

**JUDGE REGINA RODRIGUEZ**  
**PRACTICE STANDARDS**  
**CIVIL ACTIONS**  
*Motions for Summary Judgment*

Motions for summary judgment are appropriate when there is “**no genuine dispute as to any material fact** and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56. All too often, litigants in federal court ignore this threshold requirement and file motions for summary judgment as a matter of course. Summary judgment motions can be a valuable tool for narrowing or resolving issues in a case, but where there are obvious disputes as to material facts, summary judgment motions merely burden the Courts and impose unnecessary costs on the parties.

Determining whether there are disputes as to material facts is an important step in the litigation process, and it requires the parties to meaningfully meet and confer. A meaningful conferral should enable the parties to identify (a) what facts are material and (b) whether those facts are in dispute.

Whether something is a fact is a simple inquiry, but it is one that is occasionally overlooked in the throes of zealous advocacy. When drafting motions for summary judgment, the parties should ensure that their alleged “facts” *are actually facts*.

<b>FACT</b>	<b>NOT A FACT</b>
“The Plaintiff was 60 years old on the date of his termination” <b>is a fact.</b>	“The Plaintiff was fired because he was 60 years old” <b>is not a fact.</b>
“The Plaintiff was replaced by someone nine years his junior” <b>is a fact.</b>	“The Defendant worked for months to ‘manage out’ the Plaintiff so that he could replace him with someone nine years his junior” <b>is not a fact.</b>
“There were no formal complaints filed against the Plaintiff during his tenure with the company” <b>is a fact.</b>	“Other than one minor error due to ambiguous instructions, the Plaintiff performed his job appropriately and his decisions were well-reasoned and well-supported” <b>is not a fact.</b>
“Defendant re-reviewed the policy after a third party approached it with questions” <b>is a fact.</b>	“Defendant’s decision to take a second look at the policy after receiving additional information was not an error or mistake, and Defendant’s offer to rewrite the policy

was reasonable and appropriate” **is not a fact.**

When a fact is supported by evidence, the non-movant should not dispute that fact unless the nonmovant can point to contradictory evidence. A fact is not disputed merely because the parties disagree as to the inference to be drawn from that fact.

When a party alleges a purportedly undisputed fact, they must cite to evidence supporting that fact. The citation must be clear and specific—do not cite to an entire deposition transcript or to a multi-page document. Provide a page and/or line number. The same requirement applies to a party disputing the existence of a material fact. A party disputing a purported fact must point to specific evidence that contradicts that purported fact.

To facilitate meaningful discussions among the parties prior to the dispositive motion stage, parties litigating before this Court must comply with certain prerequisites for filing summary judgment motions. As set forth in this Court’s Practice Standards, at IV, a party that seeks to file a motion for summary judgment must first schedule a hearing with the Court. Prior to that hearing, the parties are required to meet and confer to submit to the Court a chart setting forth the undisputed material facts. This chart is intended to provide the parties and the Court with an easy way of determining whether there are disputes as to material facts, and to therefore guide the parties as they consider the propriety of potential motions for summary judgment.

A sample chart that the parties should use to submit their statement of material facts can be found on this Court’s website. The entries in this chart should be simple and straightforward. The chart is not intended to provide a forum for the parties to set forth legal arguments; it is merely a tool for establishing those facts that are, in fact, undisputed.

An example of an appropriate chart is as follows:

<b>Plaintiff's Claim # 1 - Retaliation</b>		
<b>Movant's purported undisputed material fact (with citations)</b>	<b>Non-movant's response (with citations)</b>	<b>Do the parties agree that the purported fact is material?</b>
The Plaintiff's employment began on June 15, 2018. ECF 22, p. 4.	Undisputed	Agree
The Plaintiff was terminated on June 30, 2020. ECF 9, p. 14.	Undisputed	Agree
Defendant Doe made the decision to terminate the Plaintiff. ECF 18, p. 5.	Disputed. The superintendent, not Defendant Doe, made the decision to terminate the Plaintiff. ECF 22, p. 9.	Agree
One month prior to the Plaintiff's termination, the Plaintiff filed a complaint about Defendant Doe's allegedly discriminatory statements to the Plaintiff and other employees. ECF 12, p. 4.	Undisputed.	Agree
Defendant Doe's employment records state that, in 2019, he was investigated for "potential misuse of the company credit card." ECF 47, p. 12.	Undisputed.	Disagree

