MOTION PRACTICE

(a) General Requirements.

(1) The moving and responding parties are not required to submit an additional copy of any motion, memorandum of points and authorities, and supporting materials, including affidavits and/or declarations, unless required by the judge assigned to the matter.

(2) No memorandum of points and authorities in support of or in opposition to a motion may exceed twenty (20) pages in length, nor may a reply brief exceed ten (10) pages in length, without express leave of the Court which will be granted only under unusual circumstances. The use of small fonts and/or minimal spacing to comply with the page limitation is not acceptable.

(3) Documents submitted in response to, in support of, or in opposition to other documents must be clearly labeled with the docket number of the motion in the caption.

(4) Parties must submit proposed orders concerning routine or uncontested matters only via e-mail in accordance with ECF Procedures.

(5) Any party, either proposing or opposing a motion or other application, who does not intend to urge or oppose the same must immediately notify opposing counsel and the Clerk of Court by filing a pleading titled “Non-Opposition to Motion.”

(6) The time periods specified herein and automatically generated by CM/ECF for service do not supersede, alter or amend any otherwise applicable Federal or Local Rule specifying a different time period for service or method of computing time.

(b) Requirements for Submission--Moving Party.

(1) Each motion, other than a routine or uncontested matter, must be accompanied by a separate brief, not to exceed twenty (20) pages, containing all of the reasons and points and authorities relied upon by the moving party. With motions for summary judgment under Federal Rule of Civil Procedure 56, in addition to the requirements contained in Federal Rule of Civil Procedure 56(c)(1), the moving party must file a separate statement of all material facts, not to exceed ten (10) pages, which the moving party contends are not in dispute .

(2) The moving party must serve and file with the motion affidavits required or permitted by Federal Rule of Civil Procedure 6(c), declarations submitted in accordance with 28 U.S.C. § 1746, copies of all photographs, documentary evidence and other supporting materials on which the moving party intends to rely.

(3) The moving party may submit a reply brief, not to exceed ten (10) pages, within fourteen (14) days after service upon the moving party of the responding party’s memorandum of points and authorities. The reply brief, should be clearly identified as a “Reply in Support of Motion to _____[Dkt.__].”

(4) If relief is sought under any of the Federal Rules of Civil Procedure dealing with discovery practices, the party seeking or opposing relief must comply with the specific practices and procedures governing discovery motions found in Local Rules 37.1 and 37.2 and the Court's scheduling orders.

(c) Requirements for Submission--Responding Party.

(1) The responding party must serve and file a response brief, not to exceed twenty (20) pages, within twenty-one (21) days after service upon the party of the memorandum of points and authorities of the moving party. The responding party must serve and file with the response brief any affidavits, declarations submitted in accordance with 28 U.S.C. § 1746, copies of all photographs, documentary evidence, and other supporting materials on which the responding party intends to rely.

(2) In responding to a motion for summary judgment under Federal Rule of Civil Procedure 56, in addition to the requirements contained in Federal Rule of Civil Procedure 56(c)(1), the responding party must also file a separate statement, not to exceed ten (10) pages, of all material facts which the responding party contends are in dispute.

(3) The response brief, should be clearly identified as a "Response to the Motion to _____[Dkt. ____]" and must contain all of the reasons and points and authorities relied upon by the responding party.

(d) Supplemental Briefing or Authority

(1) Amendment or Supplementation of Briefing.

If a party wishes to file a sur-reply, or amend or supplement a party's brief, affidavit, declaration, or other papers in support of or in opposition to a motion, the party must file a motion requesting leave of the court. Motions made under this rule will be granted only in the discretion of the court.

(2) Notice of Supplemental Authority

If relevant and significant legal authorities come to a party's attention after the party's last brief has been filed, or after oral argument but before decision, a party may advise the court by promptly filing and serving a notice of supplemental authority setting forth the citation(s). Such authority may pre-date the motion, memorandum, or oral argument. The notice must state the reasons for the supplemental citation(s), referring either to the page(s) of the briefing or to a point argued orally. Notice of supplemental authority should be filed only when counsel could not, with due diligence, have been aware of the additional authority at the time the brief was filed. The notice may not exceed two pages and must otherwise comply with Dist. Idaho L. Civ. R. 7.1(a)(2).

(e) Determination of Motions by the Court and Scheduling for Oral Argument, if Appropriate.

(1) Hearings.

(A) If the presiding judge determines that oral argument on the motion is appropriate, the attorneys for the parties will be notified of a hearing date for oral argument on the motion and the Court will file a notice of hearing.

The attorney for the moving party is required to resolve any conflicts regarding the hearing date with opposing counsel and then contact the Court for a new hearing date if conflicts develop over an initial hearing date.

(B) If the presiding judge determines that oral argument will not be necessary, the matter will be decided on the briefs.

If the presiding judge later determines that oral argument would be of assistance, the parties will be notified by the Court.

(2) Attorneys are encouraged to communicate with the courtroom deputies regarding the status of any motion.

(3) The parties may request that the hearing be conducted telephonically or by video conference by contacting the courtroom deputy to obtain permission from the presiding judge. Video conferencing is available in Boise, Pocatello, and Coeur d'Alene.

(f) Effects of Failure to Comply with the Rules of Motion Practice.

(1) Failure by the moving party to file any documents required to be filed under this rule in a timely manner may be deemed a waiver by the moving party of the pleading or motion. Except as provided in subpart (2) below, if an adverse party fails to timely file any response documents required to be filed under this rule, such failure may be deemed to constitute a consent to the sustaining of said pleading or the granting of said motion or other application. In addition, the Court, upon motion or its own initiative, may impose sanctions in the form of reasonable expenses incurred, including attorney fees, upon the adverse party

and/or counsel for failure to comply with this rule.

(2) In motions brought under Federal Rule of Civil Procedure 56, if the non-moving party fails to timely file any response documents required to be filed, such failure will not be deemed a consent to the granting of said motion by the Court. However, if a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Federal Rule of Civil Procedure 56(c) or Local Rule 7.1(b)(1) or (c)(2), the Court may consider the uncontested material facts as undisputed for purposes of consideration of the motion, and the Court may grant summary judgment if the motion and supporting materials - including the facts considered undisputed - show that the moving party is entitled to the granting of the motion.

(g) Requests to Extend Motion Briefing Period or to Vacate or Reschedule **Motion Hearing Dates. (*See* Dist. Idaho Loc. Civ. R. 6.1.)**

RELATED AUTHORITY

Fed. R. Civ. P. 5(a), 6(b) & (d), 56, 78