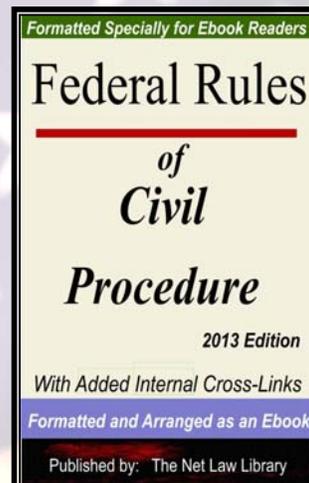
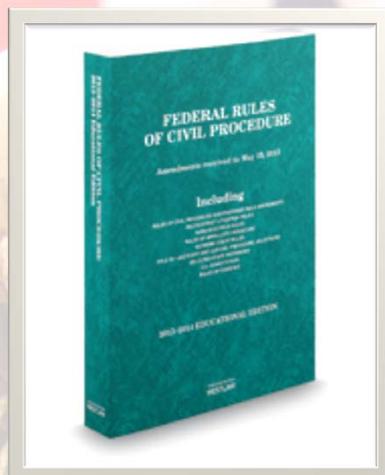


## APPLIES TO ALL CIVIL ACTIONS

### LR 1.1 Scope.

The provisions of the Civil Rules shall apply to all civil actions and proceedings, including tax, admiralty and bankruptcy adversary actions, except where they may be inconsistent with rules or provisions of law specifically applicable thereto.



## THE FEDERAL RULES OF CIVIL PROCEDURE

### An Overview:

1. Scope of the rules (Rules 1 and 2)
2. Commencement of suits (Rules 3 to 6)
3. Pleadings & Motions (Rules 7 to 16)
4. Parties (Rules 8 to 25)
5. Discovery (Rules 26 to 37)
6. Trial (Rules 38 to 53)
7. Judgment (Rules 54 to 63)
8. Remedies (Rules 64 to 71)
9. Special Proceedings, Courts & Misc. (Rules 71.1 to 73)

## LOCAL RULES SUPPLEMENT THE FRCP

- Guides you into an exact location; and
- Provides forms.



## The Present Local Rules for the U.S. District Court of Guam

*WHERE ARE THEY?*



The screenshot shows the District Court of Guam website. At the top, there is a header with the court's name and a navigation menu. The menu items are: Home, Calendars, Court Info, Orders, Forms, Jury Info, Links, Local Rules, News, eFiling, and Contact Us. Under the 'Local Rules' menu, a sub-menu is displayed with the following items: General Rules, Civil Rules (circled in red), Admiralty Rules, Habeas Corpus Rules, Tax Rules, Bankruptcy Rules, and Attachments. The website also features a logo on the left and text on the right identifying the Chief Judge as Frances Tydingco-Gatewood and the Clerk as Jeanne G. Quinata.



### LOCAL RULES OF PRACTICE

DISTRICT COURT OF GUAM  
TERRITORY OF GUAM  
LOCAL RULES OF PRACTICE  
Effective April 15, 1997 (Amended September 29, 2000)  
See [General Orders](#) for amendments to Local Rules made after 9/29/2000. See [General Order 09-0014](#) for changes related to time computations, effective December 1, 2009.

- [General Rules](#)
- [Civil Rules](#)
- [Admiralty Rules](#)
- [Habeas Corpus Rules](#)
- [Tax Rules](#)
- [Bankruptcy Rules](#)

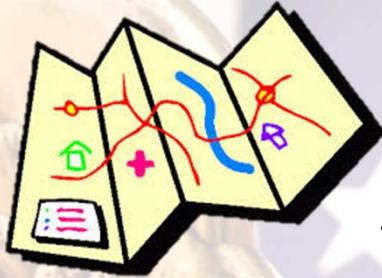
**Civil Rules**

See **General Orders** for amendments to Local Rules made after 9/29/2000

- LR 1.1 Scope.
- LR 4.1 Summons and Complaint.
- LR 4.2 Service of Other Process.
- LR 5.1 Service and Filing of Other Documents Subsequent to Complaint.
- LR 5.2 Representation of Service.
- LR 6.1 Time Computation
- LR 7.1 Motion Practice.
- LR 9.1 Three-Judge Court.
- LR 10.1 Jurisdiction
- LR 10.2 Format and Filing
- LR 15.1 Amended Pleadings
- LR 16.1 Scheduling Order and Discovery Plan
- LR 16.2 Meeting of Counsel and Preparation of Proposed Scheduling Order and Discovery Plan.
- LR 16.3 Failure to Cooperate - Sanctions.
- LR 16.4 Filing of Motions Does Not Excuse Counsel from the Requirements of this Rule.
- LR 16.5 Extension of Deadlines Fixed in Scheduling Order.
- LR 16.6 Settlement Conference
- LR 16.7 Preliminary and Final Pretrial Conference, Trial Brief, Witness & Exhibit Lists, Discovery Material Designations, and Pretrial Order
- LR 16.8 Waiver of Pretrial
- LR 17.1 Guardians Ad Litem.
- LR 23.1 Class Actions
- LR 26.1 Discovery Documents - Nonfiling and Disclosure.
- LR 26.2 Prediscovery Disclosure.
- LR 30.1 Depositions.



Presently: A road map.



The Future: GPS



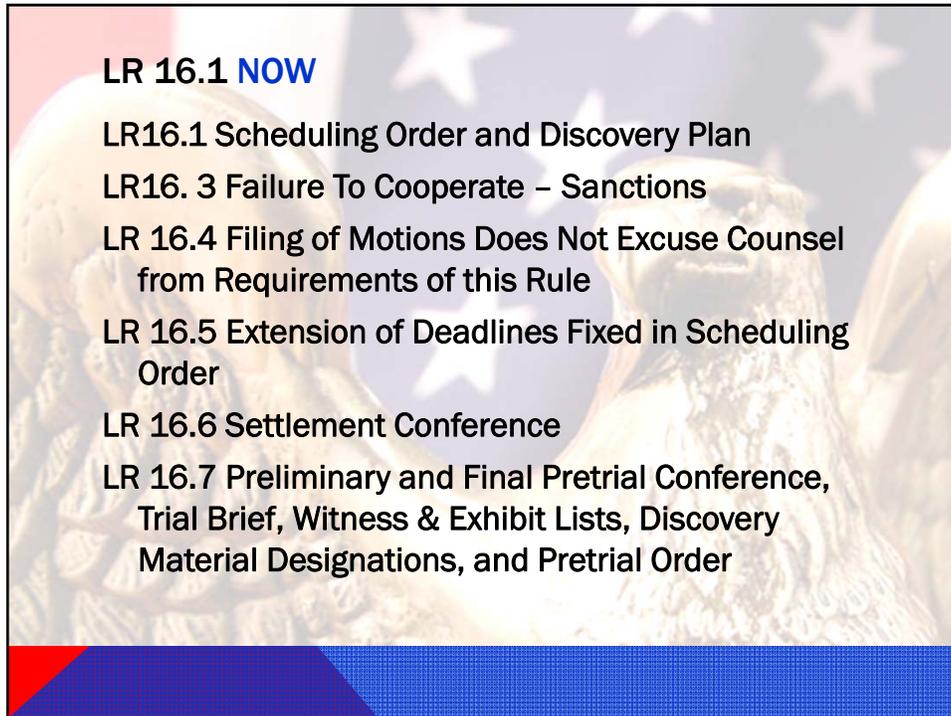
## TWO MAJOR RULES: RULES 16 & 26

- Rule 16 starts and plans the litigation
- Rule 26 governs the input into that plan, disclosure and discovery

### Rule 16 and Rule 26 Conferences: “Foundation for Success or Root of Failure”

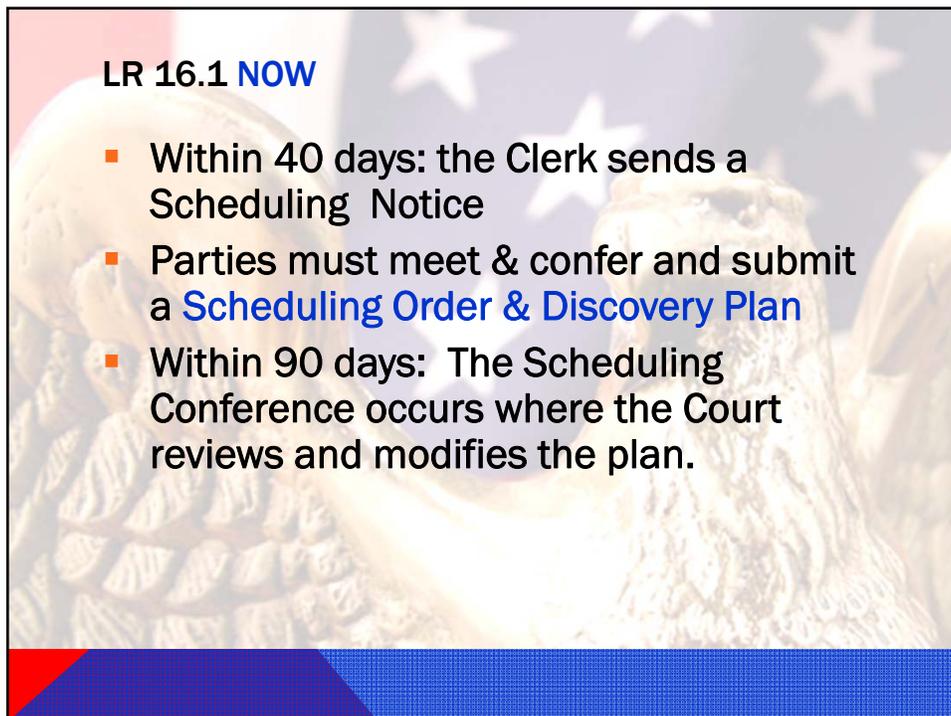
Rule 16(b) Conference with the Court;  
Scheduling Conference

Rule 26(f) Conference with the parties; “Meet & Confer” on discovery planning



**LR 16.1 NOW**

- LR16.1 Scheduling Order and Discovery Plan
- LR16. 3 Failure To Cooperate – Sanctions
- LR 16.4 Filing of Motions Does Not Excuse Counsel from Requirements of this Rule
- LR 16.5 Extension of Deadlines Fixed in Scheduling Order
- LR 16.6 Settlement Conference
- LR 16.7 Preliminary and Final Pretrial Conference, Trial Brief, Witness & Exhibit Lists, Discovery Material Designations, and Pretrial Order



**LR 16.1 NOW**

- Within 40 days: the Clerk sends a Scheduling Notice
- Parties must meet & confer and submit a **Scheduling Order & Discovery Plan**
- Within 90 days: The Scheduling Conference occurs where the Court reviews and modifies the plan.

## THE **NEW** CIVIL LOCAL RULE 16-1 MANAGING & SCHEDULING

- **Within 40 days:** Clerk issues a Scheduling Notice
  - Sets a date for the **Scheduling and Planning Conference Report**
- **Within 90 days:** Scheduling Conference
- **Then the Court will issue its Scheduling & Planning Order including:**
  - Deadlines and Completion of Discovery;
  - Pretrial Conferences;
  - Pretrial Disclosures;
  - Trial Brief;
  - Witness and Exhibit Lists; and
  - Pretrial Order and Jury Instructions.

## THE **NEW FORM**

### **Scheduling and Planning Conference Report**

- **Meeting**
- **Disclosures**
- **Nature and Basis of Claims & Defenses**
- **Waiver of Pretrial Requirements**
- **Discovery Plan**
- **Pretrial Motions**
- **Trial**



|    |  |
|----|--|
| 1  | [plaintiff/firm name]  |
| 2  | [address]  |
| 3  | [city], [state] [zip]  |
| 4  | [telephone]  |
| 5  | [fax]  |
| 6  | IN THE DISTRICT COURT OF GUAM  |
| 7  | TERRITORY OF GUAM  |
| 8  | ) CIVIL CASE NO. _____   |
| 9  | ) Plaintiff(s) )   |
| 10 | ) vs. )  |
| 11 | ) Defendants(s) )  |
| 12 | ) SCHEDULING AND PLANNING  |
| 13 | ) CONFERENCE REPORT  |
| 14 | I. <b>Meeting.</b> In accordance with Rule 26(f) of the Federal Rules of Civil Procedure, and CVLR                                   |
| 15 | 16-1 for the District Court of Guam, a meeting was held on <a href="#">Click here to enter a date</a> and was                        |
| 16 | attended by:   |
| 17 | <i>(Insert attorneys' names and parties represented)</i>   |
| 18 | II. <b>Disclosures.</b> The information required by Fed.R.Civ. P. 26(a):   |
| 19 | A. <input type="checkbox"/> Has been exchanged by the parties.   |
| 20 | B. <input type="checkbox"/> Will be exchanged by the parties on or before <a href="#">Click here to enter a date</a> .               |
| 21 | III. <b>Nature and Basis of Claims and Defenses:</b>   |
| 22 | A. The nature of the case is as follows: <i>(Insert description)</i>   |
| 23 | B. The posture of the case, including hearings and motions (whether resolved or  |
| 24 | pending), is as follows: <i>(Insert description)</i>   |
| 25 | IV. <b>Waiver of Pretrial Requirements:</b>  |
| 26 | The parties request the court <input type="checkbox"/> waive <input type="checkbox"/> do not waive the pretrial requirements of CVLR |
| 27 | 16-1(e) through (h). <i>(If the request is made, the Scheduling and Planning Conference Report</i>                                   |
| 28 | <i>shall contain a comprehensive discovery schedule that will permit the trial to be set within six (6)</i>                          |
|    | <i>months of the date of the Scheduling Conference.)</i>   |
|    | Civil Attachment 5 – Scheduling and Planning Report  |
|    | Page 1   |

|    |   |
|----|---|
| 1  | V. <b>Discovery Plan:</b> The parties jointly propose to the court the following Discovery Plan.                              |
| 2  | A. The parties expect that discovery will be needed on the following issues: <i>(Insert</i>                                   |
| 3  | <i>discovery issues)</i>  |
| 4  | B. Are there issues about preserving discovery information? <input type="checkbox"/> Yes <input type="checkbox"/> No. If Yes, |
| 5  | explain. <i>(Insert explanation)</i> .  |
| 6  | C. Disclosure or discovery of electronically stored information should be handled as  |
| 7  | follows: <i>(Description of Parties' Proposal)</i>  |
| 8  | D. Claims of privilege or of protection of trial preparation materials.   |
| 9  | 1. <input type="checkbox"/> There is no indication that this will be an issue.  |
| 10 | 2. <input type="checkbox"/> The parties have entered into a confidentiality agreement.  |
| 11 | 3. <input type="checkbox"/> The parties will submit their proposed confidentiality agreement on or                            |
| 12 | before: <i>Click here to enter a date.</i>  |
| 13 | E. Disclosure of expert reports:  |
| 14 | 1. <input type="checkbox"/> By all parties on or before: <i>Click here to enter a date.</i>                                   |
| 15 | 2. <input type="checkbox"/> By plaintiff(s) on or before: <i>Click here to enter a date.</i>                                  |
| 16 | 3. <input type="checkbox"/> By defendant(s) on or before: <i>Click here to enter a date.</i>                                  |
| 17 | 4. <input type="checkbox"/> Rebuttal reports on or before: <i>Click here to enter a date.</i>                                 |
| 18 | F. Time for completing discovery:   |
| 19 | 1. Fact discovery will be completed on or before: <i>Click here to enter a date;</i>  |
| 20 | 2. Expert discovery will be completed on or before: <i>Click here to enter a date;</i>  |
| 21 | 3. All discovery will be completed on or before: <i>Click here to enter a date.</i> <sup>1</sup>                              |
| 22 | G. Optional Modifications on Discovery.   |
| 23 | 1. <input type="checkbox"/> The limitations contained in Fed. R. Civ. P. 26(b), 30, and 33 will apply                         |
| 24 | except as indicated below.  |
| 25 | 2. <input type="checkbox"/> The maximum number of depositions by each party will not exceed <i>Click</i>                      |
| 26 | <i>here to enter number.</i>  |
| 27 | <sup>1</sup> Defined as the last day to file responses to discovery.  |
| 28 | Civil Attachment 5 – Scheduling and Planning Report<br>Page 2   |

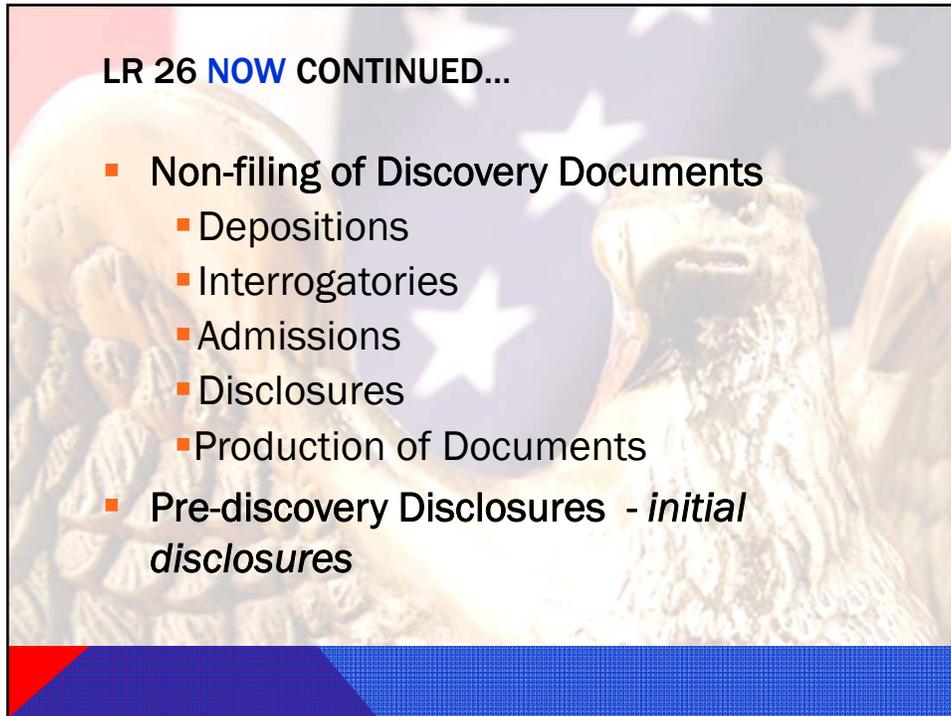
|    |  |
|----|--|
| 1  | i. Depositions will not exceed <i>Click here to enter number</i> hours as to any   |
| 2  | deponent.  |
| 3  | ii. Depositions will not exceed <i>Click here to enter number</i> hours as to non-   |
| 4  | party deponents.   |
| 5  | iii. Depositions will not exceed <i>Click here to enter number</i> hours as to party                                       |
| 6  | deponents. <sup>2</sup>  |
| 7  | iv. The maximum number of interrogatories posed by each party will not exceed  |
| 8  | <i>Click here to enter number.</i>   |
| 9  | v. The maximum number of requests for admissions posed by each party will not  |
| 10 | exceed <i>Click here to enter number.</i>  |
| 11 | vi. Other limitations: <i>(Insert other limitations)</i> .   |
| 12 | VI. <b>Pretrial Motions.</b>   |
| 13 | A. All motions to add parties shall be filed on or before <i>Click here to enter a date.</i>                               |
| 14 | B. All motions to otherwise amend pleadings shall be filed on or before <i>Click here to</i>                               |
| 15 | <i>enter a date.</i>   |
| 16 | C. All discovery motions shall be filed on or before <i>Click here to enter a date.</i>                                    |
| 17 | D. All dispositive motions shall be filed on or before <i>Click here to enter a date.</i>                                  |
| 18 | VII. <b>Trial.</b>   |
| 19 | A. The case is expected to take <i>Click here to enter number</i> days to try.   |
| 20 | B. 1. A jury trial has been demanded. <input type="checkbox"/> Yes <input type="checkbox"/> No.                            |
| 21 | 2. The right to a jury trial <input type="checkbox"/> is <input type="checkbox"/> is not disputed.                         |
| 22 | C. The parties request a trial date of <i>Click here to enter a date.</i> <sup>3</sup>                                     |
| 23 | VIII. <b>Other Provisions:</b>   |
| 24 | A. <input type="checkbox"/> The parties do not request a conference with the court before the entry of a                   |
| 25 | scheduling order for the following reason: <i>(Insert explanation)</i> .   |
| 26 | B. The disclosure requirements of Fed. R. Civ. P. 7.1, if applicable:  |
| 27 | <sup>2</sup> Unless otherwise specified, the court will consider corporate officer, Rule 30(b)(6) witness, and expert      |
| 28 | witness depositions to be subject to the time limitation applicable to party depositions.                                  |
|    | <sup>3</sup> In no event shall the trial be later than eighteen (18) months after the complaint is filed, unless the Court |
|    | otherwise allows).   |
|    | Civil Attachment 5 – Scheduling and Planning Report<br>Page 3  |

|    |   |
|----|---|
| 1  | 1. <input type="checkbox"/> Have been complied with.  |
| 2  | 2. <input type="checkbox"/> Compliance will be accomplished on or before <a href="#">Click here to enter a date.</a>      |
| 3  | C. Early settlement/alternative dispute resolution.   |
| 4  | 1. <input type="checkbox"/> The parties certify that they have complied with the provisions of CVLR                       |
| 5  | Rule 16-2(c)(1).  |
| 6  | 2. Do the parties wish to consider <input type="checkbox"/> private mediation, <input type="checkbox"/> arbitration, or   |
| 7  | settlement conference with a judicial officer of this court? <input type="checkbox"/> Yes <input type="checkbox"/> No. If |
| 8  | No, explain. <i>(Insert explanation).</i>   |
| 9  | D. The parties present the following suggestions for shortening trial. <i>(Insert</i>                                     |
| 10 | <i>explanation).</i>  |
| 11 | E. The following issues will also affect the status or management of the case: <i>(Insert</i>                             |
| 12 | <i>explanation).</i>  |
| 13 | Dated: _____ <u>Signature block for plaintiff's attorney</u>  |
| 14 |   |
| 15 | Dated: _____ <u>Signature block(s) for defendant's attorney</u>   |
| 16 |   |
| 17 |   |
| 18 |   |
| 19 |   |
| 20 |   |
| 21 |   |
| 22 |   |
| 23 |   |
| 24 |   |
| 25 |   |
| 26 |   |
| 27 |   |
| 28 |   |

Civil Attachment 5 – Scheduling and Planning Report  
Page 4

**LR 26 NOW: DISCLOSURE & DISCOVERY**

- Required to Disclose
- Discovery Scope
- Trial Prep
- Privileges
- Meet & Confer
- Signing & Sanctions



**LR 26 NOW CONTINUED...**

- **Non-filing of Discovery Documents**
  - Depositions
  - Interrogatories
  - Admissions
  - Disclosures
  - Production of Documents
- **Pre-discovery Disclosures - *initial disclosures***



**NEW & IMPROVED CVLR 26**

(f) Conference of the Parties

**Scheduling & Planning Conference Report**

- Will be filed within 75 Days after the filing of the Complaint (Per the FORM)
- Conference of Parties (“Meet & Confer”) not later than 21 days before the Scheduling Conference (90 -21=69)

“Filing of separate reports is discouraged”

## **NEW & IMPROVED CVLR 26: DETAILS**

**CVLR 26(a)-(e) Discovery Documents – Non-filing and Disclosure**

**CVLR 26(f)(1) Conference of the Parties; Scheduling and Planning Conference Report.**

- 75 days from Complaint to file Report (same as before)
- Disagreements over matters in the Scheduling Report are to be addressed in the Report
- Filing separate Reports are discouraged.

**CVLR 26(f)(2) Filing of Motions Does Not Excuse Counsel from the Requirements of Fed. R. Civ. P. 26(f) ([Moved here from the NOW LR 16.4](#))**

**CVLR 26(f)(3) Non-Appearance of Defendants - Status Report ([Moved here from the NOW LR16.1\(e\)](#))**

- Plaintiffs are to file status reports with reasons why defendants are non-appearing

## **Scheduling & Planning Conference Report**

**The take-away...**

- Conference
- Follow the form
- “LR” → “CVLR”



**CVLR 7  
MOTION PRACTICE**

CVLR 7 reorganized, but generally contains same topics

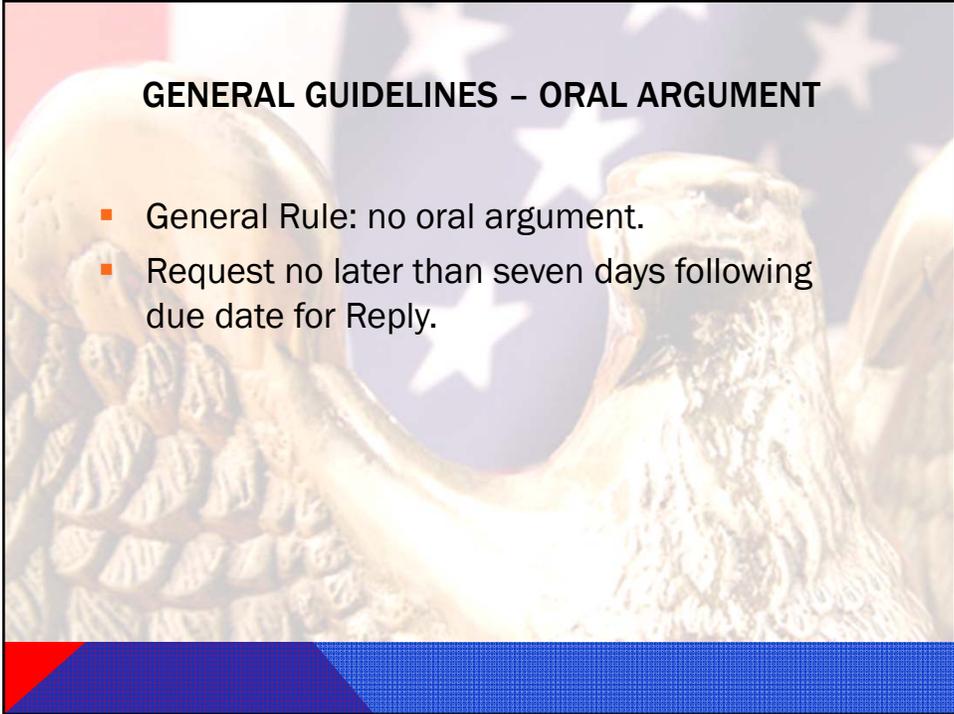
- Deadlines
- Lengths of briefs
- Shortening and Extending Time
- Oral Argument

### **GENERAL GUIDELINES - LENGTH**

- Length of Motion and Opposition = 25 pages
  - Length of Reply = 15 pages
- TOA/TOC = in excess of 12 pages
- Exceeding Page Limitation
  - disfavored
  - by 2-page motion; no opposition
  - if granted, automatically extends to opposition and to the reply by half the allowed number of pages

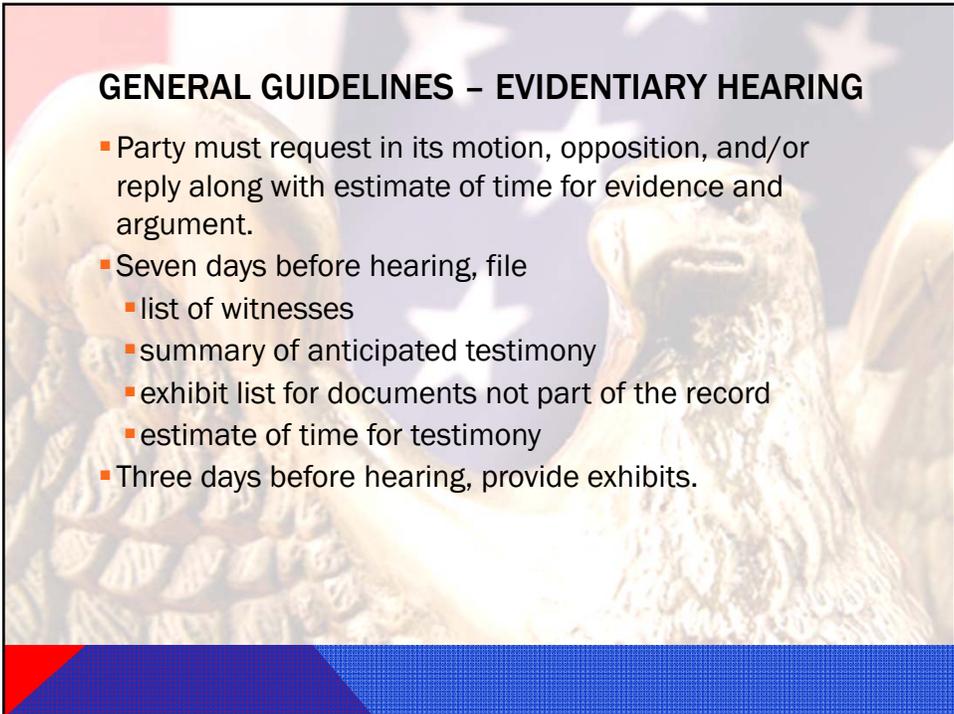
### **GENERAL GUIDELINES - TIME LIMITS**

- Opposition due 21 days after filing of motion
- Reply due 14 days after filing of last opposition
- Extensions
  - Court order setting deadline prevails.
  - Parties may negotiate an extension in good faith and file notice with Court. No order necessary.
    - 14 additional days for oppositions
    - 7 additional days for replies
  - If no agreement, party may apply to the Court.



### **GENERAL GUIDELINES – ORAL ARGUMENT**

- General Rule: no oral argument.
- Request no later than seven days following due date for Reply.



### **GENERAL GUIDELINES – EVIDENTIARY HEARING**

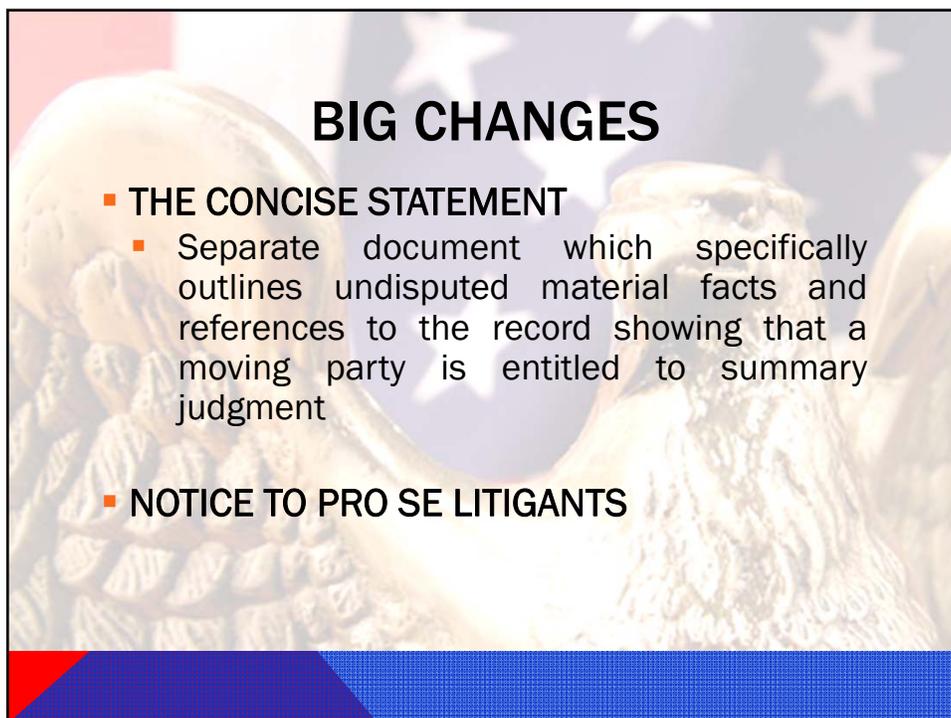
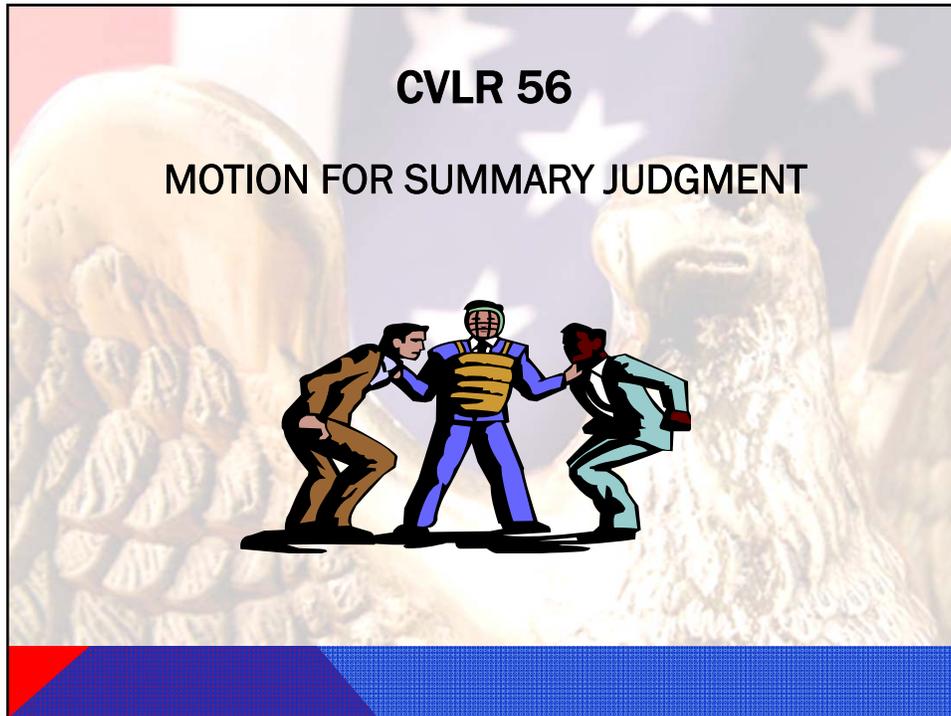
- Party must request in its motion, opposition, and/or reply along with estimate of time for evidence and argument.
- Seven days before hearing, file
  - list of witnesses
  - summary of anticipated testimony
  - exhibit list for documents not part of the record
  - estimate of time for testimony
- Three days before hearing, provide exhibits.

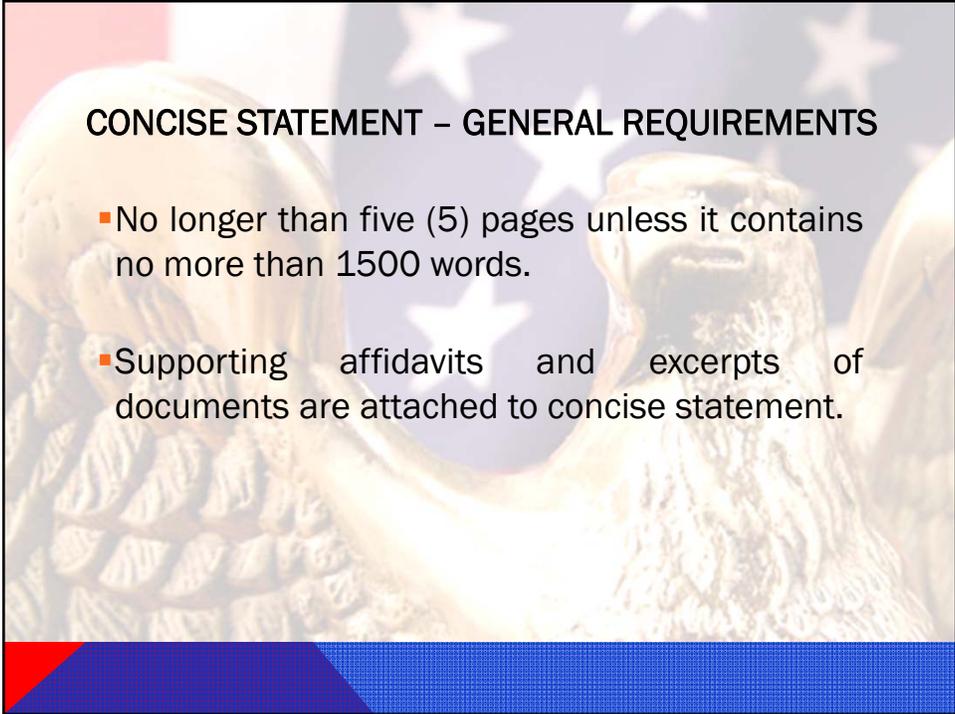
### OTHER ISSUES

- Format for motions
- Submission of Proposed Orders
- Motions for Reconsideration for non-Rule 59/60 motions
- Shortening Time
- Participation other than in person
- Settlement
- Withdrawal of motion

### COMPARISON OF SUPERIOR COURT AND DISTRICT COURT REVISIONS TO RULE 7

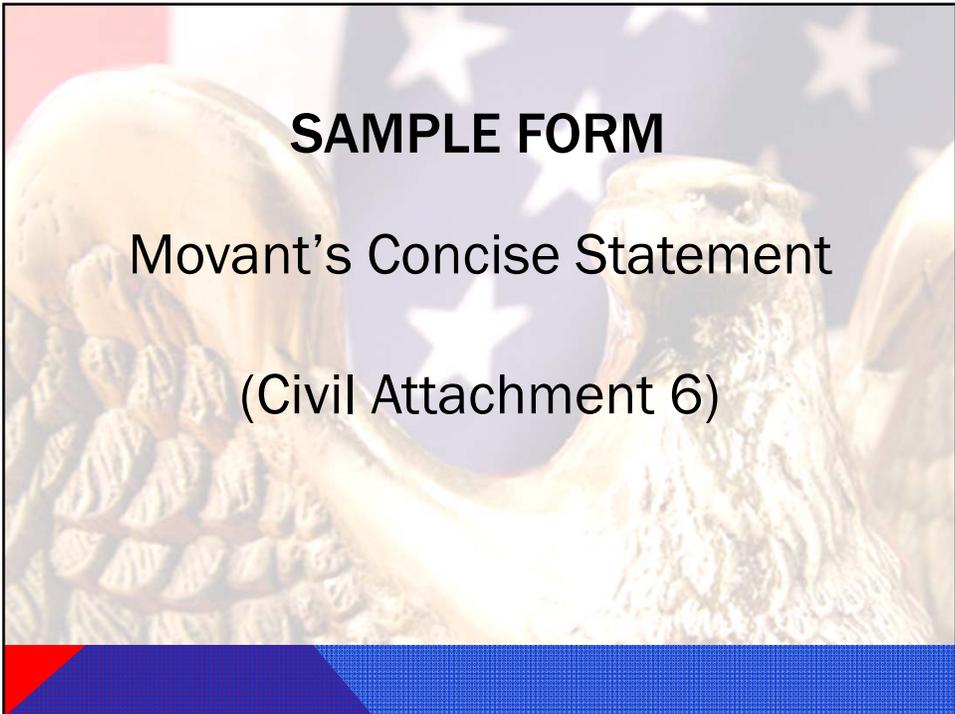
| Topic   | Superior Court                                | District Court                                |
|---|---|---|
| <b>Length of Motion &amp; Opposition Briefs</b> | 20 pages                                      | 25 pages (increased)                          |
| <b>Length of Reply Briefs</b>                   | 10 pages                                      | 15 pages (increased)                          |
| <b>Opposition and Reply Deadlines</b>           | 28 days / 14 days                             | 21 days / 14 days                             |
| <b>Briefing Extensions</b>                      | 7 days / 7 days                               | 14 days / 7 days                              |
| <b>Requesting Oral Argument</b>                 | File Form 2                                   | File a Request                                |
| <b>Tables of Contents and Authorities</b>       | For filings in excess of 20 pages (increased) | For filings in excess of 12 pages (decreased) |
| <b>Application for Order Shortening Time</b>    | File with a declaration                       | File with an affidavit                        |





## CONCISE STATEMENT – GENERAL REQUIREMENTS

- No longer than five (5) pages unless it contains no more than 1500 words.
- Supporting affidavits and excerpts of documents are attached to concise statement.



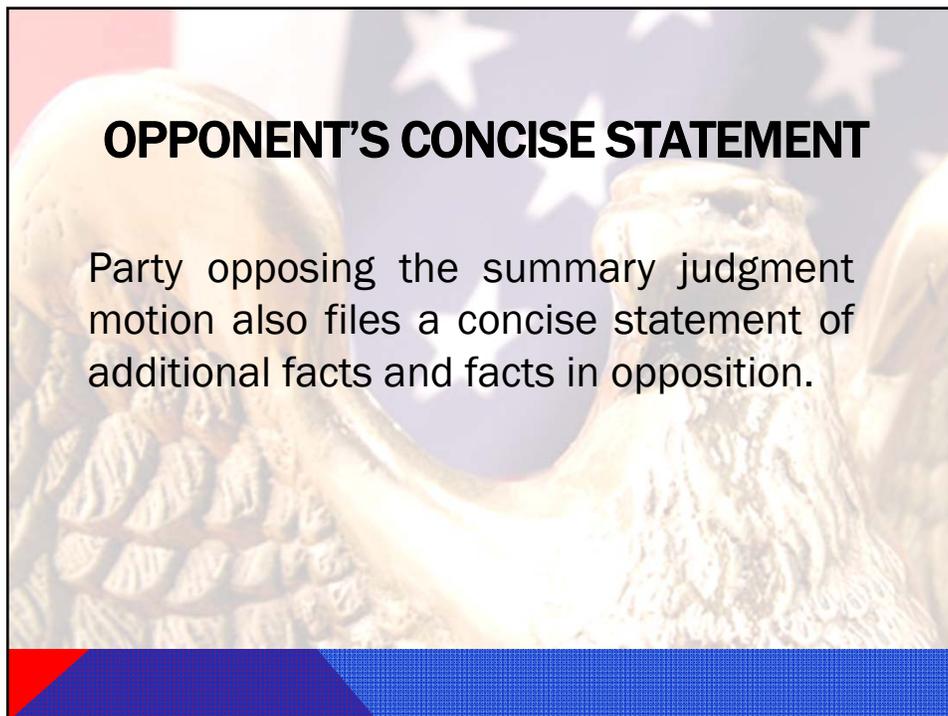
## SAMPLE FORM

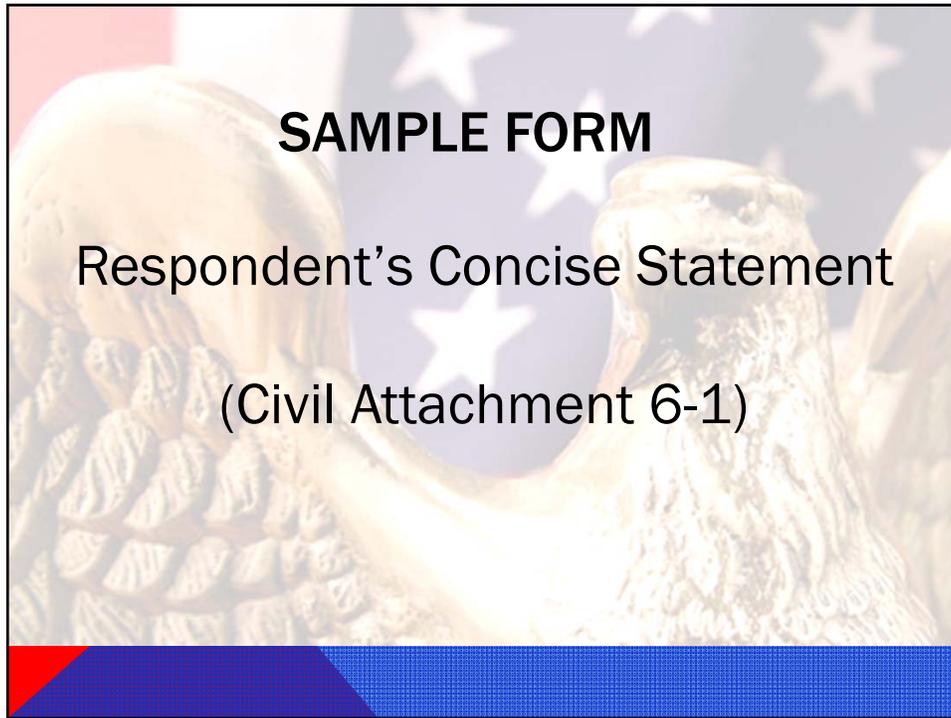
Movant's Concise Statement

(Civil Attachment 6)

|    |   |   |  |
|----|---|---|--|
| 1  | [party/firm name]   |   |  |
| 2  | [address]   |   |  |
| 3  | [city], [state] [zip]   |   |  |
| 4  | [telephone]   |   |  |
| 5  | [fax]   |   |  |
|    | IN THE DISTRICT COURT OF GUAM<br>TERRITORY OF GUAM  |   |  |
| 6  |   | ) | CIVIL CASE NO. _____                         |
| 7  | Plaintiff(s)  | ) |  |
| 8  | vs.   | ) | MOVANT'S CONCISE STATEMENT OF                |
| 9  |   | ) | MATERIAL FACTS IN SUPPORT OF                 |
| 10 | Defendants(s)   | ) | MOTION FOR SUMMARY JUDGMENT                  |
| 11 |   | ) | (SAMPLE)                                     |
| 12 | Pursuant to CVLR 56, Movant submits its concise statement of material facts in support  |   |  |
| 13 | of its Motion for Summary Judgment.   |   |  |
| 14 | <b>FACTS</b>  |   | <b>EVIDENTIARY SUPPORT</b>                   |
| 15 | 1. On June 1, 2012, Plaintiff loaned Defendant \$1,000,000.00   |   | Affidavit of John Doe, ¶ 1, Exhibits A and B |
| 16 | 2. As part of the loan transaction, Plaintiff obtained two mortgages on Defendant's fee simple interest in Lot 25, Dededo, Guam |   | Affidavit of John Doe, ¶ 2, Exhibits C and D |
| 17 | 3. Plaintiff is the present holder of the Notes and Mortgages   |   | Affidavit of John Doe, ¶ 3                   |
| 18 | 4. Payment under the Notes and Mortgages was guaranteed by Jane Doe   |   | Affidavit of John Doe, ¶ 4, Exhibit E        |
| 19 | 5. Defendant has not made the required loan payments and are in default of the Notes and Mortgages                              |   | Affidavit of John Doe, ¶ 5.                  |
| 20 |   |   |  |
| 21 |   |   |  |
| 22 |   |   |  |
| 23 |   |   |  |
| 24 | Dated this ____ day of _____, 2013.   |   |  |
| 25 |   |   | LAW OFFICES OF A AND B, LLC                  |
| 26 |   |   | By: _____ /s/                                |
| 27 |   |   |  |
| 28 |   |   |  |

Civil Attachment 6 – Movant's Concise Statement of Material Facts  
in Support of Motion for Summary Judgment (Sample)  
Page 1





|    |                       |                               |                                |
|----|-----------------------|-------------------------------|--------------------------------|
| 1  | [party/firm name]     |                               |                                |
| 2  | [address]             |                               |                                |
| 3  | [city], [state] [zip] |                               |                                |
| 4  | [telephone]           |                               |                                |
| 5  | [fax]                 |                               |                                |
| 6  |                       | IN THE DISTRICT COURT OF GUAM |                                |
| 7  |                       | TERRITORY OF GUAM             |                                |
| 8  | Plaintiff(s)          | )                             | CIVIL CASE NO. _____           |
| 9  | vs.                   | )                             |                                |
| 10 | Defendants(s)         | )                             | RESPONDENT'S CONCISE           |
| 11 |                       | )                             | STATEMENT OF MATERIAL FACTS IN |
| 12 |                       | )                             | OPPOSITION TO MOTION FOR       |
| 13 |                       | )                             | SUMMARY JUDGMENT (SAMPLE)      |
| 14 |                       | )                             |                                |
| 15 |                       | )                             |                                |
| 16 |                       | )                             |                                |
| 17 |                       | )                             |                                |
| 18 |                       | )                             |                                |
| 19 |                       | )                             |                                |
| 20 |                       | )                             |                                |
| 21 |                       | )                             |                                |
| 22 |                       | )                             |                                |
| 23 |                       | )                             |                                |
| 24 |                       | )                             |                                |
| 25 |                       | )                             |                                |
| 26 |                       | )                             |                                |
| 27 |                       | )                             |                                |
| 28 |                       | )                             |                                |

Pursuant to CVLR 56, Respondent submits his concise statement of material facts in opposition to Movant's Motion for Summary Judgment.

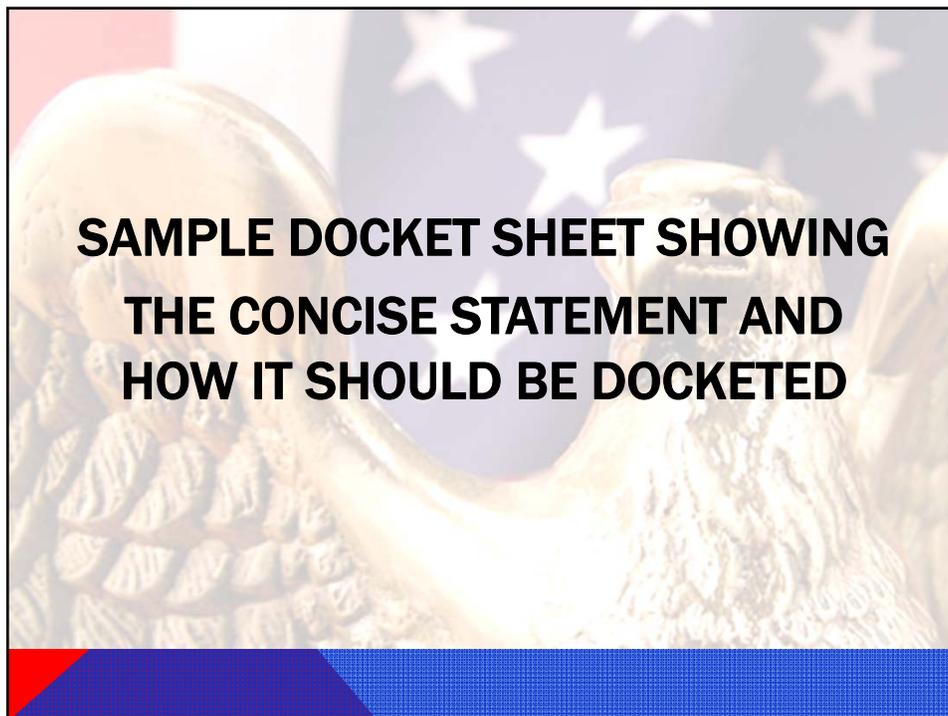
Facts 1 through 5 correspond to the facts and supporting evidence presented in the Movant's Separate Concise Statement of Material Facts. Where appropriate, Respondent has indicated that the facts relied upon by Movant is controverted. These are followed by additional material facts and supporting evidence that Respondent introduces to demonstrate the existence of a genuine issue of material fact.

| FACTS   | EVIDENTIARY SUPPORT                                   |
|---|---|
| 1. Partially disputed. Date of loan was on June 1, 2013 not June 1, 2012. | Ex. A & B to Movant's Concise Statement, ECF No. ____ |
| 2. Undisputed   | Movant's Concise Statement, ECF No. ____.             |
| 3. Undisputed   | Movant's Concise Statement, ECF No. ____.             |
| 4. Undisputed   | Movant's Concise Statement, ECF No. ____.             |

Civil Attachment 6-1 – Respondent's Concise Statement of Material Facts in Opposition to Motion for Summary Judgment (Sample)  
Page 1

|    |  |  |
|----|--|--|
| 1  | 5. Disputed. Movant has failed to establish the balance of the loan, the payments made and/or not made and Respondent's default under the terms of the subject notes.                      | See Affidavit of Jane Doe, ¶¶ 2 and 3.             |
| 2  |  |  |
| 3  |  |  |
| 4  |  |  |
| 5  | Respondent also contends that the following additional material facts are relevant or in   |  |
| 6  | dispute.   |  |
| 7  | <b>RESPONDENT'S STATEMENT OF FACTS IN OPPOSITION</b>   |  |
| 8  |  |  |
| 9  | <b>FACTS</b>   | <b>EVIDENTIARY SUPPORT</b>                         |
| 10 | 1. Movant did not provide Respondent with "proper" written notification that an overdue amount was owed under each of the notes and the minimum of ten (10) days to pay the overdue amount | Declaration of Jane Doe at ¶¶ 4 and 5              |
| 11 | 2. Movant is not the owner and holder of the subject notes and mortgages   | Declaration of Jane Doe at ¶¶ 20 and 22.           |
| 12 | 3. Respondent has exercised its equitable right of reinstatement by offering to pay Movant all amounts due on the subject notes and mortgages affecting Lot 25                             | Declaration of Jane Doe at ¶¶ 23-30, Exhibits F-G. |
| 13 |  |  |
| 14 |  |  |
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| 19 | Dated this ____ day of _____, 2013.  |  |
| 20 | LAW OFFICES OF XYZ, LLP  |  |
| 21 | By: _____ /s/  |  |
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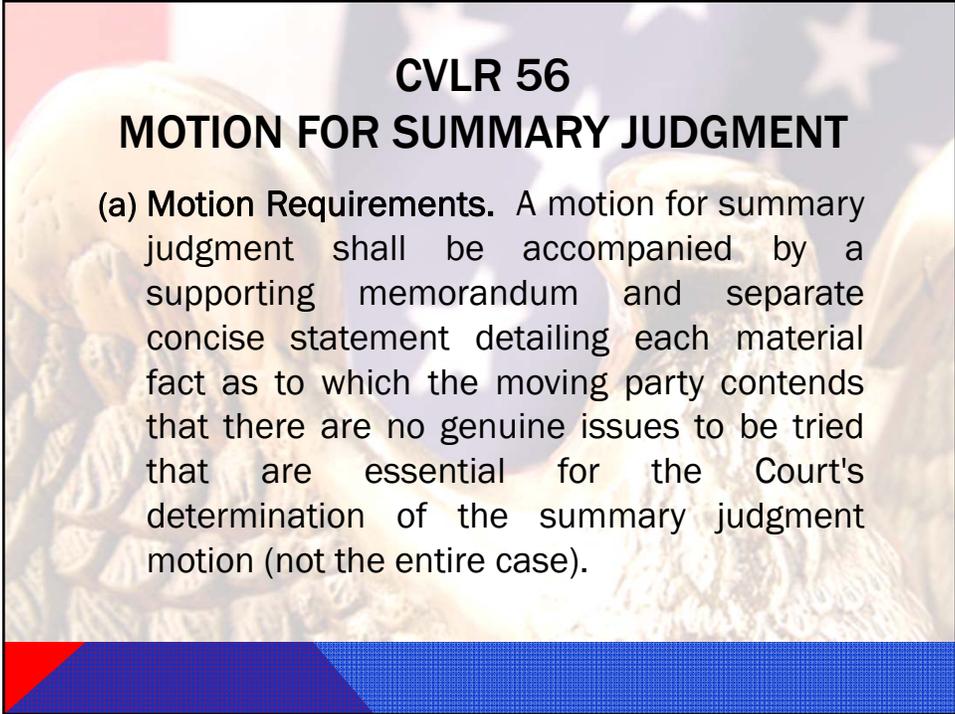
Civil Attachment 6-1 – Respondent's Concise Statement of Material Facts in Opposition to Motion for Summary Judgment (Sample)  
Page 2



| U.S. District Court<br>District of Hawaii (Hawaii)<br>CIVIL DOCKET FOR CASE #: 1:12-cv-00037-LEK-KSC   |                    |  |
|--|--------------------|--|
| Olson v. Nani Mau, Inc. et al<br>Assigned to: JUDGE LESLIE E. KOBAYASHI<br>Referred to: JUDGE KEVIN S.C. CHANG<br>Cause: 28:1332 Diversity-Personal Injury |                    | Date Filed: 01/17/2012<br>Date Terminated: 06/01/2012<br>Jury Demand: None<br>Nature of Suit: 370 Fraud or Truth-In-Lending<br>Jurisdiction: Diversity   |
| Date Filed   | #                  | Docket Text  |
| 03/02/2012   | <a href="#">2</a>  | MOTION for Summary Judgment , <i>Default Judgment and Interlocutory Decree of Foreclosure Against Defendants Nani Mau, Inc. and Kenneth Fujiyama</i> Robert J. Martin appearing for Plaintiff Edmund C. Olson (Attachments: # <a href="#">1</a> Memorandum in Support of Motion, # <a href="#">2</a> Certificate of Service)(Martin, Robert) (Entered: 03/02/2012)   |
| 03/02/2012   | <a href="#">10</a> | CONCISE STATEMENT in Support re <a href="#">2</a> MOTION for Summary Judgment , <i>Default Judgment and Interlocutory Decree of Foreclosure Against Defendants Nani Mau, Inc. and Kenneth Fujiyama</i> [SEPARATE AND CONCISE STATEMENT OF FACTS IN SUPPORT OF PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT, SUMMARY JUDGMENT AND INTERLOCUTORY DECREE OF FORECLOSURE] filed by Edmund C. Olson. (Attachments: # <a href="#">1</a> Declaration of Edmund C. Olson, # <a href="#">2</a> Exhibit 1, # <a href="#">3</a> Exhibit 2 (1 of 2), # <a href="#">4</a> Exhibit 2 (2 of 2), # <a href="#">5</a> Exhibit 3, # <a href="#">6</a> Certificate of Service)(Martin, Robert) (Entered: 03/02/2012) |
| 03/02/2012   | <a href="#">11</a> | NOTICE of Hearing on Motion <a href="#">2</a> MOTION for Summary Judgment , <i>Default Judgment and Interlocutory Decree of Foreclosure Against Defendants Nani Mau, Inc. and Kenneth Fujiyama</i> : Motion Hearing set for 4/16/2012 at 11:15 AM before JUDGE LESLIE E. KOBAYASHI. (wnn, )<br><br><small>CERTIFICATE OF SERVICE<br/>Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry. (Entered: 03/02/2012)</small>                |
| 03/26/2012   | <a href="#">19</a> | MEMORANDUM in Opposition To Plaintiff's Motion for Summary Judgment filed by Kenneth Fujiyama, Nani Mau, Inc.. (Attachments: # <a href="#">1</a> Declaration of Richard A. Ing, # <a href="#">2</a> Declaration of Kenneth Fujiyama, # <a href="#">3</a> Exhibit A, # <a href="#">4</a> Exhibit B, # <a href="#">5</a> Exhibit C, # <a href="#">6</a> Exhibit D, # <a href="#">7</a> Exhibit E, # <a href="#">8</a> Exhibit F, # <a href="#">9</a> Certificate of Compliance, # <a href="#">10</a> Certificate of Service)(Ing, Richard) (Entered: 03/26/2012)   |
| 03/26/2012   | <a href="#">20</a> | MEMORANDUM in Opposition (First Amended) To Plaintiff's Motion for Summary Judgment filed by Kenneth Fujiyama, Nani Mau, Inc.. (Attachments: # <a href="#">1</a> Certificate of Compliance, # <a href="#">2</a> Certificate of Service)(Ing, Richard) (Entered: 03/26/2012)  |
| 03/26/2012   | <a href="#">21</a> | CONCISE STATEMENT in Opposition To Plaintiff's Motion for Summary Judgment filed by Kenneth Fujiyama, Nani Mau, Inc.. (Attachments: # <a href="#">1</a> Declaration of Kenneth Fujiyama, # <a href="#">2</a> Declaration of Richard A. Ing, # <a href="#">3</a> Exhibit A, # <a href="#">4</a> Exhibit B, # <a href="#">5</a> Exhibit C, # <a href="#">6</a> Exhibit D, # <a href="#">7</a> Exhibit E, # <a href="#">8</a> Exhibit F, # <a href="#">9</a> Certificate of Service)(Ing, Richard) (Entered: 03/26/2012)  |

Select the document you wish to view.

| <b>Document Number:</b> <a href="#">21</a> | 5 pages                         | 440 kb                                      |
|--|---------------------------------|---|
| Attachment                                 | Description                     |   |
| <a href="#">1</a>                          | Declaration of Kenneth Fujiyama | 7 pages 488 kb                              |
| <a href="#">2</a>                          | Declaration of Richard A. Ing   | 2 pages 125 kb                              |
| <a href="#">3</a>                          | Exhibit A                       | 1 page 90 kb                                |
| <a href="#">4</a>                          | Exhibit B                       | 1 page 94 kb                                |
| <a href="#">5</a>                          | Exhibit C                       | 1 page 88 kb                                |
| <a href="#">6</a>                          | Exhibit D                       | 1 page 93 kb                                |
| <a href="#">7</a>                          | Exhibit E                       | 2 pages 127 kb                              |
| <a href="#">8</a>                          | Exhibit F                       | 12 pages 1.9 mb                             |
| <a href="#">9</a>                          | Certificate of Service          | 1 page 62 kb                                |
| <input type="button" value="View All"/>    | or                              | <input type="button" value="Download All"/> |
|  |                                 | 33 pages 3.5 mb                             |



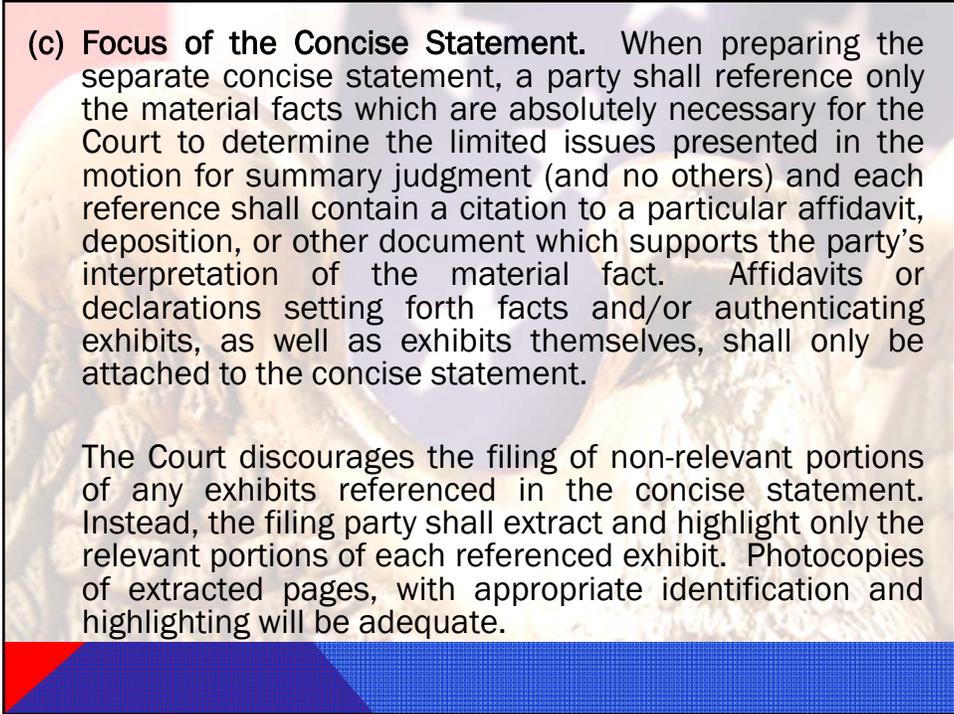
## **CVLR 56**

### **MOTION FOR SUMMARY JUDGMENT**

**(a) Motion Requirements.** A motion for summary judgment shall be accompanied by a supporting memorandum and separate concise statement detailing each material fact as to which the moving party contends that there are no genuine issues to be tried that are essential for the Court's determination of the summary judgment motion (not the entire case).

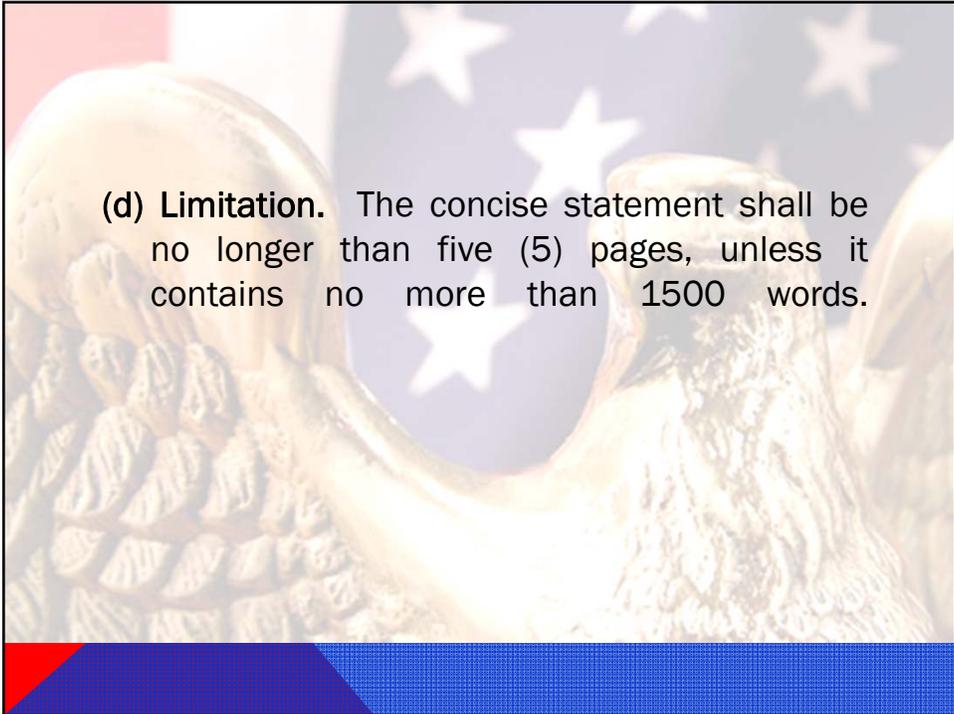
**(b) Opposition Requirements.** Any party who opposes the motion shall file and serve with his or her opposing papers a separate document containing a concise statement that:

- (1) Accepts the facts set forth in the moving party's concise statement; or
- (2) Sets forth all material facts as to which it is contended there exists a genuine issue necessary to be litigated.

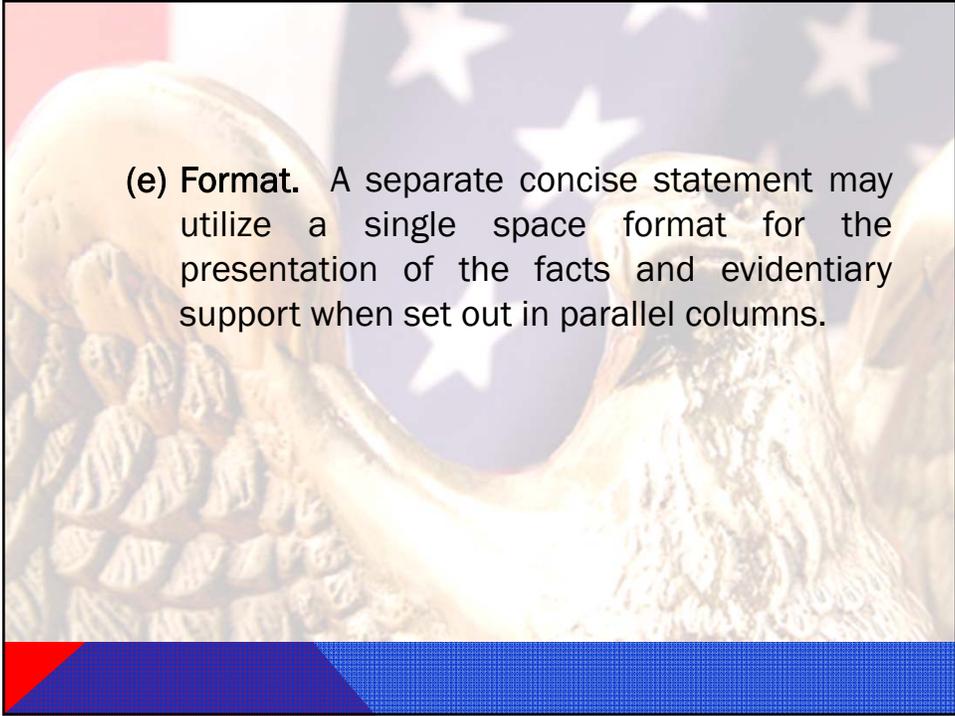


**(c) Focus of the Concise Statement.** When preparing the separate concise statement, a party shall reference only the material facts which are absolutely necessary for the Court to determine the limited issues presented in the motion for summary judgment (and no others) and each reference shall contain a citation to a particular affidavit, deposition, or other document which supports the party's interpretation of the material fact. Affidavits or declarations setting forth facts and/or authenticating exhibits, as well as exhibits themselves, shall only be attached to the concise statement.

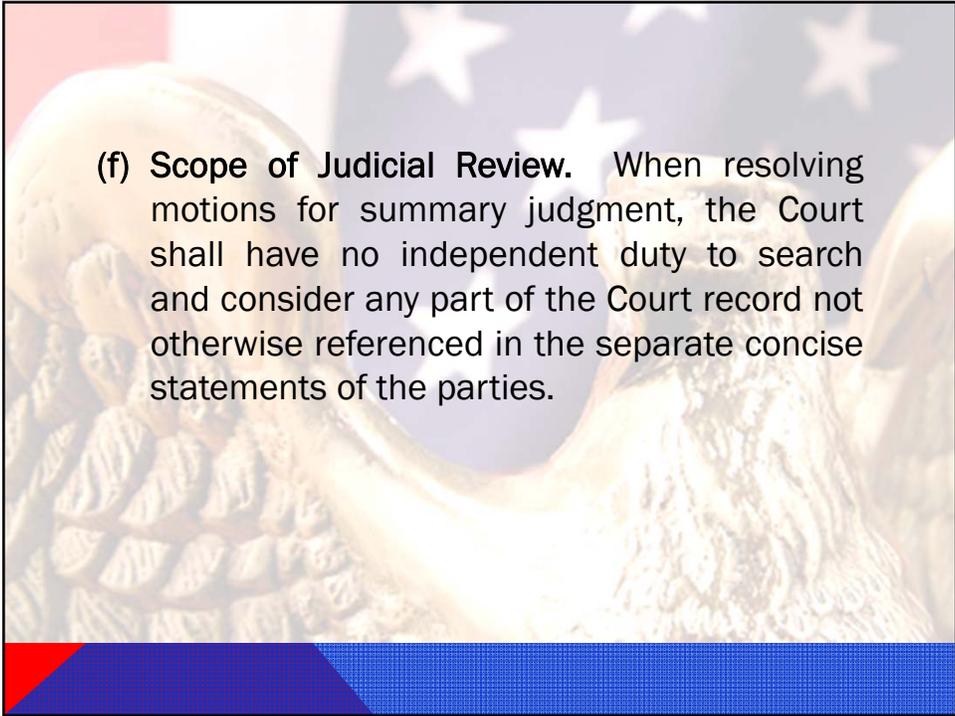
The Court discourages the filing of non-relevant portions of any exhibits referenced in the concise statement. Instead, the filing party shall extract and highlight only the relevant portions of each referenced exhibit. Photocopies of extracted pages, with appropriate identification and highlighting will be adequate.



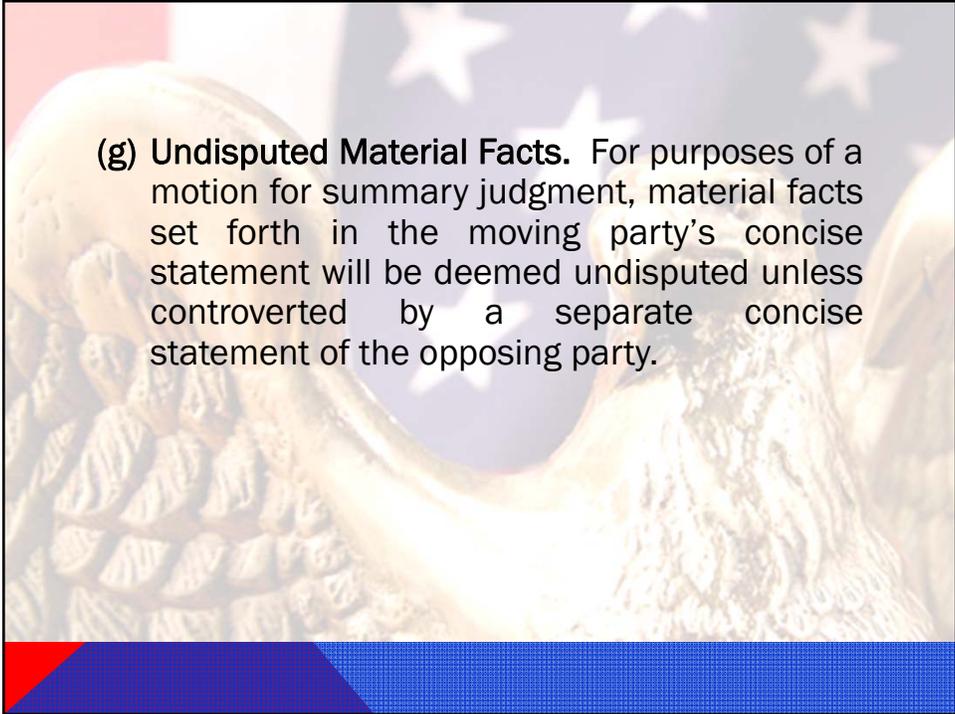
**(d) Limitation.** The concise statement shall be no longer than five (5) pages, unless it contains no more than 1500 words.



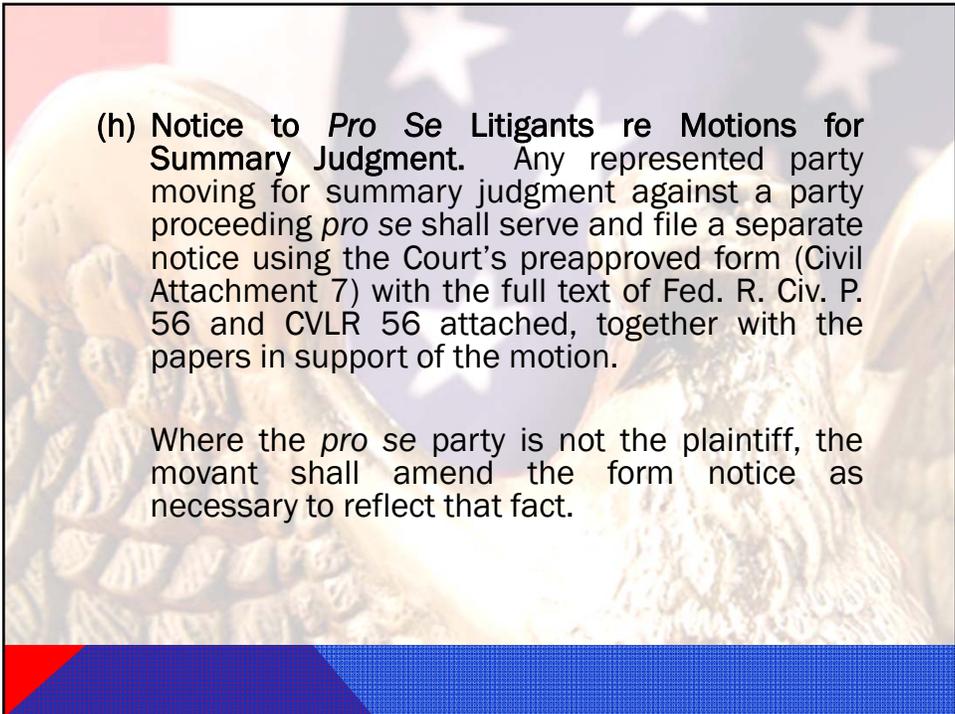
**(e) Format.** A separate concise statement may utilize a single space format for the presentation of the facts and evidentiary support when set out in parallel columns.



**(f) Scope of Judicial Review.** When resolving motions for summary judgment, the Court shall have no independent duty to search and consider any part of the Court record not otherwise referenced in the separate concise statements of the parties.



**(g) Undisputed Material Facts.** For purposes of a motion for summary judgment, material facts set forth in the moving party's concise statement will be deemed undisputed unless controverted by a separate concise statement of the opposing party.



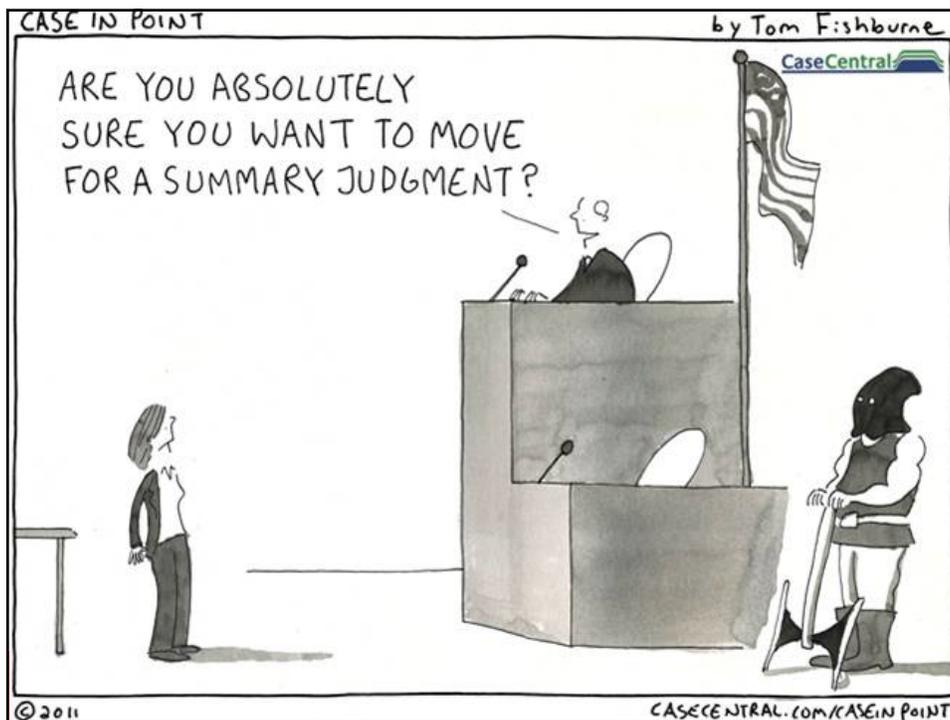
**(h) Notice to *Pro Se* Litigants re Motions for Summary Judgment.** Any represented party moving for summary judgment against a party proceeding *pro se* shall serve and file a separate notice using the Court's preapproved form (Civil Attachment 7) with the full text of Fed. R. Civ. P. 56 and CVLR 56 attached, together with the papers in support of the motion.

Where the *pro se* party is not the plaintiff, the movant shall amend the form notice as necessary to reflect that fact.

## CVLR 12 NOTICE TO *PRO SE* LITIGANTS

A represented party moving to dismiss or for judgment on the pleadings against a party proceeding *pro se*, who refers, in support of the motion, to matters outside the pleadings as described in Fed. R. Civ. P. 12(b) or 12(c), shall serve and file a separate notice using the Court's preapproved form (Civil Attachment 1) with the full text of Fed. R. Civ. P. 56 and CVLR 56 attached at the time the motion is served. If the Court rules that a motion to dismiss or for judgment on the pleadings will be treated as one for summary judgment pursuant to Fed. R. Civ. P. 56, and the movant has not previously served and filed the notice required by this rule, the movant shall amend the form notice to reflect that fact and shall serve and file the amended notice within fourteen days of the Court's ruling.

Where the *pro se* party is not the plaintiff, the movant shall amend the form notice as necessary to reflect that fact.



## CVLR 37

### Abuse of or Failure to Make Discovery; Sanctions

- Standard requirements:
  - Meet and confer
  - Certification
- Stipulation no longer required.
- New Topic
  - Expedited Discovery Assistance – Letter Brief.

## Letter Brief - General Guidelines

- Abbreviated, simultaneous briefing.
- No opposition.
- No reply.
- Mutually agreeable deadline for submission of letter briefs and conference, when appropriate.
- Movant may contact Clerk's Office for submission deadline if counsel not able to agree upon submission deadline.

## **Letter Brief – Required Content**

- Confirmation of deadline of submission of letter brief.
- Dates of discovery cut-off and trial.
- Discussion of dispute.
- Whether other counsel opposes use of expedited procedure.

## **Letter Brief - Format**

- Five (5) pages in length or less, inclusive of all exhibits, unless otherwise ordered by the Court.
- Judge to determine whether conference is necessary.

