**Summary Judgment Motion Procedures for Judge Austin**

In accordance with and in addition to Local Civil Rules 7.04 through 7.07, D.S.C., the following procedures shall govern motions for summary judgment in civil actions in which all parties are represented by counsel.

**1. Rule 56 Conference Requirement**

At least 21 days before filing a motion for summary judgment, the parties shall meet, in person or by telephone, to confer about the issues to be raised in the motion. The purposes of the Rule 56 Conference are to:

a. avoid unnecessary time and expenses related to filing motions for summary judgment where a question of material fact exists;

b. determine whether the non-moving party agrees that the motion has merit in whole or in part;

c. discuss whether issues can be resolved without the necessity of briefing;

d. narrow the issues for review by the Court; and

e. work toward a Joint Statement of Stipulated Material Facts for purposes of the motion for summary judgment.

The moving party shall initiate the scheduling of the conference and shall provide a complete, proposed statement of undisputed material facts to the non-moving party at least 5 days before the conference.

**2. Statements of Material Facts**

**a. Movant’s Statement(s)**

The memorandum in support of a motion for summary judgment shall be accompanied by *separately and contemporaneously filed document(s)* entitled “Joint Statement of Stipulated Material Facts” and/or “Movant’s Statement of Material Facts,” which shall set forth the facts essential for the Court to decide the motion for summary judgment and shall not exceed 10 pages combined.

**1) Joint Statement of Stipulated Material Facts**

The Joint Statement of Stipulated Material Facts shall include the stipulated facts that all parties agree upon and shall be signed by counsel for all parties. The parties may state that their stipulations are entered into only for the purpose of the motion for summary judgment and are not intended to otherwise be binding.

**2) Movant’s Statement of Material Facts**

If the moving party contends there are undisputed material facts that the parties could not agree to include in the Joint Statement of Stipulated Material Facts, the moving party shall also file the Movant’s Statement of Material Facts, which shall include all additional facts that the moving party contends are undisputed and material.

**b. Opponent’s Statement**

The memorandum in opposition to a motion for summary judgment shall be accompanied by a *separately filed document* entitled “Opponent’s Statement of Material Facts,” which shall clearly challenge any fact asserted by the moving party that the non-moving party contends is genuinely in dispute. The Opponent’s Statement of Material Facts may also assert additional material facts that the opponent contends serve to defeat the motion for summary judgment so long as the additional facts do not exceed 5 pages (beyond the pages required to specifically respond to the Movant’s Statement of Material Facts).

**c. Reply Statement**

The moving party shall respond to any additional facts asserted in the Opponent’s Statement of Material Facts in a *separately filed document* entitled “Reply Statement of Material Facts” even if the moving party does not file a reply memorandum.

**3. Form Requirements for Statements of Material Facts**

**a. All Statements of Material Facts**

All Statements of Material Facts shall be filed and served as separate documents and not as exhibits or attachments to memoranda. Additionally, all Statements of Material Facts shall consist of separately numbered paragraphs that are each limited as far as practicable to a single material fact, with each fact supported by specific, pinpoint references to evidence, including but not limited to pleadings, depositions, interrogatory answers, admissions, affidavits, or other parts of the record (e.g., Smith Affidavit ¶ 2, Plaintiff’s Deposition p. 7 lines 12–14).

**b. Opponent’s Statement of Material Facts**

In addition to complying with the requirements of subsection 3.a., an Opponent’s Statement of Material Facts shall:

* + 1. Consist of separately numbered paragraphs that correspond with the numbered paragraphs in the Movant’s Statement of Material Facts, but should not repeat the text of those paragraphs;
    2. Use, as the first word in each paragraph-by-paragraph response, the word “Disputed” or “Undisputed” (the party may state that the fact is undisputed only for the purpose of the motion for summary judgment and is not intended to otherwise be binding);
    3. Include a concise counter-statement to each disputed fact supported by specific, pinpoint references to evidence as described in subsection 3.a.; and
    4. Assert any additional material facts that the opponent contends serve to defeat the motion for summary judgment, set forth in separately numbered paragraphs beginning with the next number following the moving party’s last numbered paragraph, in a separate section entitled “Additional Facts.”

**c. Reply Statement of Material Facts**

In addition to complying with the requirements of subsection 3.a., a Reply Statement of Material Facts shall:

* + 1. Consist of separately numbered paragraphs that correspond with the numbered paragraphs set forth in the Additional Facts section of the Opponent’s Statement of Material Facts, but should not repeat the text of those paragraphs;
    2. Use, as the first word in each paragraph-by-paragraph response, the word “Disputed” or “Undisputed” (the party may state that the fact is undisputed only for the purpose of the motion for summary judgment and is not intended to otherwise be binding); and
    3. Include a concise counter-statement to each disputed fact supported by specific, pinpoint references to evidence as described in subsection 3.a.

**4. Appendix**

All evidence cited in any Statement of Material Facts shall be filed as an Appendix to the Statement of Material Facts. In compliance with Local Civil Rule 5.01, D.S.C., only the relevant portions of the cited evidence need to be included.

**5. Admission of Material Facts**

All facts asserted in the Movant’s Statement of Material Facts or in the Opponent’s Statement of Material Facts shall be deemed admitted for the purpose of deciding the summary judgment motion unless specifically disputed or controverted as set forth herein, including specific, pinpoint references to evidence in the record.

**6. Cross-referencing**

Memoranda in support of, in response to, or in reply to a motion for summary judgment need not include a separate statement of facts and instead may cross-reference or cite to the Statements of Material Facts and their Appendices.