MOTIONS FOR SUMMARY JUDGMENT AND PROCEEDINGS THEREON

(a) **Motions**.

A request by a party for summary judgment pursuant to Fed. R. Bankr. P. 7056 shall be made by motion filed, served and heard in compliance with the provisions of this rule, absent an order of the court providing otherwise.

(b) **Submissions and hearings**.

(1) The motion, supporting affidavits or declarations, a statement of undisputed facts, a notice of hearing, and a supporting brief shall be filed at least twenty-eight (28) days before the time fixed for the hearing.

(A) The moving party shall provide simultaneously with its motion, in a document separate from all others, a statement of asserted undisputed facts. The statement shall not be a narrative but shall set forth each fact in a separate, numbered paragraph. For each fact, the moving party shall provide a specific citation (including page, paragraph, and/or line number as appropriate) to an affidavit, deposition, or other portion of the record establishing such fact. Failure to submit such a statement in compliance with this rule constitutes grounds for denial of the motion without hearing.

(2) If the opposing party desires to file affidavits or other materials, that party shall do so at least fourteen (14) days before the date of the hearing. The opposing party shall also file a responsive brief, and a statement of disputed and undisputed facts, at least fourteen (14) days prior to the hearing.

(A) The opposing party's statement of disputed and undisputed facts shall respond to each of the moving party's asserted undisputed facts. The opposing party shall specifically identify whether such fact is disputed or undisputed. If disputed, the opposing party shall provide a specific citation (including page, paragraph, and/or line number as appropriate) to an affidavit, deposition, or other portion of the record establishing the basis of dispute.

(3) The moving party may thereafter file a reply brief not less than seven (7) days prior to the hearing.

(4) If an opposing party files a cross-motion for summary judgment, it must comply with the provisions of (b)(1) of this rule.

(5) All pleadings and documents filed under this rule shall be served on all other parties simultaneously with their filing.

(6) Other than as provided herein, absent an order of the court to the contrary for good cause shown, no other pleadings or documents shall be filed on a summary judgment motion.

(c) **Oppositions based on unavailability of facts**.

If a party responding to a motion for summary judgment intends on opposing such motion through an affidavit or declaration pursuant to Fed. R. Civ. P. 56(d), incorporated by Fed. R. Bankr. P. 7056, such affidavit or declaration and a supporting brief must be filed within the time set forth in subdivision (b)(2) of this rule.

(d) **Noncompliance or affidavits made in bad faith**.

If a party fails to comply with the requirements of this rule or with applicable orders entered by the court related to motions or proceedings on summary judgment, or should it appear that affidavits are presented in bad faith or for purposes of delay, the court may continue the hearing and, after notice and a reasonable time to respond, may impose costs, attorney's fees and sanctions against a party, the party's attorney, or both.

RELATED AUTHORITY

28 U.S.C. § 1746
Fed. R. Bankr. P. 7056
Fed. R. Civ. P. 56

Advisory Committee Notes:

If depositions or discovery responses are to be used in summary judgment proceedings, and if an order has not previously been entered allowing the filing of such discovery, *see* LBR 7005-1, the pertinent portions of such depositions or discovery responses (*i.e.*, the portions specifically cited to by the moving party in its statement of asserted undisputed facts, or by the opposing party in its statement of disputed and undisputed facts) should be attached to appropriate affidavits or declarations submitted in accordance with 28 U.S.C. § 1746.