

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Regina M. Rodriguez**

**STANDING ORDER REGARDING RULE 56 MOTIONS
(Effective December 1, 2022)**

To facilitate meaningful discussions among the parties prior to the dispositive motion stage, it is hereby ORDERED that parties litigating before this Court must comply with certain prerequisites for filing summary judgment motions:

I. PURPOSE

- A. 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.
- B. 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.

II. APPLICABILITY

- A. This Standing Order Regarding Rule 56 Motions shall apply to all civil actions except:
 - 1. Social Security actions.
 - 2. Actions with pro se parties: In actions where one or more party is unrepresented, the parties should address the dispositive motions deadline during the scheduling conference.

III. NOTICE TO CHAMBERS

- A. No later than **ten (10) days after the close of discovery**, a party seeking to file a motion for summary judgment must email Chambers, copying opposing counsel, to inform the Court of their intent to file such motion.

- B. Upon receipt of such notice, the Court will schedule a hearing with the parties to discuss the material facts and to determine whether there are disputes of any material facts.

IV. HEARING REQUIREMENTS

- A. No later than **three (3) business days** prior to the hearing, the Parties shall **jointly** file via CM/ECF a chart of undisputed material facts. This will require the parties to substantively meet and confer. **It is insufficient for the parties to simply exchange their version of the chart.** The parties are expected to allow sufficient time to exchange and substantively discuss the chart prior to submission to the Court. The form for the chart that the parties should use to submit their statement of material facts can be found on the Court's website.
- B. 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. 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.
- C. For each claim on which the proposed movant seeks summary judgment, they should identify the undisputed material facts that support their claim. Each fact **must be supported by specific citations to supporting evidence.**
 - 1. 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.**
 - 2. As an aid the parties, the Court has provided a table at the end of this Standing Order with examples of statements that the Court would and would not recognize as "facts."
 - 3. 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.
 - 4. Parties need not file exhibits with the chart. Citations to relevant documents within the chart are sufficient.

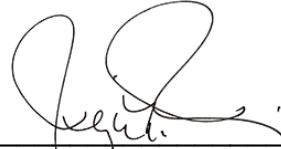
- D. If the nonmovant disputes a particular fact, they shall identify the evidence that contradicts the purported fact. Any statement contradicting a movant's statement of undisputed facts **must be supported by specific citations to supporting evidence.**
1. When a fact is supported by evidence, the non-movant should not dispute that fact unless the nonmovant can point to contradictory evidence.
 2. A fact is not disputed merely because the parties disagree as to the inference to be drawn from that fact.
 3. A party disputing a purported fact must point to specific evidence that contradicts that purported 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.
- E. The parties shall state whether they agree that the fact in question is material.
- F. The entries in this chart should be simple and straightforward.
- G. The parties should meet and confer **meaningfully** prior to filing the chart of undisputed material facts. A fact is not disputed merely because a party disputes the implication or import of that fact. Where a party disputes a fact, the party should succinctly identify the contradictory evidence. The chart of undisputed material facts is not an opportunity for the parties to provide legal argument. The parties will be given an opportunity at the hearing to discuss their positions.
- H. At or after the hearing, the Court will consider the issues raised and will set a briefing schedule. The Court will not preclude a party from filing a motion for summary judgment, but the Court will make suggestions regarding issues based on the facts identified during the hearing.
- I. Motions for summary judgment filed without adhering to these procedures may be stricken for noncompliance.

V. EARLY MOTIONS FOR SUMMARY JUDGMENT

- A. No party shall file an early motion for summary judgment without first obtaining leave of the Judge or Magistrate Judge.

DATED: December 1, 2022

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Regina M. Rodriguez', written over a horizontal line.

REGINA M. RODRIGUEZ
United States District Judge

VI. TABLE OF EXAMPLE STATEMENTS

Note: This table is provided for the convenience and aid of the parties appearing before Judge Rodriguez. It contains examples of statements that the Court would and would not recognize as “facts.”

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

VII. EXAMPLE CHART OF UNDISPUTED FACTS

[Party's] Motion for Summary Judgment on [Party's] Claim # _____		
Movant's purported undisputed material fact (with citations)	Non-movant's response (with citations)	Do the parties agree that the purported fact is material?
The Plaintiff's employment began on June 15, 2018. BATES004298.	Undisputed.	Agree.
The Plaintiff was terminated on June 30, 2020. BATES004214.	Undisputed.	Agree.
Defendant Doe made the decision to terminate the Plaintiff. BATES005732; Doe Dep. Tr. 10:22–11:1.	Disputed. The superintendent Mr. Smith, not Defendant Doe, made the decision to terminate the Plaintiff. BATES006873; Smith Dep. Tr. 51:15–24.	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. BATES001301.	Undisputed.	Agree.

<p>Defendant Doe's employment records state that, in 2019, he was investigated for "potential misuse of the company credit card."</p> <p>BATES006832.</p>	<p>Undisputed.</p>	<p>Disagree.</p>
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