

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

STANDING ORDER REGARDING SUMMARY JUDGMENT MOTION PRACTICE

GUZMAN, D.J.

The Court has adopted the following motion practices governing summary judgment in all civil cases in this session unless, upon motion for good cause shown or *sua sponte*, the Court orders otherwise.

A. Compliance with Local Rules: Counsel shall review and adhere to all relevant Local Rules,¹ paying particular attention to the following:

1. **Obligation to Confer:** Counsel are reminded of their obligation to confer in good faith to resolve or narrow any issues prior to filing any motion, as set forth in L.R. 7.1(a)(2) and L.R. 37.1. Failure to do so may result in a denial of the motion.
2. **Page Limits:** Please review the following sections for page limits for each summary judgment filing.
3. **Form and Filing of Papers:** Counsel are reminded of the requirements set forth in L.R. 5.1, requiring, *inter alia*, double spacing, as well as L.R. 7.1, concerning general motion practice, and L.R. 56.1, governing motions for summary judgment.

B. Deadlines and Procedures for Summary Judgment Motions: The following deadlines and procedures shall apply to motions for summary judgment:

1. **Motion:** The moving party shall comply with the time frames designated in the applicable Federal Rules of Civil Procedure, relevant Local Rules, and any schedule set by this Court. In addition to its motion, the moving party shall file a memorandum not to exceed twenty (20) pages and a statement of material facts (see Section D, *infra*).
2. **Opposition:** An opposition to a motion for summary judgment is due within twenty-one (21) days of service of the motion. See L.R. 56.1. The opposing party shall file a memorandum in opposition not to exceed twenty (20) pages and a unified statement of material facts where the party responds to the moving party's statement of material facts (see Section D, *infra*).
3. **Reply:** The moving party may file a reply as of right within seven (7) days² of the filing of the opposition. A reply shall not exceed five (5) pages. A motion for leave is required to file a longer reply or to obtain a longer period to reply. A

¹ The Local Rules of the United States District Court for the District of Massachusetts are available on the Court's website at <https://www.mad.uscourts.gov/general/rules-home.htm>. Local Forms are available at <https://www.mad.uscourts.gov/resources/forms-local.htm?category=>.

² Please note, the seven (7) day limit is different than the fourteen (14) days stipulated in L.R. 56.1.

party replying may also file a separate response to any material facts asserted by the opposing party that have not yet been responded to.

4. **Sur-Reply**: A sur-reply is not permitted without leave of the Court.
5. **Cross-Motions for Summary Judgment**: Cross-motions for summary judgment are governed by the procedures set forth in Section C, *infra*.

C. **Cross-Motions**: If both sides are filing motions for summary judgment, they shall do so as set forth below.

1. Plaintiff shall file its motion, with a memorandum not to exceed twenty (20) pages and a statement of material facts (see Section D, *infra*), on or before the date set forth in the Scheduling Order governing the case.
2. Within thirty (30) days of Plaintiff's submission pursuant to Section (C)(1), Defendant shall file a single memorandum as both its memorandum in opposition to Plaintiff's motion and its memorandum in support of its cross-motion, not to exceed thirty (30) pages, as well as a statement of material facts where Defendant responds to the Plaintiff's statement of material facts and sets forth its own material facts (see Section D, *infra*).
3. Within twenty-one (21) days of Defendant's submission pursuant to Section (C)(2), Plaintiff shall file a single memorandum as both its reply in support of its motion and its opposition to Defendant's cross-motion, not to exceed twenty (20) pages; and Plaintiff shall file a final unified statement of material facts that includes the prior material facts and responses from Sections (C)(1) and (C)(2), as well as Plaintiff's responses to Defendant's material facts.
4. Within seven (7) days of Plaintiff's submission pursuant to Section (C)(3), Defendant may file a memorandum as its reply in support of its cross-motion, not to exceed five (5) pages.

D. **Statements of Material Fact**

1. The moving party shall state its material facts in a numbered list in a document filed concurrently with its motion and memorandum. The header of the document should read "[Moving Party's] Statement of Material Facts."
2. When filing its response to the moving party's statement of material facts, the opposing party shall create a section titled, "[Opposing Party's] Response to [Moving Party's] Statement of Material Facts" and list the moving party's facts in the same numerical order as presented in the moving papers and shall state its response immediately beneath each corresponding numbered fact.
3. The opposing party shall then, in the same document but under a section titled, "[Opposing Party's] Statement of Additional Material Facts," list any additional material facts in support of its opposition, beginning with the number following the last number appearing in the moving party's statement of material facts.
4. The same process shall apply for the moving party's reply.

Such formatting may look like the following:

[Moving Party’s] Statement of Material Facts

1. [Moving Party’s Fact and Citation to Record Evidence, *Verbatim*].

[Opposing Party’s] Response to [Moving Party’s] Statement of Material Facts

1. [Moving Party’s Fact and Citation to Record Evidence, *Verbatim*].

RESPONSE: [Not disputed/Disputed]. [If disputed, cite to record evidence showing the dispute].

....

39. [Moving Party’s Fact and Citation to Record Evidence, *Verbatim*].

RESPONSE: [Not disputed/Disputed]. [If disputed, cite to record evidence showing the dispute].

[Opposing Party’s] Statement of Additional Material Facts

40. [Fact in Support of Opposition]. [Citation to Record Evidence].

5. Local Rule 56.1 is “designed to function as a means of ‘focusing a district court’s attention on what is—and what is not—genuinely controverted.’ ” Cabán Hernández v. Philip Morris USA, Inc., 486 F.3d 1, 7 (1st Cir. 2007) (quoting Calvi v. Knox Cnty., 470 F.3d 422, 427 (1st Cir. 2006)). It provides that “[m]otions for summary judgment shall include a concise statement of the material facts of record as to which the moving party contends there is no genuine issue to be tried,” and that “[a] party opposing the motion shall include a concise statement of the material facts of record as to which it is contended that there exists a genuine issue to be tried.” L.R. 56.1. The Court puts all parties on notice that the factual allegations in a movant’s statement of facts “will be deemed . . . admitted by opposing parties unless controverted by the statement required to be served by opposing parties,” accompanied by citations to the record. Id.

E. Exhibits: Each party shall file its exhibits in chronological order with a descriptive table of contents. Exhibits shall be labeled by number, e.g., Exhibit 1, rather than by letter or any other reference. When filing its response, the opposing party shall file any additional exhibits beginning with the number following the last number appearing in the moving party’s exhibits. The same process shall apply to the moving party’s reply. Opposing parties shall cite to exhibits already filed, rather than filing duplicate copies. For example, the record before the Court should only contain one copy of any relevant contract, patent, ordinance, or insurance policy; parties referencing the document thereafter shall cite to its original location in the record and shall not submit additional identical copies with their subsequent filings.

F. Privacy Policy: The judiciary's privacy policy restricts the publication of certain personal data in documents filed with the Court, including using only the last four digits of social security and financial account numbers, using initials for the names of minor children, limiting dates of birth to the year, and limiting home addresses to city and state. See Fed. R. Civ. P. 5.2; L.R. 83.6.11. Such information, if shared during Court proceedings, becomes available to the public when the official transcript is filed. Parties should avoid introducing this information into the record where possible. The parties shall take this into account when filing documents and making statements in Court. If a restricted item is mentioned in Court, the parties may waive any right to have it stricken or redacted thereafter.

SO ORDERED.

/s/ Margaret R. Guzman
The Hon. Margaret R. Guzman
United States District Judge