

1 I.

2 DISCUSSION

3 A. Federal Rule of Civil Procedure 56(d) Motion

4 Rule 56(d) of the Federal Rules of Civil Procedure provides that “[i]f a nonmovant shows by
5 affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its
6 opposition, the court may: (1) defer considering the motion or deny it; (2) allow time to obtain
7 affidavits or declarations or to take discovery; or (3) issue any other appropriate order.” Fed. R. Civ.
8 P. 56(d). In seeking relief under Rule 56(d), Plaintiff bears the burden of specifically identifying
9 relevant information, where there is some basis for believing that the information actually exists, and
10 demonstrating that the evidence sought actually exists and that it would prevent summary judgment.
11 Blough v. Holland Realty, Inc., 574 F.3d 1084, 1091 n.5 (9th Cir. 2009) (quotation marks and citation
12 omitted); Getz v. Boeing Co., 654 F.3d 852, 867-868 (9th Cir. 2011); Tatum v. City and County of
13 San Francisco, 441 F.3d 1090, 1100-1101 (9th Cir. 2006).

14 In this instance, Plaintiff fails to identify any specific facts he needs in order to oppose
15 Defendants’ motion for summary judgment, or how such facts might preclude summary judgment.
16 Instead, Plaintiff simply wants to depose all Defendants in this case, which could have been
17 accomplished prior to the discovery cut-off date. Indeed, Plaintiff indicated as early as November 3,
18 2014, that he wished to depose the Defendants. (ECF No. 73, Plaintiff’s Motion at 2:21-28.) Plaintiff
19 has been able to notice the depositions on the Defendants with fourteen days notice since February 24,
20 2014, discovery and scheduling order opening discovery and setting the December 24, 2014, deadline.
21 (ECF No. 37.)

22 Furthermore, Defendants motion for summary judgment was filed after the close of discovery,
23 and this is not an instance in which the motion for summary judgment was filed before Plaintiff had an
24 adequate chance to conduct discovery. Cf. Burlington Northern Santa Fe R.R. Co. v. Assinboine &
25 Sioux Tribes of Fort Peck Reservation, 322 F.3d 767, 774 (9th Cir. 2003). To this end, Plaintiff has
26 engaged in discovery by serving Defendants with requests for admission, interrogatories, and requests
27 for production of documents, and Plaintiff has not been prevented for engaging in discovery. (See
28 ECF No. 71, Plaintiff’s Motion to Compel.)

1 Accordingly, because Plaintiff fails to identify any specific facts he needs in order to oppose
2 Defendants' motion for summary judgment and fails to allege how the deposition testimony of
3 Defendants is necessary to defeat Defendants' motion for summary judgment, Plaintiff's Rule 56(d)
4 motion must be denied.²

5 **B. Motion to Extend Time to File Opposition**

6 Plaintiff contends that he has recently been discharged from a mental health crisis bed and is in
7 need of an extension of time to file an opposition to Defendants' motion for summary judgment. (ECF
8 No. 88, Motion at 2.) Defendants do not oppose Plaintiff's request to extend the time to file an
9 opposition. Good cause having been presented to the Court, the Court will grant Plaintiff thirty days
10 from the date of service of this order to file an opposition to Defendants' motion for summary
11 judgment.

12 **II.**
13 **ORDER**

14 Based on the foregoing, it is HEREBY ORDERED that:

- 15 1. Plaintiff's Rule 56(d) motion is DENIED; and
- 16 2. Plaintiff is GRANTED thirty (30) days from the date of service of this order to file an
17 opposition to Defendants' motion for summary judgment.

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19 IT IS SO ORDERED.

20 Dated: April 15, 2015

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22 _____
23 UNITED STATES MAGISTRATE JUDGE

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27 ² To the extent Plaintiff is requesting information relating to the taking of depositions of the Defendants, Plaintiff is
28 advised that "district judges have no obligation to act as counsel or paralegal to pro se litigants." Pliler v. Ford, 542 U.S.
225, 231 (2004).