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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 ROBERT E. JOHNSON,

11 Plaintiff,

12 v.

13 SARA DI VITTORIO et al.,

14 Defendants.

CASE NO. C12-6018 RJB-JRC

ORDER ON PENDING MOTIONS

15 The District Court has referred this 42 U.S.C. §1983 civil rights action to the undersigned  
16 Magistrate Judge. The authority for the referral is found in 28 U.S.C. §§ 636(b)(1)(A) and (B)  
17 and Local Magistrate Judges Rules MJR 1, MJR 3, and MJR 4.

18 Plaintiff has filed a motion asking that his original complaint be held in abeyance pending  
19 a ruling on his objections to the Court's order that he file an amended complaint (ECF No. 9).  
20 Plaintiff has also filed a motion asking for appointment of counsel (ECF No. 10). There is not yet  
21 a party to respond to plaintiff's motions because no defendant has been served in this action.  
22 Therefore, there is no reason to wait until the noting date to address these two motions.  
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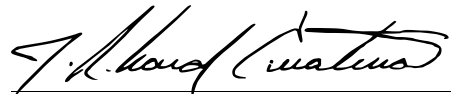
1 The motion to hold the original complaint in abeyance is DENIED. The original  
2 complaint is part of the electronic file (ECF No. 5). The original complaint will remain part of  
3 the file and not be deleted. Therefore, there is no reason to hold the document in abeyance.

4 The motion for appointment of counsel is also DENIED. There is no right to have  
5 counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court can request  
6 counsel to represent a party, 28 U.S.C. § 1915(e) (1), the court may do so only in exceptional  
7 circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*,  
8 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding  
9 of exceptional circumstances requires an evaluation of both the likelihood of success on the  
10 merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of  
11 the legal issues involved. *Wilborn*, 789 F.2d at 1331.

12 Plaintiff has demonstrated an ability to articulate his claims pro se. His pleadings are  
13 replete with legal authority. *See* (ECF No. 10, motion for appointment of counsel). The Court  
14 does not have a servable complaint before it at this time and therefore cannot evaluate plaintiff's  
15 likelihood of success on the merits.

16 Plaintiff's amended complaint remains due on or before January 25, 2013.

17 Dated this 16<sup>th</sup> day of January, 2013.

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20 J. Richard Creatura  
21 United States Magistrate Judge  
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