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6 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 REC ROOM INC,

Plaintiff,

9 v.

10 M.Z.,

Defendant.

CASE NO. C23-1586-KKE

ORDER REFERRING CASE TO PRO  
BONO PANEL

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12 On May 6, 2024, the Court ordered Defendant M.Z. to obtain counsel in accordance with  
13 *Johns v. Cty. of San Diego*, 114 F.3d 874, 877 (9th Cir. 1997). Dkt. No. 28. On May 30, 2024,  
14 the Court received a status report detailing Defendant's unsuccessful efforts to obtain counsel.<sup>1</sup>  
15 Dkt. No. 29. The Court finds that exceptional circumstances warrant the appointment of pro bono  
16 counsel in this case.

17 Generally, the decision to appoint pro bono counsel rests within "the sound discretion of  
18 the trial court and is granted only in exceptional circumstances." *Agyeman v. Corrections Corp.*  
19 *of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004). "A finding of exceptional circumstances requires an  
20 evaluation of both the likelihood of success on the merits and the ability of the [pro se party] to  
21 articulate his [or her claims] in light of the complexity of the legal issues involved. *Terrell v.*  
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24 <sup>1</sup> The document states, "Please file this under seal as this contains personal info about a minor." Dkt. No. 29. This request does not meet the requirements of Local Rule 5(g) and does not contain information that must be redacted under Local Rule 5.2(a). Accordingly, the Court will not seal this document.

1 *Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991) (cleaned up). Neither of these factors is dispositive,  
2 and the factors must be viewed together before reaching a decision regarding appointment of  
3 counsel. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986).

4 The Court finds it is too early in the proceedings to make a determination on the likelihood  
5 of success of Defendant's defense, but the unique circumstances of this case, including the fact  
6 that Defendant is an indigent foreign minor, weigh in favor of appointment of counsel.  
7 Accordingly, the Court DIRECTS the Western District of Washington's Pro Bono Coordinator to  
8 identify an attorney(s) or law firm from the Pro Bono Panel to represent Defendant for all further  
9 proceedings, should he consent once Pro Bono counsel has contacted him. *See* General Order 7-  
10 23 (W.D. Wash. Sept. 8, 2023). All pending deadlines are STAYED pending the appointment of  
11 counsel.

12 Dated this 3rd day of June, 2024.

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15 Kymberly K. Evanson  
16 United States District Judge  
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