

1 B. Rule 56(d) Request

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

12 Plaintiff’s general argument that he has not had any discovery and has been not had sufficient
13 time to obtain evidence to support his opposition is precisely the type of general argument which does
14 not suffice to obtain relief under Rule 56(d). Accordingly, the Court finds that Plaintiff has not shown
15 the actual existence of relevant information that would prevent summary judgment on the issue of
16 exhaustion, and he is not presently entitled to deferment of Defendants’ motion under Rule 56(d).
17 Albino v. Baca, 747 F.3d 1162, 1170 (9th Cir. 2014); see also Naoko Ohno v. Yuko Yasuma, 723 F.3d
18 984, 1013 n.29 (9th Cir. 2013) (evidence to be sought through discovery must be based on more than
19 mere speculation).

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II.
ORDER

Based on the foregoing, it is HEREBY ORDERED that:

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

IT IS SO ORDERED.

Dated: August 18, 2015


UNITED STATES MAGISTRATE JUDGE