



1 time following service of the deposition transcript to file his opposition to Defendant Meyers' motion  
2 for summary judgment. (ECF No. 45.) On November 20, 2013, Defendant Meyers filed a response to  
3 Plaintiff's Rule 56(d) motion. (ECF No. 47.) The time for reply has expired and the motion is  
4 deemed submitted. Local Rule 230(1).

## 5 **II. Discussion**

6 Plaintiff indicates that Defendant Meyers attached portions of Plaintiff's deposition transcript  
7 to the motion for summary judgment. Plaintiff complains that he "has had no prior opportunity to  
8 possess or examine the Deposition transcript." Plaintiff argues that it is imperative that he be  
9 permitted to possess and review a complete copy of the deposition in order to effectively meet his  
10 burden in summary judgment. Plaintiff believes that due process and justice warrant an order  
11 requiring Defendant Meyers to provide Plaintiff with a complete, certified copy of the deposition  
12 transcript.

13 Plaintiff's complaint that he had no opportunity to possess or review a copy of the deposition  
14 transcript lacks merit. Pursuant to the Federal Rules of Civil Procedure, Plaintiff had the right to  
15 review the transcript upon request. Fed. R. Civ. P. 30(e)(1) ("On request by the deponent . . . before  
16 the deposition is completed, the deponent must be allowed 30 days after being notified by the [court  
17 reporter] that the transcript . . . is available in which: (A) to review the transcript. . . .). Plaintiff also  
18 had the right to obtain a certified copy of the transcript from the court reporter. Fed. R. Civ. P.  
19 30(f)(3) ("When paid reasonable charges, the [court reporter] must furnish a copy of the transcript . . .  
20 to any party or the deponent."). There is no indication in Plaintiff's moving papers that he requested  
21 review of his deposition transcript or that he attempted to obtain a copy of the deposition transcript  
22 from the court reporter, upon paying reasonable charges, in the nearly two months following his  
23 deposition on September 23, 2013. Accordingly, Plaintiff's request for an order directing Defendant  
24 Meyers to provide him with a copy of the deposition is unwarranted.

25 Insofar as Plaintiff contends that he cannot oppose summary judgment in the absence of his  
26 deposition transcript, this contention lacks merit. Pursuant to Federal Rule of Civil Procedure 56,  
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1 Plaintiff may support his opposition with citation to, among other things, his own affidavit or  
2 declaration, interrogatory answers, or documents.<sup>1</sup> Fed. R. Civ. P. 56(c)(1).

3 As the Court does not find it appropriate to order Defendant Meyers to produce the deposition  
4 transcript, it is not necessary to reach Plaintiff's corresponding request for an extension of time from  
5 the date of service of the transcript in order to file his opposition. However, Plaintiff will be granted  
6 thirty (30) days from the date of service of this order to file any opposition to Defendant's motion for  
7 summary judgment.

8 **III. Conclusion and Order**

9 For the reasons stated, IT IS HEREBY ORDERED as follows:

- 10 1. Plaintiff's request for an order to Defendant Meyers to furnish Plaintiff a copy of the  
11 transcript of the September 23, 2013 deposition is DENIED; and  
12 2. Plaintiff's opposition to Defendant's motion for summary judgment shall be filed and  
13 served within thirty (30) days from the date of service of this order.

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15 IT IS SO ORDERED.

16 Dated: December 3, 2013

17 /s/ Barbara A. McAuliffe  
18 UNITED STATES MAGISTRATE JUDGE

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27 <sup>1</sup> As Plaintiff can oppose the summary judgment through affidavit, declaration or other means, the Court declines  
28 Defendant's invitation to grant summary judgment based on Plaintiff's statements in his motion requesting a copy of the  
deposition transcript.