

**56.1 Summary Judgment Procedure.** Unless this rule states otherwise, the procedures of Nebraska Civil Rule 7.0.1 apply to summary judgment motions. Generally, the court does not hear oral argument on summary judgment motions.

**(a) Moving Party.**

- (1) Statement of Material Facts.** The moving party must include in the brief in support of the summary judgment motion a separate statement of material facts about which the moving party contends there is no genuine issue to be tried and that entitles the moving party to judgment as a matter of law. Failure to submit a statement of facts may be grounds to deny the motion.
- (2) Form; Citation to Record.** The statement of facts should consist of short numbered paragraphs, each containing pinpoint references to affidavits, pleadings, discovery responses, deposition testimony (by page and line), or other materials that support the material facts stated in the paragraph. A fact is "material" if pertinent to the outcome of the issues identified in the summary judgment motion. The statement of facts must describe the parties and recite all facts supporting the court's venue and jurisdiction. The statement must not contain legal conclusions. Failure to provide citations to the exact locations in the record supporting the factual allegations may be grounds to deny the motion.

**(b) Opposing Party.**

- (1) Response to Movant's Statement.** The party opposing a summary judgment motion should include in its brief a concise response to the moving party's statement of material facts. The response should address each numbered paragraph in the movant's statement and, in the case of any disagreement, contain pinpoint references to affidavits, pleadings, discovery responses, deposition testimony (by page and line), or other materials upon which the opposing party relies. Properly referenced material facts in the movant's statement are considered admitted unless controverted in the opposing party's response.
- (2) Response Time.** An opposing brief may be filed within 21 days after service of the motion and supporting brief. Failure to file an opposing brief *alone* is not considered confession of a motion; however, nothing in this rule excuses a party opposing a summary judgment motion from meeting the party's burden under Federal Rule of Civil

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