



## **NOTICE OF LOCAL RULE REVISION**

### **(Local Rule 56 – Summary Judgment)**

The United States District Court for the District of Vermont hereby announces a revision to Local Rule 56 governing summary judgment which became effective April 1, 2025. The revised rule was recently approved by the Second Circuit Judicial Council following a thirty-day public commentary period.

The purpose of the revision is to ensure a direct response to each Statement of Undisputed Fact set forth in support of a motion for summary judgment and to provide the non-movant an opportunity to fully present material facts in response.

Local Rule 56 is amended as follows:

#### **Rule 56. Summary Judgment; Notice to *Pro Se* Litigants Opposing Summary Judgment.**

**(a) Movant's Statement of Undisputed Facts** Unless the court orders otherwise, any motion for summary judgment under Fed. R. Civ. P. 56 must be accompanied by a separate and concise statement, in numbered paragraphs, of the **material** facts that the moving party contends cannot be genuinely disputed. Failure to submit a statement of undisputed facts may constitute a ground for denial of the motion. This rule does not apply to claims brought under the Administrative Procedure Act or the Freedom of Information Act.

**(b) Opposing Statement.** A party opposing summary judgment, or a motion under Fed. R. Civ. P. 12(b)(6) or 12(c) that has been converted to a summary judgment motion, must include a response to each numbered paragraph in the moving party's statement, in correspondingly numbered paragraphs, admitting, denying, or otherwise responding to each numbered paragraph in the moving party's statement. If necessary, the opposing party may include a separate and concise statement, in numbered paragraphs, of **additional material facts** that the opposing party contends cannot be genuinely disputed; if such additional facts are included, the moving party must respond to each such numbered paragraph within fourteen (14) days or when its response to any cross-motion is due, if later, in accordance with this rule. Each numbered paragraph in either party's statement may be deemed

admitted for purposes of the motion unless it is specifically controverted by a correspondingly numbered paragraph in the other party's statement.

- (c) Provision of Movant's Statement.** In any case where all parties are represented by counsel, any party moving for summary judgment must provide all other parties with an electronic copy, in a standard word processing format, of the moving party's statement. In any case where all parties are represented by counsel, any opposing statement required or allowed by this rule must include each entry in the moving party's statement and set out the opposing party's response directly beneath it.
- (d) Support of Statement.** Each numbered paragraph of any statement by the moving or opposing party under this rule, including each paragraph denying or controverting any statement of material fact, must be followed by citation to admissible evidence or to evidence that can be presented in admissible form at trial as required by Fed. R. Civ. P. 56(c).
- (e) Time for Filing.** Summary judgment motions must be filed according to the schedule specified in L.R. 26(a)(4)(J).
- (f) Required Notice for *Pro Se* Litigants.** Any represented party filing a motion for summary judgment, or a motion to dismiss under Fed. R. Civ. P. 12(b)(6) or 12(c) that is converted to a motion for summary judgment against a *pro se* party must serve and file the document reproduced below. That document, the "Notice to *Pro Se* Litigant Opposing Motion for Summary Judgment," must be filed together with the papers in support of the motion. Where the *pro se* party is not the plaintiff, the movant must amend the form as necessary to reflect that fact.

### **Notice to *Pro Se* Litigant Opposing Motion for Summary Judgment**

The defendant in this case has moved for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. This means that the defendant has asked the court to decide this case without a trial, based on written materials, including affidavits, submitted in support of the motion. THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION by filing your own sworn affidavits or other papers as required by Fed. R. Civ. P. 56(e) and Local Rule 56(b). An affidavit is a sworn statement of fact based on personal knowledge that would be admissible as evidence at trial. The full text of Rule 56 is attached.

Briefly, Rule 56 provides that you may NOT oppose summary judgment simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising issues of fact for trial. Any witness statements, which may include your own statements, must be in the form of affidavits. You may submit affidavits that were prepared specifically in response to defendant's motion for summary judgment. Any issue of fact that you wish to raise in opposition to the motion for summary judgment must be supported by affidavits or other documentary evidence contradicting the facts asserted by the defendant. You may also file a memorandum of law in opposition to defendant's motion for summary judgment [pursuant to L.R. 7(a)(3)(A)].

Your response is due within 30 days pursuant to Local Rule 7(a)(3). If you do not respond to the motion for summary judgment on time with a statement of disputed facts and affidavits or documentary evidence contradicting the facts asserted by the defendant, the court may accept defendant's factual assertions as true. Judgment may then be entered in defendant's favor without a trial.

**A complete version of our Local Rules is available on our court's website at:**

**<https://www.vtd.uscourts.gov/court-info/local-rules-and-orders>**