

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

GARY CASTERLOW-BEY

Plaintiff,

V.

GOOGLE.COM, INC.,  
AMAZON.COM, INC.,

## Defendants.

CASE NO. 3:17-cv-05686-RJB

ORDER GRANTING  
APPLICATION TO PROCEED IN  
FORMA PAUPERIS

This matter comes before the Court on Plaintiff's Application for Leave to Proceed in Forma Pauperis ("IFP") (Dkt. 1) and Application for Court Appointed Counsel (Dkt. 1-2). The Court has considered the applications and the remainder of the record herein.

On August 30, 2017, Plaintiff, a *pro se* prisoner, filed this case, moved for IFP, and provided a proposed complaint asserting that when the Defendants sold Plaintiff's books on their websites, they infringed on his copyright. Dkt. 1. Plaintiff seeks several million dollars in damages. *Id.* Plaintiff also filed an application for the Court to appoint him counsel. Dkt. 1-2.

**IFP APPLICATION.** The district court may permit indigent litigants to proceed in

<sup>1</sup> || forma pauperis upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a).

2 However, the court has broad discretion in denying an application to proceed in forma pauperis.

<sup>3</sup> *Weller v. Dickson*, 314 F.2d 598 (9<sup>th</sup> Cir. 1963), cert. denied 375 U.S. 845 (1963).

4 Plaintiff states that he is not employed, is totally disabled, and receives Social Security  
5 Disability Income of \$738.00/month. Dkt. 1. He reports he has expenses of \$625. *Id.* Plaintiff  
6 indicates that he has no assets or dependents. *Id.* He is incarcerated. *Id.* Plaintiff completed the  
7 application and has made a sufficient showing of indigence. His IFP application (Dkt. 1) should  
8 be granted.

**APPLICATION FOR COURT APPOINTED COUNSEL.** Under 28 U.S.C. §

0 1915(e)(1), the court may request an attorney to represent any person unable to afford counsel.

1 Under Section 1915, the court may appoint counsel only in exceptional circumstances. *Franklin*  
2 *v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). To find exceptional circumstances, the court  
3 must evaluate the likelihood of success on the merits and the ability of the petitioner to articulate  
4 the claims *pro se* in light of the complexity of the legal issues involved. *Weygandt v. Look*, 718  
5 F.2d 952, 954 (9th Cir. 1983).

6 The Plaintiff's motion for appointment of counsel (Dkt. 1-2) should be denied. The  
7 Plaintiff has not yet shown that the claims have merit or shown a likelihood of success on the  
8 merits. Further, he appears to be able to articulate his claims adequately in light of the legal  
9 issues involved. The Plaintiff made the decision to file this case while he was in custody. While  
20 it will be more difficult to process, the circumstances of this case do not make appointment of  
21 counsel necessary or just, nor does the case present exceptional circumstances. The motion for  
22 appointment of counsel (Dkt. 1-2) should be denied.

**SERVICE OF THE COMPLAINT.** Under Fed. R. Civ. P. 4 (c)(3), where a party has

1 been granted IFP status under § 1915, the court must order that service of the complaint be made  
2 "by a United States Marshal, deputy marshal or by a person specially appointed by the court."  
3 Plaintiff has not submitted a proper summons form with the Defendants' addresses. Plaintiff's  
4 handwritten form is incomplete. The Clerk of the Court should be directed to send Plaintiff  
5 summons forms. If Plaintiff wishes court assistance in serving the complaint, he should fill out  
6 the summons forms (including the Defendants' addresses) and return them to the Court no later  
7 than 30 days from the date of this Order.

8 **ORDER**

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- Plaintiff's Motion for Leave to Proceed in Forma Pauperis (Dkt. 1) **IS**
- 10 **GRANTED;**
- 11 • Plaintiff's Application for Court Appointed Counsel (Dkt. 1-2) **IS DENIED;** and
- 12 • If Plaintiff wishes assistance with service of the complaint, Plaintiff should fill out
- 13 the summons forms (including the Defendants' addresses) and return them to the
- 14 Court no later than 30 days from the date of this Order.

15 The Clerk is directed to send Plaintiff summons forms and uncertified copies of this  
16 Order to all counsel of record and to any party appearing *pro se* at said party's last known  
17 address.

18 Dated this 6<sup>th</sup> day of September, 2017.

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22 ROBERT J. BRYAN  
23 United States District Judge  
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