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5 IN THE UNITED STATES DISTRICT COURT
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7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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9 TIMOTHY MCCARTHY III,

10 Plaintiff,

No. C 16-06782 WHA

11 v.

12 SCOTT GEIST, individually and in his capacity
13 as a Deputy Sheriff for the Contra Costa County
14 Sheriff's Department; and DOES 1-50, inclusive,
individually, jointly and severally,

15 Defendants.
16 _____/

**ORDER DENYING MOTION
TO COMPEL DEPOSITION
TESTIMONY**

17 Even though discovery has closed in this action, plaintiff moves to compel deposition
18 testimony from third-party witness Ryan Montoya (Dkt. No. 70). Deputy Montoya is a former
19 defendant, but a prior order dismissed him in September 2017 (Dkt. No. 34). The Court has
20 reviewed the motion and determined that no reply is necessary. There are two problems with
21 plaintiff's motion. *First*, the witness was not subpoenaed prior to the discovery cutoff (or at
22 all). *Second*, attempted service upon defense counsel is insufficient, as counsel is not obligated
23 to accept service on behalf of third-parties. The Court has extended numerous opportunities to
24 plaintiff to plead his best case, but this order will not reopen discovery. Motion **DENIED**.

25 **IT IS SO ORDERED.**

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27 Dated: May 2, 2018.

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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE