

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PAUL L. GUIDRY,

Plaintiff,

v.

MARINE ENGINEERS' BENEFICIAL
ASSOCIATION, ET AL.,

Defendants.

No. C 11-05347 CRB

**ORDER RE-SETTING HEARING ON
MOTION FOR SUMMARY
JUDGMENT, PERMITTING
DEPOSITIONS, AND SETTING
FURTHER BRIEFING SCHEDULE**

Defendant Marine Engineers Beneficial Association has moved for summary judgment in this employment case. See MSJ (dkt. 41). That hearing is currently set for Friday, January 18, 2013. Id. However, in connection with his Opposition, Plaintiff submitted a declaration from his counsel explaining that he only became the attorney of record for Plaintiff on December 12, 2012. See Cohen Decl. (dkt. 47-2).¹ The declaration asks the Court to continue the hearing date on the summary judgment motion so that Plaintiff, who has not taken any depositions, can take two: those of Dave Nolan and Patrick Anderson. Id. ¶¶ 5-6. The declaration explains the information Plaintiff seeks from Nolan and from Anderson, and why that information would preclude summary judgment. Id. ¶¶ 8-


¹ Plaintiff was *pro se* before his current counsel substituted in. See Notice of Substitution (dkt. 40). Although another lawyer seems to have appeared briefly in the case, see Weaver Decl. ¶ 4, the appearance was just in late September 2012, id. and was short lived; moreover, no notification of substitution of counsel as to the September lawyer was filed with the Court.

1 10. The declaration states that Nolan's deposition was noticed for January 11, 2013, and that
2 Anderson's deposition has not yet been noticed. Id. ¶ 11.

3 The Court finds that Plaintiff has met his burden under Rule 56(f).² Accordingly, the
4 Court VACATES the January 18, 2013 hearing on summary judgment and RE-SETS that
5 hearing for **March 8, 2013**. By **February 15, 2013**, Plaintiff is to take the depositions of
6 Nolan and Anderson, and to file a supplemental Opposition to summary judgment, if he
7 wishes to do so. Defendant, if it wishes to do so, may file a supplemental Reply in support of
8 summary judgment by **February 22, 2013**.

9 **IT IS SO ORDERED.**

10
11 Dated: January 14, 2013



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27 _____
28 ² The Court further notes that Plaintiff asked this Court to appoint him counsel in July 2012,
see Letter (dkt. 35) and this Court denied that request, see Order (dkt. 36). Plaintiff has now found
counsel, and his counsel should be permitted adequate time to prepare an opposition to summary
judgment.