

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MARGRETTY RABANG, *et al.*,

11 Plaintiffs,

v.

12 ROBERT KELLY, JR., *et al.*,

13 Defendants.

14 CASE NO. C17-0088-JCC

15 ORDER GRANTING PLAINTIFFS'
16 MOTION TO CONTINUE

17 This matter comes before the Court on Plaintiffs' motion to continue (Dkt. No. 75)
18 Defendant Dodge's motion for summary judgment (Dkt. No. 66). Having thoroughly considered
19 the parties' briefing and the relevant record, the Court finds oral argument unnecessary and
20 hereby GRANTS the motion for the reasons explained herein.

21 The underlying facts of this case have been detailed in previous orders. (Dkt. No. 62 at
22 1–6; Dkt. No. 63 at 1–2.) Additional facts relevant to this motion are as follows. On May 3,
23 2017, Plaintiffs filed an amended complaint, alleging new facts against Defendant Dodge. (*See*
24 Dkt. No. 64.) On May 17, 2017, Defendant Dodge filed a motion for summary judgment. (Dkt.
25 No. 66.) Defendant Dodge argues he is entitled to judicial immunity and the claims against him
26 should be dismissed. (*See id.*) On May 22, 2017, the parties discussed their plan for discovery.
(Dkt. No. 76 at ¶ 5.) After filing a response to Defendant Dodge's motion for summary
judgment, Plaintiffs filed this motion to continue. (Dkt. No. 75.) This motion to continue was

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1 filed before the motion for summary judgment's original noting date.

2 Pursuant to Federal Rule of Civil Procedure 56(d), “[i]f a nonmovant shows by affidavit
3 or declaration that, for specified reasons, it cannot present facts essential to justify its opposition,
4 the court may defer considering the motion.” Plaintiffs argue Defendant Dodge’s motion for
5 summary judgment is premature because adequate time for discovery has not occurred. (Dkt. No.
6 75 at 2.) Plaintiffs wish to conduct discovery as to whether Defendant Dodge had subjective
7 knowledge that he lacked authority. (*Id.* at 3.)

8 The Court concludes Plaintiffs have shown that, for specified reasons, they cannot
9 present facts essential to justify their opposition to the pending motion for summary judgment.
10 Judicial immunity is a fact-intensive inquiry in this case. A deposition of Defendant Dodge and
11 information obtained through other discovery tools could create a genuine dispute of material
12 fact as to whether Defendant Dodge knew he lacked authority. Plaintiffs’ detailed opposition to
13 the motion for summary judgment does not defeat their motion to continue. *See Play Visions,*
14 *Inc. v. Dollar Tree Stores, Inc.*, 2011 WL 13100728, at *2 (W.D. Wash. Mar. 1, 2011); *c.f.*
15 *Tatum v. City & Cty. of San Francisco*, 441 F.3d 1090, 1100–01 (9th Cir. 2006) (denying a
16 motion to continue filed after an opposition where the plaintiff failed to identify specific facts
17 and explain why those facts would have precluded summary judgment). Therefore, for the
18 foregoing reasons, Plaintiffs’ motion to continue (Dkt. No. 75) is GRANTED.

19 The Court DIRECTS the Clerk to remove the noting date on the motion for summary
20 judgment (Dkt. No. 66). The parties are ORDERED to provide the Court with the date discovery
21 begins or began. The Court will renote the motion for summary judgment for four months after
22 the start of discovery and set an opposition and reply briefing schedule.

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1 DATED this 29th day of June 2017.
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John C. Coughenour
UNITED STATES DISTRICT JUDGE