

Rule 56. Summary Judgment

(a) For claimant. A party seeking to recover upon a claim or a counterclaim, or to obtain a declaratory judgment may, after the expiration of 20 days from service of a pleading on the adverse party or after service of a motion for summary judgment by the adverse party, but within the time prescribed by rule or Court order, move with or without supporting affidavits for a summary judgment in the party's favor upon all or any part thereof.

(b) For defending party. A party against whom a claim or a counterclaim is asserted or a declaratory judgment is sought may, within the time prescribed by rule or Court order, or otherwise, at any time, move with or without supporting affidavits for a summary judgment in the party's favor as to all or any part thereof.

(c) Standard for summary judgment. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone.

(d) Form of affidavits; further testimony; defense required. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The Court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this Rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this Rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.

(e) When affidavits are unavailable. Should it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition, the Court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(f) Affidavits made in bad faith. Should it appear to the satisfaction of the Court at any time that any of the affidavits presented pursuant to this Rule are presented in bad faith or solely for the purpose of delay, the Court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

(g) Motions for summary judgment. In addition to points and authorities there shall be served and filed with each motion for summary judgment a statement of the material facts as to which the moving party contends there is no genuine issue. Any party opposing such a motion may, within 10 days after service of the motion upon the party, serve and file a concise statement of genuine issues setting forth all material facts as to which it is contended there exists a genuine issue necessary to be litigated. In determining any motion for summary judgment, the Court may assume that the facts as claimed by the moving party are admitted to exist without controversy except as and to the extent that

such facts are asserted to be actually in good faith controverted in a statement filed in opposition to the motion.