

<b>DISTRICT COURT, EL PASO COUNTY, COLORADO</b> Court Address: 270 South Tejon Street Colorado Springs, CO 80903	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> Case Number:  Division: 15 Ctrm: S403
<b>Plaintiffs:</b>  v.  <b>Defendants:</b>	
<b>ORDER REGARDING PROCEDURE FOR FILING A MOTION FOR SUMMARY JUDGMENT</b>	

This Order shall govern the procedure for the filing of all Motions for Summary Judgment.

#### MOTIONS FOR SUMMARY JUDGMENT

Parties are prohibited from filing a Motion and a separate Brief. All argument and citation of authority shall be combined into the Motion. Motions and response briefs shall not exceed 20 pages, double spaced. Reply briefs shall not exceed 15 pages, double spaced. These page limitations shall include the motion for summary judgment, caption/cover page, statement of facts, procedural history, argument, closing, signature block, and all other matters, except the certificate of service. If a party elects to file more than one rule 56 motion, then the motions and response briefs shall not exceed 25 pages total for all such motions (not each such motion) filed by that party. The body of the text shall be no smaller than 12-point type. Footnotes are not permitted.

Because of the voluminous factual materials which are frequently submitted with a motion for summary judgment, all Rule 56 motions must comply with the following requirements:

1. In a section of the brief styled "Statement of Undisputed Material Facts," the movant shall set forth in simple, declarative sentences, **separately numbered and paragraphed**, each material fact which the movement believes is not in dispute and which supports movant's claim that movant is entitled to judgment as a matter of law.
2. each separately numbered and paragraphed fact **must** be accompanied by a specific reference to material in the record which establishes that fact. General references to pleadings, depositions, or documents are insufficient if the document is over one page in length. A "specific reference" means:

- in the case of materials filed with the court, the title of the document, the date on which it was filed or served, and a specific paragraph or page and line numbers; or, if the document is attached to the motion, the paragraph or page and line number;
- in the case of interrogatories or requests for admission (the pertinent parts of which must be filed with the motion), the number of the interrogatory or request;
- in the case of depositions or other documents bearing line numbers, the specific page and line(s) establishing the fact;
- in the case of affidavits submitted in support of the motion, the specific paragraph number establishing the fact;
- in the case of other materials not numbered by paragraph, line or page, a reference which will enable the court to ascertain the fact without reviewing the entire document; the effort at specificity may be made by highlighting, manual underscoring, or pagination supplemented by the movant.

3. Only if the nature of the material fact does not permit a specific reference (e.g., “the contract contains no provision for termination.”), is a general reference sufficient.

4. Any party opposing the motion for summary judgment shall, in a section styled “Response to Statement of Undisputed Material Facts,” admit or deny the asserted material facts set forth by movant. The admission or denial shall be made in separate paragraphs numbered to correspond to movements paragraph numbering. Any denial shall be accompanied by a **brief factual explanation** of the reason(s) for the denial and a **specific reference** to material in the record supporting the denial.

5. If the party opposing the motion believes that there exist additional **disputed** questions of fact which it has not adequately addressed in the submission it has made pursuant to subparagraph 4 above (for example, disputed facts concerning an affirmative defense), the party shall, in a separate section of the party’s brief styled “Statement of Additional Disputed Facts,” set forth in simple, declarative sentences, **separately numbered and paragraphed**, each additional, material disputed fact which undercuts movant’s claim that it is entitled to judgment as a matter of law. Each separately numbered and paragraphed fact shall be accompanied by a **specific reference** to material in the record which establishes the fact or least demonstrates that it is disputed.

6. any reply brief must comply with the following requirements:

- in a separate section styled “Reply Concerning Undisputed Facts,” include any factual reply which movant cares to make regarding the facts asserted in its motion to be undisputed, supported by **specific references** to material in

the record. The reply will be made in separate paragraphs numbered according to the motion and the opposing party's response.

- In a separate section styled "Response Concerning Disputed Facts" (with respect to each fact which the opposing party, pursuant to subparagraph 5 above, claims to be in dispute), either admit that the fact is disputed or supply a **brief factual explanation** for its position that the fact is undisputed, accompanied by a **specific reference** to material in the record which establishes that the fact is undisputed. This will be done in paragraphs numbered to correspond with the opposing party's paragraph numbering.

7. The sole purpose of these procedures is to establish facts and determine which of them are in dispute. Legal argument is not permitted here and should be reserved for separate portions of the briefs. If, for example, a party believes that an established fact is immaterial that belief should be expressed in the part of the brief devoted to legal argument, and the fact should be admitted. If, on the other hand, a party believes that the reference to material in the record does not support the claimed fact, that fact may be denied, and **factual argument** may appropriately be made pursuant to these procedures.

8. Failure to follow these procedures will result in an order striking or denying the motion or brief, and it will have to be resubmitted. Repeated failure to follow them may result in an order granting other proper relief.

#### EXHIBITS TO MOTION OR BRIEFS

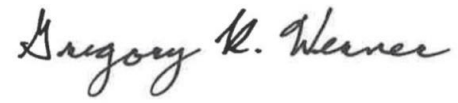
Voluminous exhibits are discouraged. Parties shall limit exhibits to essential portions of documents. Unless otherwise ordered by the court:

9. Copies of documents attached as exhibits to an opening brief shall not be attached as exhibits to a response brief. A responding party shall refer to the exhibits attached to the opening brief. If it is necessary for responding party to rely on additional exhibits, the additional exhibits shall be attached to the response brief.

10. Copies of documents attached as exhibits to the opening brief or response brief shall not be attached as exhibits to a reply brief. If it is necessary for the moving party to rely on additional exhibits, the additional exhibits shall be attached to the reply

brief and consecutively numbered or lettered from the last exhibit attached to the opening brief.

Done this 21<sup>st</sup> day of January, 2022.

A handwritten signature in cursive script that reads "Gregory R. Werner".

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Gregory R. Werner  
District Court Judge