



UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION
The Honorable John Badalamenti

NOTICE TO COUNSEL AND UNREPRESENTED PARTIES

Instructions Regarding a Statement of Material Facts for a Motion for Summary Judgment

I. STATEMENT OF MATERIAL FACTS

Each motion for summary judgment must include a specifically captioned section titled, "Statement of Material Facts." The statement of material facts must list each material fact alleged not to be disputed in separate, numbered paragraphs. Each fact must be supported by a pinpoint citation to the specific part of the record relied upon to support that fact.¹ The record includes depositions, electronically stored information, affidavits or declarations, stipulations, admissions, and interrogatory answers; however, it does not include attorney's affidavits. When preparing the statement of material facts, the moving party must reference only the material facts necessary for the Court to determine the issues presented in the motion for summary judgment. Legal argument should not be included in the statement of material fact. Failure to submit a statement of material facts constitutes grounds for denial of the motion.

II. RESPONSE TO STATEMENT OF MATERIAL FACTS

Each response in opposition to a motion for summary judgment must include a

¹ For example, a reference to "Deposition of Jones" is insufficient. The page and line number of the deposition transcript must be included.

specifically captioned section titled, "Response to Statement of Material Facts." The opposing party's response must mirror the statement of material facts by admitting and/or denying each of the moving party's assertions in matching numbered paragraphs. Each denial must set forth a pinpoint citation to the record where the fact is disputed. Although the opposing party's response must correspond with the paragraph scheme used in the statement of material facts, the response need not repeat the text of the moving party's paragraphs. In deciding a motion for summary judgment, the Court will deem admitted any fact in the statement of material facts that the opposing party does not specifically controvert, provided the moving party's statement is supported by evidence in the record. Additional facts which the party opposing summary judgment contends are material shall be numbered and placed at the end of the opposing party's response and include a pinpoint citation to the record where the fact is established.

III. SCOPE OF JUDICIAL REVIEW

When resolving motions for summary judgment, the Court has no independent duty to search and consider any part of the record not otherwise referenced in the statement of material facts and response thereto. See Fed. R. Civ. P. 56(c)(3) ("The court need consider only the cited materials, but it may consider other materials in the record.").