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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSEPH E. RUBINO, Plaintiff - Appellant, v. ACME BUILDING MAINTENANCE; et al., Defendants - Appellees.	No. 10-16223 D.C. No. 5:08-cv-00696-JW MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
James Ware, Chief Judge, Presiding

Submitted December 19, 2011**

Before: GOODWIN, WALLACE, and McKEOWN, Circuit Judges.

Joseph E. Rubino appeals pro se from the district court's summary judgment in his employment action alleging race discrimination in violation of Title VII. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Leong v. Potter*,

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* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

347 F.3d 1117, 1123 (9th Cir. 2003), and we affirm.

The district court properly granted summary judgment on Rubino's race discrimination claim because Rubino failed to raise a genuine dispute of material fact as to whether ACME Building Maintenance treated similarly situated individuals outside his protected class more favorably. *See id.* at 1124.

The district court did not abuse its discretion in denying Rubino's discovery motions. *See Hallett v. Morgan*, 296 F.3d 732, 751 (9th Cir. 2002) (noting that "[b]road discretion is vested in the trial court to permit or deny discovery" (citation and internal quotation marks omitted)).

Rubino's remaining contentions, including those regarding judicial bias, are unpersuasive.

We do not consider Rubino's contentions raised for the first time on appeal. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999).

AFFIRMED.