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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

RONALD NEAL JOSEPH, SR., )  
et al. )  
Plaintiffs, )  
vs. )  
LAS VEGAS METROPOLITAN POLICE )  
DEPARTMENT, et al. )  
Defendants. )

2:09-cv-00966-HDM-LRL

**ORDER**

Defendants filed a motion for summary judgment on February 4, 2011 (#73). Plaintiffs filed a response to the motion for summary judgment on February 25, 2011 (#85). Plaintiffs' response (#85) did not address the merits of the motion, but instead argued that the motion was premature and requested a stay of the motion pending resolution of outstanding discovery disputes. The court granted a stay of the motion for summary judgment (#73) until the discovery

1 disputes were resolved (#95). At the time the court entered its  
2 order granting a stay of the summary judgment motion (#95), there  
3 were two pending discovery motions: defendants' Motion to Stay  
4 Discovery on Plaintiffs' Monell Claim (#75) and plaintiffs' Motion  
5 to Extend Discovery Deadlines and for Sanctions (#88). On March  
6 10, 2011, defendants replied to plaintiffs response to the motion  
7 for summary judgment (#96).<sup>1</sup>

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9 <sup>1</sup> Document #85 is titled "Response to Defendants' Motion for Summary Judgment  
10 [73]". In it, plaintiffs asked that the court stay the motion for summary judgment  
11 "until meaningful discovery can be completed" pursuant to Federal Rules of Civil  
12 Procedure 56(d) and 56(f). Rule 56(d) permits a court to defer considering a  
13 motion, deny it, allow time for the parties to obtain affidavits, declarations or  
14 take discovery, or issue any other appropriate order if a nonmovant shows by  
15 affidavit or declaration that it cannot present facts essential to justify its  
16 opposition. Fed. R. Civ. P. 56(d). Under Rule 56(f), a court may postpone ruling  
17 on a motion for summary judgment where the nonmoving party needs additional  
18 discovery to explore facts to justify the party's opposition. See Fed. R. Civ. P.  
19 56(f). Plaintiffs submitted the Declaration of Alfreda Tilman Bester in support  
20 of their Rule 56(d) request. However, the declaration fails to articulate specific  
21 facts plaintiffs need to explore in order to oppose defendants motion for summary  
22 judgment. Instead, the declaration argues that plaintiffs are unable to present  
23 facts to justify an opposition because the defendants have refused to produce  
24 sufficient discovery responses. (See #85, p. 5) Still, the court stayed the motion  
25 for summary judgment pending resolution of outstanding discovery issues. Those  
26 issues having been resolved as of June 10, 2011, the court concludes no additional  
discovery is warranted.

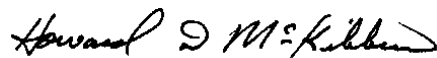
1           Discovery closed in this case on March 3, 2011. On April 25,  
2 2011, the magistrate judge entered an order (#99) granting  
3 defendants' motion to stay discovery on the *Monell* claim (#75) and  
4 denying plaintiffs' motion to extend discovery deadlines and for  
5 sanctions (#88). The court affirmed the magistrate judge's order  
6 (#99) on June 10, 2011 (#106). Also on June 10, 2011, the court  
7 issued an order (#107) granting in part and denying in part  
8 plaintiffs' motion to strike (#86), which allowed plaintiffs to  
9 file affidavits of witnesses in response to defendants' motion for  
10 summary judgment.

11           Since plaintiffs' response (#85) to the motion for summary  
12 judgment did not address the merits, plaintiffs shall be given an  
13 opportunity to respond to the merits of the defendants' motion for  
14 summary judgment (#73). Accordingly, plaintiffs shall have fifteen  
15 (15) days from the date of this order in which to file a supplement  
16 to their response to defendants' motion for summary judgment that  
17 addresses the merits of the motion for summary judgment. In  
18 addition, defendants shall have five (5) days from the date  
19 plaintiffs' supplemental response is filed in which to file a  
20 supplemental reply in support of their motion for summary judgment.

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IT IS SO ORDERED.

DATED this 10th day of June 2011.



UNITED STATES DISTRICT JUDGE