

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FILED

2005 SEP 12 AM 11:51
CLERK, U.S. DISTRICT
COURT
WESTERN DISTRICT OF
TEXAS

HONORABLE KATHLEEN CARDONE

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ALL CIVIL CASES

BY: _____

STANDING ORDER GOVERNING MOTIONS FOR SUMMARY JUDGMENT

(a) Motions for Summary Judgment

1. There shall be annexed to a motion for summary judgment a document entitled "Proposed Undisputed Facts," which sets forth in separately numbered paragraphs a concise statement of each material fact as to which the moving party contends there is no genuine issue to be tried. All material facts set forth in said statement will be deemed admitted unless controverted by the statement required to be filed and served by the opposing party in accordance with (a)(2) of this Standing Order.
2. The papers opposing a motion for summary judgment shall include a document entitled "Response to Proposed Undisputed Facts," which states in separately numbered paragraphs corresponding to the paragraphs contained in the moving party's Proposed Undisputed Facts whether each of the facts asserted by the moving party is admitted or denied. The Response to Proposed Undisputed Facts must also include in a separate section entitled "Disputed Issues of Material Fact" a list of each issue of material fact as to which it is contended there is a genuine issue to be tried.
3. Each statement of material fact by a movant in the Proposed Undisputed Facts or by an opponent in the Response to Proposed Undisputed Facts, and each denial in an opponent's

Response to Proposed Undisputed Facts, must be followed by a specific citation to (1) the affidavit of a witness competent to testify as to the facts at trial and/or (2) evidence that would be admissible at trial. The affidavits, deposition testimony, responses to discovery requests, or other documents containing such evidence shall be filed and served with the Proposed Undisputed Facts and the Response to Proposed Undisputed Facts, in conformity with Federal Rule of Civil Procedure 56(e). Counsel and pro se parties are hereby notified that failure to provide specific citations to evidence in the record as required by this Standing Order may result in sanctions, including, when the movant fails to comply, an order denying the motion for summary judgment, and, when the opponent fails to comply, an order granting the motion.

4. The Proposed Undisputed Facts and Response to Proposed Undisputed Facts referred to above shall be filed and served along with the motion (and supporting papers) and certificate of service required by this Court's Motion Filing Procedure and the Federal Rule of Civil Procedure 56.

(b) Notice to Pro Se Litigants Regarding Summary Judgment

Any represented party moving for summary judgment against a party proceeding pro se shall file and serve, as a separate document, in the form set forth below, a "Notice to Pro Se Litigant Opposing Motion for Summary Judgment as Required by Standing Order Governing Motions for Summary Judgment." If the pro se party is not a plaintiff, or if the case is to be tried to the Court rather than to a jury, the movant will modify the notice accordingly. The movant shall attach to the notice copies of the full text of Rule 56 of the Federal Rules of Civil Procedure and of this Standing Order.

(c) Effective date

This Standing Order applies to all summary judgment motions filed after October 1, 2005.

SO ORDERED.

SIGNED on this 12th day of September 2005.

A handwritten signature in black ink, reading "Kathleen Cardone". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

KATHLEEN CARDONE
UNITED STATES DISTRICT JUDGE

Notice to Pro Se Litigant Opposing Motion For Summary Judgment As Required by
Standing Order Governing Motions for Summary Judgment

The purpose of this notice, which is required by the Court, is to notify you that the defendant has filed a motion for summary judgment asking the Court to dismiss all or some of your claims without a trial. The defendant argues that there is no need for a trial with regard to these claims because no reasonable jury could return a verdict in your favor. THE DEFENDANT'S MOTION MAY BE GRANTED AND YOUR CLAIMS MAY BE DISMISSED WITHOUT FURTHER NOTICE IF YOU DO NOT FILE PAPERS AS REQUIRED BY RULE 56 OF THE FEDERAL RULES OF CIVIL PROCEDURE AND THIS COURT'S STANDING ORDER GOVERNING MOTIONS FOR SUMMARY JUDGMENT. COPIES OF THESE RULES ARE ATTACHED TO THIS NOTICE, AND YOU SHOULD REVIEW THEM VERY CAREFULLY.

The papers you file must show that (1) you disagree with the defendant's version of the facts; (2) you have evidence contradicting the defendant's version; and (3) the evidence you rely on, if believed by a jury, would be sufficient to support a verdict in your favor. To make this showing, you must file one or more affidavits disputing the defendant's version of the facts. An affidavit is a sworn statement by a witness that the facts contained in the affidavit are true to the best of the witness's knowledge and belief. To be considered by the Court, an affidavit must be signed and sworn to in the presence of a notary public or other person authorized to administer oaths. In addition to affidavits, you may also file deposition transcripts, responses to discovery requests, and other evidence that supports your claims.

If you fail to submit evidence contradicting the defendant's version of the facts, your claims may be dismissed without further notice. It is therefore very important that you read the

defendant's motion, memorandum of law, affidavits, and other evidentiary materials to see if you agree or disagree with the defendant's version of the relevant facts. It is also very important that you review the enclosed copy of Standing Order Governing Motions for Summary Judgment carefully. This Standing Order provides detailed instructions concerning the papers you must file in opposition to the defendant's motion, including how you must respond to specific facts the defendant claims are undisputed, see (a)(2), and how you must support your claims with specific references to evidence, see (a)(3). If you fail to follow these instructions, the defendant's motion may be granted. You must file your response papers with the Clerk of the Court and mail a copy to the defendant's counsel within 11 days of the filing of the defendant's motion with the Clerk of the Court. This 11-day period is extended an additional three days if any of the conditions of Rule 6(e) of the Federal Rules of Civil Procedure are met (for example, if you received the defendant's motion by mail or overnight delivery service).