

HONORABLE JOAN B. GOTTSCHALL

Standing Order Regarding Motions for Summary Judgment

June, 2023

Failure of the parties to heed the requirements of Federal Rule of Civil Procedure 56 and Local Rule 56.1 greatly complicates this court's consideration of motions for summary judgment. Because these motions are frequently important and helpful in avoiding unnecessary trials and in focusing and/or reducing the issues at trial, the court provides the following clarifications and refinements of Local Rule 56.1.

Paper (Courtesy) Copies

Depending on the size of the evidentiary material filed in support of and opposition to a summary judgment motion, the court may request paper copies. With respect to electronically stored information such as thumb drives and DVDs, counsel and parties shall utilize the process for filing digital exhibits such as video and audio files using CM/ECF. Instructions can be found at <https://www.ilnd.uscourts.gov/ExhibitDrop>.

When a paper copy is requested, the party submitting it must:

- attach a cover letter identifying the case name, case number, and docket number of the filing(s) included in the paper copy.
- deliver the paper copy to the courtroom deputy's office, Room 2332A. Do not bring paper copies to chambers.
- print the paper copy single-sided on opaque, unglazed, 8.5 x 11-inch, white paper.
- bind and tab the paper copy:
 - acceptable binding methods include secure staples, comb-binding, and three-ring binders.
 - unacceptable binding methods include binder clips, paper clips and rubber bands.

Memoranda of Law, Responses, and Reply Briefs

The moving party must file an opening memorandum of law with its summary judgment motion. LR 56.1(a)(1). The responding party must file a responsive memorandum of law, and the moving party must file a reply memorandum. LR 56.1(b)(1), (c)(1). All of these memoranda must comply with Local Rule 56.1(g).

The memoranda “must cite directly to specific paragraphs in the LR 56.1 statements or responses.” LR 56.1(g). Direct citations to evidentiary material such as a deposition, affidavit, or exhibit are prohibited. All argument must be located in the legal memoranda only (as opposed to the fact statements).

Statements of Material Facts and
Statements of Additional Material Facts

The moving party must file a statement of material facts and attach the cited evidentiary material. LR 56.1(a)(2). The responding party must file a response to this statement of material facts (LR 56.1(b)(2)). The responding party may also file a statement of additional material facts (LR 56.1(b)(3)), to which the moving party may file a response (LR 56.1(c)(2)). All of these fact statements must comply with Local Rule 56.1(d). The responses to fact statements must comply with Local Rule 56.1(e).

The paragraphs of a Local Rule 56.1(d) fact statement must be limited to actual facts; argument masquerading as fact will not be considered. All argument on factual and legal issues must be addressed in the legal memoranda.

In order to avoid unnecessary disputes about “facts,” as opposed to the reasonable inferences to be drawn from them, the parties should refrain from including inferences in Local Rule 56.1(d) fact statements. The reasonableness of inferences to be drawn from the facts must be addressed in the legal memoranda, rather than by asserting them as “facts” in a Local Rule 56.1(d) fact statement. “Loading up” a Local Rule 56.1(d) fact statement with inferences may result in denial of the motion on that ground alone.

The following is an example of how a fact should be set forth in a Local Rule 56.1(d) fact statement:

6. On April 6, 1994, John Jones told Sam Smith that he had voluntarily quit his job. Pl.’s Ex. G, Dep. of J. Jones at 6:22-32.

Responses to Statements of Facts and
Statements of Additional Material Facts

Local Rule 56.1(b)(2) requires the nonmoving party to file a response to the moving party's statement of material facts and to attach any evidentiary material that has not been included in the summary judgment record. The moving party also must file a response to the statement of additional material facts and attach any evidentiary material that has not been included in the summary judgment record. LR 56.1(c)(2). These responses to fact statements must comply with Local Rule 56.1(e).

“A response may not assert legal arguments except to make an objection, including objections based on admissibility, materiality, or absence of evidentiary support.” LR 56.1(e)(2). The rule does not contemplate speaking objections. Legal argument in support of objections should be contained in the relevant memorandum of law. No legal argument should be contained in a Local Rule 56.1(e) response to a fact statement. If the responding party does not dispute a fact, but rather the inference to be drawn therefrom, the fact should be listed as admitted, and the inference should be argued in a memorandum of law. (See the discussion above of the Local Rule 56.1(g) memoranda.)

The following are example responses to a paragraph of a fact statement (*see* LR 56.1(e)(2)–(3)):

Admitted.

Disputed. *See* Pl.'s Ex. G, Dep. of J. Jones at 9:17–10:2;
Def.' Ex. 2, Aff. of S. Smith ¶¶ 5–7.

Citations to Evidentiary Materials in Fact Statements and Responses

All citations to affidavits, declarations, deposition transcripts, and other evidentiary materials must be specific as to the paragraph or page and line whenever possible. *See* LR 56.1(d)(2) and (e)(3). Avoid ambiguous citations to exhibits. For instance, if two depositions of the same person are in the summary judgment record, each citation should include the date of the deposition. Similarly, if two affidavits of Jane Smith are on file, include the affidavit's date in each citation to the “Aff. of J. Smith.” A citation to an email message should include the date and time of the message.