

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 LR56.1, Motions for Summary Judgment, of the Civil Rules of this Court as attached (additions marked thus, deletions marked ~~thus~~).

* * * * *

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 56.1 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.

LR56.1. Motions for Summary Judgment

a)

(a) Moving Party. With each ~~motion for~~ summary judgment motion filed pursuant ~~to~~under Fed. R. Civ. P. ~~56~~, the moving party shall serve and file—

~~(1) any affidavits and other materials referred to in Fed.R. Civ.P. 56(e);~~

~~(1) (2) a supporting memorandum of law; and that complies with L.R. 56.1(g); and~~

~~(3)~~

~~(2) a statement of material facts as to which the moving party contends there is no genuine issue and that entitle the moving party to a judgment as a matter of law, complies with L.R. 56.1(d) and that also includes: attaches the cited evidentiary material;~~

~~(A) a description of the parties, and~~

~~(B) all facts supporting venue and jurisdiction in this court.~~

~~The statement referred to in (3) shall consist of short numbered paragraphs, including within each paragraph specific references to the affidavits, parts of the record, and other supporting materials relied upon to support the facts set forth in that paragraph. Failure to submit such a statement constitutes grounds for denial of the motion. Absent prior leave of Court, a movant shall not file more than 80 separately numbered statements of undisputed material fact.~~

~~If additional material facts are submitted by the opposing party pursuant to section (b), the moving party may submit a concise reply in the form prescribed in that section for a response. All material facts set forth in the statement filed pursuant to section (b)(3)(B) will be deemed admitted unless controverted by the statement of the moving party.~~

~~(b)~~

(b) Opposing Party. Each party opposing a summary judgment motion filed pursuant to Fed.R.Civ.P. ~~56~~ shall serve and file—

~~(1) any opposing affidavits and other materials referred to in Fed.R.Civ.P. 56(e);~~

~~(2)~~

~~(1) a supporting memorandum of law; and that complies with L.R. 56.1(g);~~

~~(3)~~

~~(2) a concise response to the movant's L.R. 56.1(a)(2) statement that shall contain: of facts that complies with L.R. 56.1(e) and that attaches any cited evidentiary material not attached to the L.R. 56.1(a)(2) statement; and~~

~~(A)~~

~~(3) if the opposing party wishes to assert facts not set forth in the L.R. 56.1(a)(2) statement or the L.R. 56.1(b)(2) response, a statement of additional facts that complies with L.R. 56.1(d) and that attaches any cited evidentiary material not attached to the L.R. 56.1(a)(2) statement or L.R. 56.1(b)(2) response.~~

(c) Moving Party's Reply. After an opposing party files its materials under L.R. 56.1(b), the movant shall serve and file—

- (1) a reply memorandum of law that complies with L.R. 56.1(g); and
- (2) a response to the L.R. 56.1(b)(3) statement of additional facts (if any) that complies with L.R. 56.1(e) and that attaches any cited evidentiary material not attached to the L.R. 56.1(a)(3) statement, the L.R. 56.1(b)(2) response, or the L.R. 56.1(b)(3) statement.

(d) Statement of Facts.

- (1) **Form.** Each L.R. 56.1(a)(2) statement of facts and L.R. 56.1(b)(3) statement of additional facts must consist of concise numbered paragraphs, each setting forth a single statement of fact.
- (2) **Citations.** Each asserted fact must be supported by citation to the specific evidentiary material that supports it. The court may disregard any asserted fact that is not supported with such a citation.
- (3) All evidentiary material identified in L.R. 56.1(a)(2) and L.R. 56.1(b)(3) citations must be included in a numbered appendix included with the statements of fact.
- (4) L.R. 56.1(a)(2) statements of facts and L.R. 56.1(b)(3) statements of additional facts should not contain legal argument.
- (5) A movant's L.R. 56.1(a)(2) statement of material facts must not exceed 80 numbered paragraphs. An opposing party's L.R. 56.1(b)(3) statement of additional facts must not exceed 40 numbered paragraphs. A party must seek the court's permission before exceeding these limits.

(e) Response to Statement of Facts.

- (1) **Form.** Each L.R. 56.1(b)(2) and L.R. 56.1(c)(2) response must consist of numbered paragraphs corresponding to and stating a concise summary of the the numbered paragraphs in the L.R. 56.1(a)(2) or L.R. 56.1(b)(3) statement, respectively, and must attach the evidentiary material identified in L.R. 56.1(b)(2) and L.R. 56.1(c)(2), respectively. Each paragraph shall set forth the text of the asserted fact (including its citations to the supporting evidentiary material), and then shall set forth the response.
- (2) **Content.** Each response must admit the asserted fact, dispute the asserted fact, or admit in part and dispute in part the asserted fact. If the response admits in part and disputes in part the asserted fact, it must specify which part of the asserted fact is admitted and which part is disputed. A response may not set forth any new facts, meaning facts that are not fairly responsive to the asserted fact to which the response is made. A response may not assert legal arguments except to make an objection under Fed. R. Civ. it is directed, and P. 56(c)(2).

~~(B) a response to each numbered paragraph in the moving party's statement, including, in the case of any disagreement, specific references to the affidavits, parts of the record, and other supporting materials relied upon, and
(C) a statement, consisting of short numbered paragraphs, of any additional facts that require the denial of summary judgment, including references to the affidavits, parts of the record, and other supporting materials relied upon. Absent prior leave of Court, a respondent to a summary judgment motion shall not file more than 40 separately numbered statements of additional facts. All material facts set forth in the statement required of the moving party will be deemed to be admitted unless controverted by the statement of the opposing party.~~

~~Committee Comment~~

~~Local Rule 56.1 is revised to set forth limits on the number of statements of fact that may be offered in connection with a summary judgment motion. The judges of this Court have observed that parties frequently include in their LR56.1 statements facts that are unnecessary to the motion and/or are disputed. The judges' observation is that in the vast majority of cases, a limit of 80 asserted statements of fact and 40 assertions of additional statements of fact will be more than sufficient to determine whether the case is appropriate for summary judgment. The number of statements of fact has been set in light of the requirement of section (a) (3), which requires that only "material facts" be set down. A party may seek leave to file more asserted statements of fact or additional fact, upon a showing that the complexity of the case requires a relaxation of the 80 or 40 statement limit.~~

(3) Citations. To dispute an asserted fact, a party must cite specific evidentiary material that controverts the fact and must concisely explain how the cited material controverts the asserted fact. Asserted facts may be deemed admitted if not controverted with specific citations to evidentiary material.

(f) Reply in Support of Statement of Facts. No reply to a L.R. 56.1(b)(2) or L.R. 56.1(c)(2) response is permitted without the court's permission. The moving party may use its reply memorandum of law to respond to an evidentiary or materiality objection raised in a L.R. 56.1(b)(2) response. The opposing party must seek permission from the court for a supplemental filing to respond to an evidentiary or materiality objection raised in a L.R. 56.1(c)(2) response.

(g) Memorandum of Law. Each memorandum of law shall set forth legal argument in support of or opposition to summary judgment. When addressing facts, the memorandum shall not cite directly to evidentiary material attached to the L.R. 56.1(a)(2) or L.R. 56.1(b)(3) statements or the L.R. 56.1(b)(2) or L.R. 56.1(c)(2) responses; rather, the memorandum shall cite to specific paragraphs in the L.R. 56.1(a)(2) or L.R. 56.1(b)(3) statements or the L.R. 56.1(b)(2) or L.R. 56.1(c)(2) responses.

LR56.1. Motions for Summary Judgment

- (a) **Moving Party.** With each summary judgment motion filed under Fed. R. Civ. P. 56, the moving party shall serve and file—
- (1) a supporting memorandum of law that complies with L.R. 56.1(g); and
 - (2) a statement of facts that complies with L.R. 56.1(d) and that attaches the cited evidentiary material;
- (b) **Opposing Party.** Each party opposing a summary judgment motion shall serve and file—
- (1) a supporting memorandum of law that complies with L.R. 56.1(g);
 - (2) a response to the L.R. 56.1(a)(2) statement of facts that complies with L.R. 56.1(e) and that attaches any cited evidentiary material not attached to the L.R. 56.1(a)(2) statement; and
 - (3) if the opposing party wishes to assert facts not set forth in the L.R. 56.1(a)(2) statement or the L.R. 56.1(b)(2) response, a statement of additional facts that complies with L.R. 56.1(d) and that attaches any cited evidentiary material not attached to the L.R. 56.1(a)(2) statement or L.R. 56.1(b)(2) response.
- (c) **Moving Party's Reply.** After an opposing party files its materials under L.R. 56.1(b), the movant shall serve and file—
- (1) a reply memorandum of law that complies with L.R. 56.1(g); and
 - (2) a response to the L.R. 56.1(b)(3) statement of additional facts (if any) that complies with L.R. 56.1(e) and that attaches any cited evidentiary material not attached to the L.R. 56.1(a)(3) statement, the L.R. 56.1(b)(2) response, or the L.R. 56.1(b)(3) statement.
- (d) **Statement of Facts.**
- (1) **Form.** Each L.R. 56.1(a)(2) statement of facts and L.R. 56.1(b)(3) statement of additional facts must consist of concise numbered paragraphs setting forth a single statement of fact.
 - (2) **Citations.** Each asserted fact must be supported by citation to the specific evidentiary material that supports it. The court may disregard any asserted fact that is not supported with such a citation.

- (3) All evidentiary material identified in L.R. 56.1(a)(2) and L.R. 56.1(b)(3) citations must be included in a numbered appendix included with the statements of fact.
- (4) L.R. 56.1(a)(2) statements of facts and L.R. 56.1(b)(3) statements of additional facts should not contain legal argument.
- (5) A movant's L.R. 56.1(a)(2) statement of material facts must not exceed 80 numbered paragraphs. An opposing party's L.R. 56.1(b)(3) statement of additional facts must not exceed 40 numbered paragraphs. A party must seek the court's permission before exceeding these limits.

(e) Response to Statement of Facts.

- (1) **Form.** Each L.R. 56.1(b)(2) and L.R. 56.1(c)(2) response must consist of numbered paragraphs corresponding to the numbered paragraphs in the L.R. 56.1(a)(2) or L.R. 56.1(b)(3) statement, respectively, and must attach the evidentiary material identified in L.R. 56.1(b)(2) and L.R. 56.1(c)(2), respectively. Each paragraph shall set forth the text of the asserted fact (including its citations to the supporting evidentiary material), and then shall set forth the response.
 - (2) **Content.** Each response must admit the asserted fact, dispute the asserted fact, or admit in part and dispute in part the asserted fact. If the response admits in part and disputes in part the asserted fact, it must specify which part of the asserted fact is admitted and which part is disputed. A response may not set forth any new facts, meaning facts that are not fairly responsive to the asserted fact to which the response is made. A response may not assert legal arguments except to make an objection under Fed. R. Civ. P. 56(c)(2).
 - (3) **Citations.** To dispute an asserted fact, a party must cite specific evidentiary material that controverts the fact and must concisely explain how the cited material controverts the asserted fact. Asserted facts may be deemed admitted if not controverted with specific citations to evidentiary material.
- (f) **Reply in Support of Statement of Facts.** No reply to a L.R. 56.1(b)(2) or L.R. 56.1(c)(2) response is permitted without the court's permission. The moving party may use its reply memorandum of law to respond to an evidentiary or materiality objection raised in a L.R. 56.1(b)(2) response. The opposing party must seek permission from the court for a supplemental filing to respond to an evidentiary or materiality objection raised in a L.R. 56.1(c)(2) response.
- (g) **Memorandum of Law.** Each memorandum of law shall set forth legal argument in support of or opposition to summary judgment. When addressing

facts, the memorandum shall not cite directly to evidentiary material attached to the L.R. 56.1(a)(2) or L.R. 56.1(b)(3) statements or the L.R. 56.1(b)(2) or L.R. 56.1(c)(2) responses; rather, the memorandum shall cite to specific paragraphs in the L.R. 56.1(a)(2) or L.R. 56.1(b)(3) statements or the L.R. 56.1(b)(2) or L.R. 56.1(c)(2) responses.



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- (1) any affidavits and other materials referred to in [Fed.R.Civ.P. 56\(e\)](#);
- (2) a supporting memorandum of law; and
- (3) a statement of material facts as to which the moving party contends there is no genuine issue and that entitle the moving party to a judgment as a matter of law, and that also includes:
 - (A) a description of the parties, and
 - (B) all facts supporting venue and jurisdiction in this court.

The statement referred to in (3) shall consist of short numbered paragraphs, including within each paragraph specific references to the affidavits, parts of the record, and other supporting materials relied upon to support the facts set forth in that paragraph. Failure to submit such a statement constitutes grounds for denial of the motion. Absent prior leave of Court, a movant shall not file more than 80 separately-numbered statements of undisputed material fact.

If additional material facts are submitted by the opposing party pursuant to section (b), the moving party may submit a concise reply in the form prescribed in that section for a response. All material facts set forth in the statement filed pursuant to section (b)(3)(C) will be deemed admitted unless controverted by the statement of the moving party.

(b) Opposing Party. Each party opposing a motion filed pursuant to [Fed.R.Civ.P. 56](#) shall serve and file—

- (1) any opposing affidavits and other materials referred to in [Fed.R.Civ.P. 56\(e\)](#);
- (2) a supporting memorandum of law; and
- (3) a concise response to the movant's statement that shall contain:
 - (A) numbered paragraphs, each corresponding to and stating a concise summary of the paragraph to which it is directed, and

(B) a response to each numbered paragraph in the moving party's statement, including, in the case of any disagreement, specific references to the affidavits, parts of the record, and other supporting materials relied upon, and

(C) a statement, consisting of short numbered paragraphs, of any additional facts that require the denial of summary judgment, including references to the affidavits, parts of the record, and other supporting materials relied upon. Absent prior leave of Court, a respondent to a summary judgment motion shall not file more than 40 separately-numbered statements of additional facts. All material facts set forth in the statement required of the moving party will be deemed to be admitted unless controverted by the statement of the opposing party.

2006 Committee Comment

Local Rule 56.1 is revised to set forth limits on the number of statements of fact that may be offered in connection with a summary judgment motion. The judges of this Court have observed that parties frequently include in their LR56.1 statements facts that are unnecessary to the motion and/or are disputed. The judges' observation is that in the vast majority of cases, a limit of 80 asserted statements of fact and 40 assertions of additional statements of fact will be more than sufficient to determine whether the case is appropriate for summary judgment. The number of statements of fact has been set in light of the requirement of section (a) (3), which requires that only "material facts" be set down. A party may seek leave to file more asserted statements of fact or additional fact, upon a showing that the complexity of the case requires a relaxation of the 80 or 40 statement limit.

Adopted April 20, 2006