

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

OXANA V GRABOIS,

Plaintiff,

v.

ADAM J GRABOIS,

Defendant.

CASE NO. C15-5876 RBL

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

THIS MATTER is before the Court on Defendant Adam Grabois' Motion for appointment of counsel. [Dkt. # 32]. Adam<sup>1</sup> claims he cannot afford an attorney.

No constitutional right to counsel exists for an indigent plaintiff in a civil case unless the plaintiff may lose his physical liberty if he loses the litigation. *See Lassiter v. Dept. of Social Servs.*, 452 U.S. 18, 25 (1981). However, pursuant to 28 U.S.C. § 1915(e)(1), the Court has the discretion to appoint counsel for indigent litigants who are proceeding IFP. *United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995).

The Court will appoint counsel only under "exceptional circumstances." *Id.*; *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). "A finding of exceptional circumstances

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<sup>1</sup> Because the parties share a last name, this Order will use first names for clarity. No disrespect is intended.

1 requires an evaluation of both the likelihood of success on the merits and the ability of the  
2 plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved.”  
3 *Wilborn*, 789 F.2d at 1331 (internal quotations omitted). These factors must be viewed together  
4 before reaching a decision on whether to appoint counsel under § 1915(e)(1). *Id.*

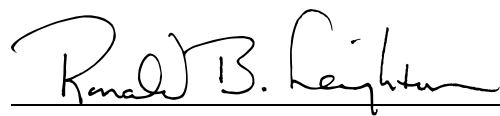
5 Adam has not shown a likelihood of success on the merits or other exceptional  
6 circumstances warranting counsel. He has not shown that he cannot articulate his legal positions.  
7 He cannot show that his defense of a claim asserted by an equally *pro se* plaintiff—one who has  
8 English as a second language—requires that the Court appoint him an attorney.

9 This Court has not ever appointed counsel for a *defendant* embroiled in civil litigation,  
10 and this case does not require the Court to address whether it might conceivably do so in a very  
11 unusual case.

12 The Motion to Appoint Counsel is DENIED. The parties will proceed to trial if necessary  
13 as *pro se* litigants who are nevertheless required to adhere to the Court’s Rules and the Rules of  
14 evidence.

15 IT IS SO ORDERED.

16 Dated this 28<sup>th</sup> day of November, 2018.

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19 Ronald B. Leighton  
20 United States District Judge  
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