

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

10 MITCH SZCZYGIELSKI,

11 Plaintiff,

12 v.

13 GENERAL DYNAMICS
14 CORPORATION,

15 Defendant.

CASE NO. 18-CV-594-RAJ

ORDER

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17 This matter comes before the court on Plaintiff Mitch Szczygielski's ("Mr.
18 Szczygielski" or "Plaintiff") Motion to Appoint Counsel. Dkt. # 18. This is Plaintiff's
19 second motion for counsel; the Court denied Plaintiff's first motion without prejudice on
20 July 30, 2018. Dkt. # 14. For the reasons stated below, the Court **DENIES** Plaintiff's
21 Motion. Dkt. # 18.

22 Generally, a person has no right to counsel in civil actions. *See Storseth v.*
23 *Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). However, a court may under
24 "exceptional circumstances" appoint counsel for indigent civil litigants pursuant to 28
25 U.S.C. § 1915(e)(1). *Agyeman v. Corrs. Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir.
26 2004). When determining whether "exceptional circumstances" exist, a court must
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1 consider “the likelihood of success on the merits as well as the ability of the petitioner to
2 articulate his claims *pro se* in light of the complexity of the legal issues involved.”
3 *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). A plaintiff must plead facts that
4 show he has an insufficient grasp of his case or the legal issue involved and an inadequate
5 ability to articulate the factual basis of his claim. *Agyeman*, 390 F.3d at 1103. Although
6 most parties would benefit from representation by an attorney, that is not the standard for
7 appointment of counsel in a civil case. *See Rand v. Roland*, 113 F.3d 1520, 1525 (9th
8 Cir. 1997), *overruled on other grounds*, 154 F. 3d 952 (9th Cir. 1998) (finding that a *pro*
9 *se* litigant may be better served with the assistance of counsel is not the test). Plaintiff
10 must show *exceptional* circumstances.

11 In its earlier Order, this Court noted that this matter “does not appear, at the
12 present, to be a case with *exceptional* circumstances.” Dkt. # 14 at 2. This remains the
13 case. Plaintiff’s new Motion simply restates Plaintiff’s previous request and general age-
14 related and financial hardships, which this Court already determined were insufficient.
15 Dkt. ## 14, 18. Plaintiff appears to demonstrate a sufficient grasp of the relevant issue:
16 how long he worked for Defendant, and whether that length of time qualifies him for
17 disability benefits under Defendant’s plan. Moreover, although Plaintiff again claims
18 under “Merits of Claim” that a governmental agency has “officially determined” that
19 there is “reasonable cause to believe that the allegations” in his Complaint were true, the
20 letter he attaches from the U.S. Department of Labor in Dkt. # 17 fails to support this
21 characterization. Dkt. # 17 at 2-3. In this letter, the Employment Benefit Security
22 Administration (EBSA) informed Plaintiff that General Dynamics determined that
23 Plaintiff did not accrue the years of service necessary to receive benefits under the plan,
24 and they would not be able to represent him. *Id.* This is not a finding from a
25 governmental agency that Plaintiff’s claims have merit, as Plaintiff asserts. Dkt. # 18 at
26 3.

1 Just as Plaintiff failed to make the requisite showing in his previous motion for
2 appointment of counsel, Plaintiff's second Motion also fails. Accordingly, Plaintiff's
3 Motion to Appoint Counsel is **DENIED**. Dkt. # 18. The Court again strongly
4 encourages Plaintiff to review the Court's website at www.wawd.uscourts.gov, where he
5 will find resources for *pro se* parties, including the court's local rules.

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7 DATED this 16th day of November, 2018.

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11 The Honorable Richard A. Jones
12 United States District Judge