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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Sean Mandeville,  
Plaintiff,  
vs.  
RSI Enterprises, Inc.,  
Defendant.

No. CV 07-0598-PHX-EHC

**ORDER**

Plaintiff has filed a Motion to Stay Briefing Schedule and Conduct Discovery under Fed.R.Civ.P. 56(f). (Dkt. 16). Plaintiff states in the Motion that “[u]ndersigned counsel submits an Affidavit (Exhibit “A”) hereto in support of this Motion ...” (Dkt. 16, page 2). However, no affidavit was submitted with the Motion.

Defendant has filed a Response opposing the Motion, arguing, *inter alia*, that Plaintiff’s Motion is not supported by affidavit as required by Rule 56(f). (Dkt. 17).

“A party requesting a continuance pursuant to Rule 56(f) must identify by affidavit the specific facts that further discovery would reveal, and explain why those facts would preclude summary judgment.” Tatum v. City and County of San Francisco, 441 F.3d 1090, 1100 (9<sup>th</sup> Cir. 2006). See also, United States v. Kitsap Physicians Service, 314 F.3d 995, 1000 (9<sup>th</sup> Cir. 2002)(“[t]he facts supporting a Rule 56(f) motion must be set forth in an accompanying affidavit”). It is not an abuse of discretion to deny the request based on failure to comply with Rule 56(f). Tatum, 441 F.3d at 1100.

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Accordingly,

**IT IS ORDERED** that Plaintiff's Rule 56(f) Motion to Stay Briefing Schedule and Conduct Discovery (Dkt. 16) is denied without prejudice.

**IT IS FURTHER ORDERED** that Plaintiff's Response to Defendant's Motion for Summary Judgment shall be filed by August 3, 2007.

DATED this 20<sup>th</sup> day of July, 2007.



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Earl H. Carroll  
United States District Judge