



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.<sup>1</sup> 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

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<sup>1</sup> For example, a reference to "Deposition of Jones" is insufficient. The **Docket Entry**, and page and line numbers of the deposition transcript must be included. **If a document is an attachment to a motion and does not yet have a docket entry designation**, the attachment designation of the notice, motion, or pleading must include the exact exhibit or attachment designation provided by the party in the text of the notice, motion, or pleading. For example, if the party chooses to cite a deposition attached to a motion for summary judgment it will be filing, and that deposition is designated as "Exhibit A" to the motion for summary judgment, the pinpoint citation would read: (Deposition of Mr. Jones, Ex. A at 2, lines 8–10.). The Court will strike any notice, motion, or pleading with the general citation to a declaration, deposition OR other documentary source without a pinpoint citation to either Docket Entry, page number, and line number OR, where there is not a previous docket entry for the cited-to document, the citation fails to include the precise, pinpoint exhibit designation, and the page and line of the cited-to document in the notice, pleading, or motion. For example, the following citation without the Exhibit number noted is not in compliance with this Order because it does not designate the precise Exhibit number where the deposition of Mr. Jones is attached to a particular notice, motion, or pleading: (Deposition of Mr. Jones, pg. 2, lines 8–10.)

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 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.").