

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

PROPOSAL TO AMEND THE LOCAL RULES

The full Court met in executive session on Thursday, October 1, 2020, and approved a proposal to amend LR56.2, Notice to *Pro Se* Litigants Opposing Summary Judgment, of the Civil Rules of this Court as attached (additions marked thus, deletions marked ~~thus~~).

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COMMENT: By direction of the full Court and pursuant to 28 U.S.C. §207(b) regarding appropriate public notice and opportunity for comment, the Clerk is directed to: (a) cause notice of the proposal to amend Local Rule 56.2 to be published in the *Chicago Daily Law Bulletin*, (b) cause notice of the proposal and requests for comment to be posted on the web site for the United States District Court Northern District of Illinois, (c) cause notice of the proposal to be posted in the Courthouses at Chicago and Rockford, (d) indicate in such notice a final date for receipt of comments, which date shall be sixty days from the first date of publication in the *Law Bulletin*, (e) collect and distribute among the members of the Advisory Committee for Local Rules all comments received, and (f) following receipt of a copy of the report and recommendation of the advisory committee to distribute copies of the comments together with copies of the report and recommendation among the members of the Court for consideration at a regular meeting of the full Court.

ENTER:
FOR THE COURT



Hon. Rebecca R. Pallmeyer, Chief Judge

Dated at Chicago, Illinois this 8th day of October 2020.

LR56.2. Notice to ~~Pro Se~~Unrepresented Litigants Opposing Summary Judgment

Any party moving for summary judgment against ~~a~~an unrepresented party ~~proceeding pro se~~ shall serve the unrepresented party with its summary judgment papers and a copy of Federal Rule of Civil Procedure 56, Local Rule 56.1, and this Local Rule 56.2 Notice. The moving party ~~must also file as this Local Rule 56.2 Notice, with a separate document, together with the papers in support of certificate of service. If the motion, a “Notice to Pro Se Litigant Opposing Motion for Summary Judgment” in the form indicated below. Where the pro se unrepresented party is not the plaintiff, the movant should amend the form notice as necessary to reflect that fact shall revise this Local Rule 56.2 Notice to describe the parties, movant, and nonmovant.~~

NOTICE TO PRO SE LITIGANT OPPOSING MOTION FOR SUMMARY JUDGMENT

Notice to Unrepresented Litigants Opposing Summary Judgment

The defendant has moved for summary judgment against you. ~~This means that~~ That makes the defendant the “movant” and you the “nonmovant.” By moving for summary judgment, the defendant is ~~telling~~arguing to the judge that there is no need for a trial because: (1) ~~there is no legitimate disagreement about the important facts of the case;~~ and (2) ~~applying the law to those facts, the defendant wins.~~ The defendant ~~is also claiming that there is no need~~may move for a trial~~partial summary judgment (meaning only as to some of the claims or issues raised by your case and is asking complaint) or for summary judgment on all claims.~~

When moving for summary judgment, the defendant must serve on you and file:

- (1) a statement of facts, which is a list of the facts the defendant thinks are true and undisputed;
- (2) the evidence that supports those facts; and
- (3) a memorandum of law that makes a legal argument about why the defendant wins based on the law and the facts.

There are rules that both lawyers and people without lawyers must follow in moving for or opposing summary judgment. If you do not follow the rules, then the judge ~~to~~may not consider your facts or your arguments.

This notice is meant to help explain the summary judgment process to you. If you have more questions, you can visit the United States District Court for the Northern District of Illinois’s Clerk’s Office on the 20th floor of the Everett McKinley Dirksen U.S. Courthouse, 219 S. Dearborn, Chicago, Illinois 60604, and ask about the William J. Hibbler Memorial Pro Se Assistance Program. You can also make an appointment with the program online. This program cannot provide

you with a lawyer but can answer certain procedural questions about opposing summary judgment.

What You Must File

To respond to the summary judgment motion, you **must** file, as separate documents:

- a response to the defendant’s statement of material facts (see Section I);
- a statement of additional facts, if you want the judge to consider facts not included in the defendant’s statement of material facts or your response to the defendant’s statement (see Section II);
- the evidentiary material that supports your response to the defendant’s statement of facts and any statement of additional facts (the material should be labeled as exhibits); and
- a memorandum of law that explains why the defendant is not entitled to summary judgment based on the facts and the law (see Section III).

More details about these documents are below. If you do not respond to the defendant’s summary judgment motion by the deadline the judge gives you, the judge may rule on the motion based solely on what the defendant has to say. Even if you file your own summary judgment motion, you still must respond to the defendant’s summary judgment motion.

I. Response to Defendant’s Statement of Facts

The defendant has listed what it thinks are undisputed facts in a series of short paragraphs. This document is called a “statement of facts.” For each fact, the defendant must point to evidence—such as affidavits, deposition transcripts, recordings, and other documents—that the fact is true.

You must respond to each of the defendant’s facts, paragraph by paragraph. **If you do not respond to a fact asserted by the defendant, the judge may decide that** the defendant should win the case based on its written argument about what the law is. **you have admitted that the fact is true.** Here is how you can respond to a fact asserted by the defendant:

In order to defeat the defendant’s request, you need to do one of two things: you need to show that there is a dispute about important facts and a trial is needed to decide what the actual facts are or you need to explain why the defendant is wrong about what the law is.

Your response must comply with Rule 56(e) of the Federal Rules of Civil Procedure and Local Rule 56.1 of this court. These rules are available at any law library. Your Rule 56.1 statement needs to have numbered paragraphs responding to each paragraph in the defendant’s statement of facts. If you disagree with any fact offered by the defendant, you need to explain how and why

~~you disagree with the defendant. You also need to explain how the documents or declarations that you are submitting support your version of the facts. If you think that some of the facts offered by the defendant are immaterial or irrelevant, you need to explain why you believe that those facts should not be considered.~~

In your response, you must

(a) Admit it.

If you agree with a fact, write “Admitted.” If you admit a fact in your response, you cannot later deny that fact in your statement of additional facts or in your legal argument.

(b) Dispute it.

If you think that a fact is not supported by the evidentiary material cited by the defendant, you should write “Disputed” and then briefly explain why you dispute the fact and cite the specific page(s) of evidence that supports your position.

If your response cites evidence that the defendant did not submit, you must include that additional evidence in an appendix filed and served along with your response.

For example, if the defendant asserts that the traffic light was red at a particular time and supports that assertion with an affidavit, and if you believe that the light was green at that time, you can dispute the asserted fact and cite to evidentiary material (such as an affidavit, declaration, or deposition testimony) that supports your view that the light was green.

(c) Object to evidence that the defendant submitted.

If you would like to object to a particular piece of evidence cited in the defendant’s statement of facts—for example, because it is not relevant or is hearsay—you should briefly explain your objection. If you both disagree with a fact and object to the evidence that the defendant cites to support that fact, then your response to that fact should explain both your denial of the fact and your objection. If you object to the defendant’s evidence but do not deny the fact, and the judge overrules your objection, then the judge may consider you to have admitted the fact.

Do not include these things in your response to statements of fact:

- **New facts.** To state new facts, meaning facts that are not fairly responsive to the defendant’s asserted facts, list them in your separate statement of additional fact (see Section II).

- **Legal arguments.** Legal arguments must be made in your brief (see Section III). The one exception is for arguments in support of legal objections (for example, hearsay) to the evidentiary material cited by the defendant.

For help formatting your response to the defendant’s statement of facts, see the Local Rule 56.1 examples on the court’s website.

II. Statement of Additional Facts

If you want the judge to consider new facts—meaning facts other than those in the defendant’s statement of facts or your response to the statement of facts—you must submit a statement of additional facts as a separate document from your response to the defendant’s statement. **If you do not submit a statement of additional facts, the judge may consider only the asserted facts in the defendant’s statement of facts and any facts in your response to the defendant’s statement of facts that are fairly responsive to the defendant’s asserted facts.**

Your statement of additional facts should be organized into short, numbered paragraphs with no more than one fact in each paragraph. Unless you get permission from the judge, your statement of additional facts must not have more than 40 numbered paragraphs.

You must support each fact with a citation to a specific piece of evidence that supports it. For example, you might cite a particular page of a deposition transcript, a particular paragraph of an affidavit, or a timestamp on a recording. You can cite the evidence that the defendant submitted with its statement of material facts to support your statement of additional facts. You can also describe and include copies of documents which show why you disagree with—cite your own evidence that the defendant ~~about the~~ did not submit, but you must file and serve that evidence along with your statement of additional facts.

~~If you want to submit evidence of the case. You may rely upon your own declaration or the declarations of your own testimony (other witnesses. Athan a deposition transcript), you should prepare an affidavit or declaration is a, which sets forth facts you know to be true based on your personal knowledge. An affidavit must be signed statement by a witness. The and notarized, while a declaration must end with be signed and include the following phrase: language from 28 U.S.C. § 1746: “I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct,” and must be dated. If you do not provide the Court with evidence that shows that there is a dispute about the facts, the judge will be required to assume that the defendant’s factual contentions are true, and, if the defendant is also correct about the law, your case will be dismissed. Executed on [insert date]. [Signature].”~~

~~If you choose to do so, you may offer the Court a list of facts that you believe are in dispute and require a trial to decide. Your list of disputed facts should be supported by your documents or declarations. It is important that you comply fully with these rules and respond to each fact offered by the defendant, and explain how your documents or declarations support your position. If you do not do so, the judge will be forced to assume that you do not dispute the facts which you have not responded to.~~

~~Finally, you should explain why you think the defendant is wrong about what the law is. For help formatting your statement of additional facts, see the [Local Rule 56.1](#) examples on the court's website. The defendant will have an opportunity to respond to your statement of additional facts.~~

III. Memorandum of Law

~~The defendant has submitted a legal memorandum explaining why it should win the case on summary judgment based on its statement of facts and governing law. You must answer that brief by filing a memorandum that responds to the defendant's arguments and explains why the defendant should not win the case on summary judgment. Your memorandum should be separate from your response to the defendant's statement of facts and your statement of additional facts.~~

~~Your memorandum should explain why the defendant is not entitled to summary judgment. If you do not make a legal argument in your memorandum, you may lose the opportunity to make that argument on appeal. You can argue that because you and the defendant disagree on important facts, there needs to be a trial to decide which of you is right about those facts. You can also explain why the defendant's legal arguments are wrong based on the law or based on the facts that you disputed in your response and/or that you included in your statement of additional facts.~~

IV. Federal Rule of Civil Procedure 56 and Local Rule 56.1

~~Summary judgment is governed by Federal Rule of Civil Procedure 56, and the United States District Court for the Northern District of Illinois also has a [Local Rule 56.1](#). [Local Rule 56.1\(a\)](#) explains what someone seeking summary judgment must submit, and [Local Rule 56.1\(b\)](#) explains what you need to do to oppose summary judgment.~~

~~Reading this Notice is not a substitute for reviewing [Rule 56](#) and [Local Rule 56.1](#). You should be familiar with [Rule 56](#) and [Local Rule 56.1](#) before you prepare your opposition to summary judgment. You should also review the [Local Rule 56.1](#) examples on the court's website.~~

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There are rules that both lawyers and people without lawyers must follow in moving for or opposing summary judgment. **If you do not follow the rules, then the judge may not consider your facts or your arguments.**

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If you think that a fact is not supported by the evidentiary material cited by the defendant, you should write “Disputed” and then briefly explain why you dispute the fact and cite the specific page(s) of evidence that supports your position.

If your response cites evidence that the defendant did not submit, you must include that additional evidence in an appendix filed and served along with your response.

For example, if the defendant asserts that the traffic light was red at a particular time and supports that assertion with an affidavit, and if you believe that the light was green at that time, you can dispute the asserted fact and cite to evidentiary material (such as an affidavit, declaration, or deposition testimony) that supports your view that the light was green.

(c) Object to evidence that the defendant submitted.

If you would like to object to a particular piece of evidence cited in the defendant’s statement of facts—for example, because it is not relevant or is hearsay—you should briefly explain your objection. If you both disagree with a fact and object to the evidence that the defendant cites to support that fact, then your response to that fact should explain both your denial of the fact and your objection. If you object to the defendant’s evidence but do not deny the fact, and the judge overrules your objection, then the judge may consider you to have admitted the fact.

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statement of facts that are fairly responsive to the defendant's asserted facts.

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If you want to submit evidence of your own testimony (other than a deposition transcript), you should prepare an affidavit or declaration, which sets forth facts you know to be true based on your personal knowledge. An affidavit must be signed and notarized, while a declaration must be signed and include the following language from [28 U.S.C. § 1746](#): “I declare under penalty of perjury that the foregoing is true and correct. Executed on [insert date]. [Signature].”

For help formatting your statement of additional facts, see the Local Rule 56.1 examples on the court's website. The defendant will have an opportunity to respond to your statement of additional facts.

III. Memorandum of Law

The defendant has submitted a legal memorandum explaining why it should win the case on summary judgment based on its statement of facts and governing law. You must answer that brief by filing a memorandum that responds to the defendant's arguments and explains why the defendant should not win the case on summary judgment. Your memorandum should be separate from your response to the defendant's statement of facts and your statement of additional facts.

Your memorandum should explain why the defendant is not entitled to summary judgment. If you do not make a legal argument in your memorandum, you may lose the opportunity to make that argument on appeal. You can argue that because you and the defendant disagree on important facts, there needs to be a trial to decide which of you is right about those facts. You can also explain why the defendant's legal arguments are wrong based on the law or based on the facts that you disputed in your response and/or that you included in your statement of additional facts.

IV. Federal Rule of Civil Procedure 56 and Local Rule 56.1

Summary judgment is governed by [Federal Rule of Civil Procedure 56](#), and the United States District Court for the Northern District of Illinois also has a [Local Rule 56.1](#). Local Rule 56.1(a) explains what someone seeking summary judgment must submit, and Local Rule 56.1(b) explains what you need to do to oppose summary judgment.

Reading this Notice is not a substitute for reviewing Rule 56 and Local Rule 56.1. You should be familiar with Rule 56 and Local Rule 56.1 before you prepare your opposition to summary judgment. You should also review the Local Rule 56.1 examples on the court's website.



United States District Court
NORTHERN DISTRICT OF ILLINOIS

LR56.2. Notice to Pro Se Litigants Opposing Summary Judgment

Any party moving for summary judgment against a party proceeding pro se shall serve and file as a separate document, together with the papers in support of the motion, a “Notice to Pro Se Litigant Opposing Motion for Summary Judgment” in the form indicated below. Where the pro se party is not the plaintiff, the movant should amend the form notice as necessary to reflect that fact.

NOTICE TO PRO SE LITIGANT OPPOSING MOTION FOR SUMMARY JUDGMENT

The defendant has moved for summary judgment against you. This means that the defendant is telling the judge that there is no disagreement about the important facts of the case. The defendant is also claiming that there is no need for a trial of your case and is asking the judge to decide that the defendant should win the case based on its written argument about what the law is.

In order to defeat the defendant’s request, you need to do one of two things: you need to show that there is a dispute about important facts and a trial is needed to decide what the actual facts are or you need to explain why the defendant is wrong about what the law is.

Your response must comply with [Rule 56\(e\) of the Federal Rules of Civil Procedure](#) and [Local Rule 56.1](#) of this court. These rules are available at any law library. Your Rule 56.1 statement needs to have numbered paragraphs responding to each paragraph in the defendant’s statement of facts. If you disagree with any fact offered by the defendant, you need to explain how and why you disagree with the defendant. You also need to explain how the documents or declarations that you are submitting support your version of the facts. If you think that some of the facts offered by the defendant are immaterial or irrelevant, you need to explain why you believe that those facts should not be considered.

In your response, you must also describe and include copies of documents which show why you disagree with the defendant about the facts of the case. You may rely upon your own declaration or the declarations of other witnesses. A declaration is a signed statement by a witness. The declaration must end with the following phrase: “I declare under penalty of perjury under the laws of the United States that the foregoing is true and

correct,” and must be dated. If you do not provide the Court with evidence that shows that there is a dispute about the facts, the judge will be required to assume that the defendant’s factual contentions are true, and, if the defendant is also correct about the law, your case will be dismissed.

If you choose to do so, you may offer the Court a list of facts that you believe are in dispute and require a trial to decide. Your list of disputed facts should be supported by your documents or declarations. It is important that you comply fully with these rules and respond to each fact offered by the defendant, and explain how your documents or declarations support your position. If you do not do so, the judge will be forced to assume that you do not dispute the facts which you have not responded to.

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