

TO:

Rule 28 Distribution
Lisa M Panahi
Kathleen P Sweeney

ATTACHMENT¹

RULES OF CIVIL PROCEDURE

Rule 56. Summary Judgment

(a)–(b) [No change]

(c) Procedures.

(1)–(2) [No change]

(3) *Supporting and Opposing Statements of Fact.*

(A) Moving Party's Statement. The moving party must set forth, in a statement separate from the supporting memorandum, the specific material facts relied on in support of the motion. The separate statement must: The facts must be stated in concise, numbered paragraphs.

(i) state each fact concisely in separately numbered paragraphs;—The statement must

(ii) cite only the specific, admissible parts of the record where support for each fact may be found;

(iii) state only facts that are cited in the moving party's memorandum;

(iv) not make legal argument; and

(v) in Tier 1 and 2 cases, not exceed 11 pages, exclusive of attachments, unless the court orders otherwise.

(B) Opposing Party's Statement. An opposing party must file a statement in the form prescribed by Rule 56(c)(3)(A),⁵ ~~specifying~~ This statement must:

(i) identify the numbered paragraphs in the moving party's statement that are disputed, citing for each disputed material fact the specific, admissible parts of the record that establish the dispute; and

(ii) state concisely in separately numbered paragraphs those facts cited in the nonmoving party's memorandum that establish a genuine dispute or otherwise preclude summary judgment in favor of the moving party, citing as support for each such fact only specific, admissible parts of the record; and

(iii) in Tier 1 and 2 cases, not exceed 17 pages, exclusive of attachments, unless the court orders otherwise.

¹ Additions to the text of the rule are shown by underscoring and deletions are shown by ~~strike-through~~.

(C) No Reply Statement. The moving party may not file a Reply Statement of Fact. But if the nonmoving party raises new facts in their response, the moving party may attach admissible evidence to the reply memorandum to show that the new facts raised in response do not create a material issue of fact, as permitted by Rule 56(c)(2).

(D) Joint Statement; Conference. In addition or as an alternative to submitting separate statements under Rule 56(c)(3)(A) and (B), the ~~moving and opposing~~ parties may file a joint statement in the form prescribed by this rule, setting forth those facts that are undisputed, including those established by the pleadings or previously admitted under Rule 36. The joint statement may provide that any stipulation of fact is not binding for any purpose other than the summary judgment motion. The joint statement does not count against the page limits in Rule 56(c)(3)(A)(v) or Rule 56(c)(3)(B)(iii). If a party requests a conference to determine if a joint statement of any length is possible, the parties must confer in good faith under Rule 7.1(h) no later than 7 calendar days after the request is made.

(4) *Objections to Evidence.* Rule 7.1(f)(3) governs objections to the admissibility of evidence on summary judgment motions, but an objection may be stated ~~included~~ in either an opposing party's statement of facts or response to another party's separate statement of facts in place of, or in addition to, including it in the party's response or reply responsive memorandum. Any objection ~~presented in the party's response to the separate statement of facts~~ must be stated concisely and must identify the legal basis for the objection.

(5) **[No change]**

(6) *Other Materials.* Affidavits may be supplemented or opposed by ~~deposition excerpts, interrogatory responses, admissions, additional affidavits, or other materials~~ that would be admissible in evidence, including deposition excerpts, interrogatory responses, admissions, and additional affidavits.