

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION**

**THOMAS R. HAYES,**

**Plaintiff,**

**vs.**

**Case No. 4:19cv97-MW-CAS**

**MARK S. INCH, et al.,**

**Defendants.**

\_\_\_\_\_ /

**ORDER**

Plaintiff, a state prisoner proceeding pro se, initiated this case in February 2019. ECF No. 1. Plaintiff challenges the treatment provided by the Florida Department of Corrections (FDC) for the Hepatitis C Virus (“HCV”). Plaintiff was diagnosed with HCV in approximately October of 2001, ECF No. 1 at 10, and he has alleged that due to a lack of funding, proper treatment has not been provided.

On February 20, 2020, Plaintiff’s motion requesting leave to amend the complaint, ECF No. 101, was granted. ECF No. 103. Plaintiff’s first amended complaint omits claims against all Defendants except former Secretary of the FDC, Julie L. Jones, Corizon Health, Inc., and Centurion

Health Care. ECF No. 102 at 1-2. After granting Plaintiff's motion to amend, both Corizon and Centurion have, to their credit, filed waivers of service. ECF Nos. 105, 106. Answers are due in 60 days from the date the waiver request was sent. Defendant Jones has been given until March 13, 2020, in which to file an answer or other response to the amended complaint, ECF No. 102.

Notably, Plaintiff has filed a motion for appointment of counsel. ECF No. 107. Plaintiff notes, however, that this Court has "previously granted Plaintiff's prior motion for appointment of counsel." *Id.* at 1; see ECF No. 11. Having granted the motion once, it serves no purpose to grant the motion a second time. Thus, Plaintiff's motion is construed as a request for the Clerk's Office to reissue the notice soliciting counsel.

Plaintiff is reminded that federal courts may "*request* attorneys to represent impoverished litigants," but this Court lacks authority to command or compel a lawyer to do so. Mallard v. U.S. Dist. Court for S. Dist. of Iowa, 490 U.S. 296, 302, 109 S. Ct. 1814, 1818, 104 L. Ed. 2d 318 (1989) (holding "that § 1915(d) does not authorize the federal courts to make coercive appointments of counsel"). The current version of that statute, 28 U.S.C. § 1915(e)(1), permits a federal court to request

representation, but courts lack authority to require an attorney to represent a civil litigant. Maitland, 109 S. Ct. at 1821-23. There is no guarantee that an attorney will agree to take this case, but efforts will again be made to secure representation for Plaintiff. Plaintiff's motion is granted, and the Clerk of Court is directed to issue another notice to all attorneys registered with the Court's electronic filing system, inviting a willing attorney to represent Plaintiff. If an attorney is willing and able to assist him in this matter, that attorney will contact Plaintiff directly. Thus, it is imperative that Plaintiff keep his mailing address current.

Accordingly, it is

**ORDERED:**

1. Plaintiff's motion, ECF No. 107, construed as a request for the Clerk's Office to reissue the notice soliciting counsel, is **GRANTED**.
2. The Clerk of Court shall send a notice to all attorneys registered with the Court's electronic filing system. The notice must state:

This is a notice of an opportunity to provide pro bono representation in the case of Thomas Ray Hayes v. Mark S. Inch, et al., case no. 4:19cv97-MW-CAS.

Plaintiff is a prisoner in the custody of the Florida Department of Corrections. He alleges that he was

diagnosed with the Hepatitis C Virus, but has been denied appropriate medical care in violation of the Eighth Amendment. Further detail is provided in the amended complaint, ECF No. 102.

Public funds are not available for the payment of attorney's fees. Fees may be recoverable under applicable law if Plaintiff ultimately prevails. See 42 U.S.C. §1988(b); World Outreach Conference Ctr. v. City of Chicago, 234 F. Supp. 3d 904 (N.D. Ill. 2017). Limited funds sometimes are available from the district's Bench and Bar Fund for the payment of out-of-pocket expenses incurred by an attorney providing representation of this type.

Members of the district's bar will be afforded access to the electronic docket without charge for the purpose of considering whether to undertake the representation. An attorney who wishes to provide representation may contact Plaintiff directly and may enter the case by filing a notice of appearance.

An attorney who wishes to appear should file a notice of appearance by May 12, 2020.

3. Defendant Jones is reminded of the **March 13, 2020**, deadline in which to file an answer or other response to the amended complaint, ECF No. 102.

4. Plaintiff shall immediately file a notice to the Clerk's Office in the event of an address change, transfer, or release from custody.

5. The Clerk of Court shall return this file upon the filing of an answer or similar response to Plaintiff's amended complaint, the filing of a notice of appearance of counsel, or no later than May 12, 2020.

**DONE AND ORDERED** on March 12, 2020.

**S/ Charles A. Stampelos** \_\_\_\_\_  
**CHARLES A. STAMPELOS**  
**UNITED STATES MAGISTRATE JUDGE**