Proposed Amendment to Uniform Local Rule 7056-1
United States Bankruptcy Courts
Northern and Southern Districts of Mississippi
Effective December 1, 2016

Proposed Local Rule Amendment

Rule 7056-1. Summary Judgment – Form and substance of the motion

Any motion for summary judgment must comply with the following requirements. Any motion that does not comply may be denied immediately without requiring a response from the non-moving party. A motion to compel compliance with the requirements of this Rule, including as made applicable to Rule 7012-1, shall be promptly made by the applicable party if the respondent believes the movant has failed to comply in the initial motion or if the movant believes the respondent has failed to comply in the response to the initial motion. A motion to compel compliance with the requirements of this Rule, including as made applicable to Rule 7012-1, shall toll the deadlines under this Rule until the Court enters an order on the motion to compel compliance hereunder.

(1) If movant has the burden of proof on the issue upon which summary judgment is sought

(A) Movant shall:

(i) List and separately number each material fact in the prima facie claim or affirmative defense upon which summary judgment is sought, with the understanding that if the court finds a genuine ~~issue~~ dispute as to any one of the facts listed, summary judgment will be denied.

(ii) For each material fact listed, cite the factual authority. (E.g., "Paragraph 3 of Complaint, admitted in Defendant's Answer," "page 12 of John Doe's Deposition," "Defendant's Request for Admission No.4, admitted," "Paragraph 5 of Affidavit of John Doe.")

(iii) Attach as exhibits to the motion the factual authorities relied upon for establishment of the material facts. (E.g., Supporting Affidavit, extracts of depositions or Requests for Admission, etc. Do not attach entire depositions or pleadings, just the pertinent portions relied upon.)

(B) Respondent shall:

(i) List any material facts recited by the movant about which the respondent contends there is a genuine ~~issue~~ dispute of fact and cite and attach the factual authorities that create the ~~issue~~ dispute of fact.

(ii) Cite any additional material facts (a) that the respondent contends are part of movant's prima facie case, but were not included in movant's list of the facts constituting the prima facie case, and (b) which the respondent contends established. For each such fact either (a) cite and attach any factual authorities which the respondent contends creates a genuine ~~issue~~

dispute as to that fact or (b) assert that the movant has the burden of persuasion on that fact and has no evidence to support the fact.

(iii) To the extent a respondent relies on any affirmative matter upon which it has the burden of persuasion to counter the motion for summary judgment, then the respondent must follow the procedures set forth in Paragraphs (1)(A)(i)-(iii) above.

(2) If movant does not have the burden of persuasion on the issue upon which summary judgment is sought

(A) Movant shall:

(i) List the material facts that the movant contends constitute the non-moving party's prima facie case.

(ii) Designate which facts in the non-moving party's prima facie case the movant contends do not exist and (a) cite and attach the factual authorities the movant contends establish the non-existence of each designated fact and/or (b) assert that there is no evidence to support the existence of the designated fact.

(B) Respondent shall:

For each material fact designated by the movant as being part of the respondent's prima facie case and claimed by the movant that there is evidence of its non-existence and/or no evidence of its existence, the respondent shall either (a) cite and attach any factual authorities supporting the existence of the fact or (b) deny that the respondent has the burden of persuasion to establish this fact as part of the respondent's prima facie case.

(3) Briefs

(A) Each motion for summary judgment must be accompanied by a memorandum brief.

(B) The respondent shall file its response and memorandum brief within 21 days of service of the motion for summary judgment and supporting memorandum.

(C) The movant may file a reply within 14 days after the response is served.

Source: LRAC Committee recommendation (10-10-2016). Approved by judges (10-19-2016).