro se*. Thus, he has not met the requisite
22 standard for appointment of counsel and his motion must be denied.

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IV. CONCLUSION

For the reasons stated above, the Court **DENIES** Underwater Dive and Vernon W. Officer, Jr.'s Motion to Appoint Counsel (Dkt. # 12) and Motion for Extension on Counsel (Dkt. # 13). The Court *sua sponte* **DISMISSES** without prejudice all claims alleged by Underwater Dive.

DATED this 10th day of March, 2017.

Richard D. Jones

The Honorable Richard A. Jones
United States District Judge