Motion Practice (parts F - H)

F. SUMMARY JUDGMENT

No party may file more than one motion for summary judgment without obtaining leave of court.

Before filing a motion for summary judgment or responding to such motion, the parties are strongly urged to familiarize themselves with *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986), *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986), and *Matsushita Electric Industrial Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574 (1986). An excellent summary of these cases appears in *Street v. J.C. Bradford & Co.*, 886 F.2d 1472 (6th Cir. 1989). *See also* Schwarzer, *Summary Judgment under the Federal Rules: Defining Genuine Issues of Material Fact*, 99 F.R.D. 465 (1984).

A Rule 56 motion must begin with a "Statement of Material Facts." The Statement must consist of separately numbered paragraphs briefly describing the material facts underlying the motion, sufficient to support judgment. Proffered facts must be supported with citations to the pleadings, interrogatories, admissions, depositions, affidavits, or documentary exhibits. Citations should contain page and line references, as appropriate. The full text of any source cited should be filed with the Court in a Fact Appendix. The Fact Appendix shall contain an index, followed by the tabbed exhibits. Chambers' copies of Fact Appendices of more than 20 pages must be separately bound and include a cover sheet identifying the motion to which they are appended. All pages from the same deposition or document should be at the same tab. The Statement of Material Facts counts against the page limit for the brief. No separate narrative facts section shall be permitted.

The response to a Rule 56 motion must begin with a "Counterstatement of Material Facts" stating which facts are admitted and which are contested. The paragraph numbering must correspond to moving party's Statement of Material Facts. If any of the moving party's proffered facts are contested, the non-moving party must explain the basis for the factual disagreement, referencing and citing record evidence. Any proffered fact in the movant's Statement of Material Facts that is not specifically contested will, for the purpose of the motion, be deemed admitted. In similar form, the counterstatement may also include additional facts, disputed or undisputed, that require a denial of the motion.

It is not the Court's function to "figure out" or to search the record to determine what evidence the parties rely upon in support of claims or defenses. It is incumbent upon the parties to make substantive arguments, with specific references to the record in support of each claim or defense asserted.

Counsel are discouraged from employing elaborate boilerplate recitations of the summary judgment standard or lengthy string citations in support of well-established legal principles. Instead, counsel should focus their analysis on a few well-chosen cases, preferably recent and from controlling courts. Where unpublished opinions or opinions published only in a specialty reporter are cited, copies of these cases must be submitted with the briefs.

G. TEMPORARY RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS

If necessary, the Court will set a time schedule for motion and briefing requirements relating to requests for temporary restraining orders ("TRO") and preliminary injunctions which is shorter than prescribed by Local Rule 7.1. In addition to the requirements of Federal Rule of

Civil Procedure 65 and Local Rule 65.1, the Court requires that all temporary restraining orders, including those considered ex parte, require some notice to the opposing party and an opportunity for the Court to hear both sides, unless the moving party can demonstrate good cause for failing to give notice to the opposing party. Usually, the Court will schedule a conference before hearing any request for a TRO or preliminary injunction. Parties must notify the case manager by email upon filing a motion for an injunction so that appropriate scheduling issues can be discussed. The Court strongly encourages parties to confer ahead of any preliminary injunction hearing in an attempt to reach an agreement with respect to the injunction.

H. **PRIVACY**

Counsel should be vigilant regarding the use of private information in any filings and should redact such information when required. For further information, counsel should refer to the appropriate Federal Rules regarding privacy protection.