



## Judge P. Casey Pitts · Standing Order on Summary Judgment

Courtroom 8, 4th Floor, Robert F. Peckham Courthouse  
280 South First Street, San José, CA 95113

**Nicole Coleman (she/her), Courtroom Deputy (CRD)**

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Unless otherwise indicated by the Court, this Standing Order applies to all summary judgment motions and responses. This order supplements the Federal Rules, the Civil Local Rules, and the Standing Order for Civil Cases before Judge Pitts.

### MOTIONS & BRIEFING

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- **One Motion.** Each party is limited to one summary judgment motion unless granted leave to file an additional motion. The Court generally grants leave such only as to discrete issues whose early resolution could significantly advance the litigation.
- **Cross-Motions.** The parties must meet and confer to determine if they will file cross-motions for summary judgment. If so, only four briefs will be allowed:
  - plaintiff(s) opening brief of up to 25 pages;
  - defense opening/opposition brief of up to 25 pages;
  - plaintiff opposition/reply brief of up to 20 pages; and
  - defense reply brief of up to 15 pages.

The parties may stipulate to reverse this order and have defense go first.

- **Page Limits.** Judge Pitts's Standing Order for Civil Cases identifies how parties may request page limit extension.
- **Evidentiary Objections.** Objections to evidence must be contained within the objecting party's brief. Judge Pitts does not consider objections filed as a separate pleading.

### SCHEDULE

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- **Hearing.** Judge Pitts' Civil Law & Motion Calendar is held on Thursdays beginning at 10:00AM. Confirm Judge Pitts's availability before noticing any motion by referencing unavailable dates at [cand.uscourts.gov/pcp](http://cand.uscourts.gov/pcp).
- **Briefing.** Stipulate in advance to a schedule that allows at least 21 days between the final filing and the hearing.

### SEPARATE STATEMENTS OF DISPUTED FACTS

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- **Moving Statement.** A party moving for summary judgment, partial summary judgment, or summary adjudication must include a separate statement identifying each claim or defense as to which the moving party contends there is no genuine issue to be tried.

- **Filing.** Upon filing any motion for summary judgment, the moving party shall provide a Separate Statement of Undisputed Facts to all other parties in a word-processing format. The statement should not be filed on the docket at that time.
- **Contents.** For each claim, defense, or part thereof, the moving party must (a) identify the relevant elements or issues, (b) list the asserted material facts establishing those elements or issues, and (c) cite to record evidence demonstrating that the asserted material facts are undisputed. The initial statement shall be no more than 15 pages and must be organized as identified in Attachment A.
- **Response.** Using the moving party's initial statement, the party opposing the motion must respond by (a) indicating whether each of the facts listed in the moving separate statement is disputed or undisputed; and (b) identifying any additional material facts the party contends will establish a genuine issue to be tried. If the opposing party contends that a fact is in dispute, the opposing party must cite to evidence in the record establishing the dispute. The response should add no more than five (5) pages to the statement and must be organized as identified in Attachment A.
- **Reply Statement.** The moving party may reply to the response by responding to the responsive statement in the same manner described above. The reply **shall not** introduce any new asserted material facts, and shall add no more than three (3) pages to the statement. The final statement incorporating both the response and reply must be filed on the docket with the moving party's reply brief.
- **Citations to Record.** All citations in the final Statement must reference the docket and include the correct page number as shown in the blue ECF header at the top of the document. All citations should follow this format:
  - [Exhibit Name and pin cite], Dkt. No. [X], at [ECF page number].
  - For example, if the movant cites paragraph four on page two of the "Jones Declaration" submitted as the first exhibit to their motion at Dkt. No. 100, the citation should appear as follows: Jones Decl. ¶ 4, Dkt. No. 100-1, at 2.
- **Deemed Admitted.** Each numbered fact in the moving statement will be deemed to be admitted for the purposes of the motion only unless specifically controverted by the opposing party, so long as the moving party meets its burden under FRCP 56.
- **Argument.** The separate statement shall not include any supporting argument or be used to circumvent applicable page limits. Facts that are not cited in the summary judgment briefs will not be considered.
- **Attestation.** Each separate statement must be signed by counsel or unrepresented party who has reviewed the document and attests as follows: *I attest that the evidence cited herein fairly and accurately supports or disputes the facts as asserted.*

## Attachment A

### Template for Initial Statement

Claim or Defense	Moving Party's Undisputed Facts & Supporting Evidence	Opposing Party's Response & Supporting Evidence
<b>Claim 3: Breach of Contract</b>		
Issue 1. Plaintiff did not complete performance	Fact 1. Defendant issued an insurance policy to plaintiff.  Jones Decl. ¶¶4-5, Dkt. No. 100-1, at 4; Ex. A (policy), Dkt. No. 100-2.	[Left blank for opposing party's response]
	Fact 2. Plaintiff failed to pay premiums required by the policy.  Jones Decl. ¶ 6, Dkt. No. 100-1, at 4.	
Issue 2. Defendant did not breach	Fact 3. The policy expressly excludes coverage for loss resulting from theft.  Jones Decl. ¶¶ 9-10, Dkt. No. 100-1, at 5; Ex. A (policy), Dkt. No. 100-2.	
<b>Punitive Damages</b>		
Issue 1. Plaintiff cannot establish that Defendant acted with oppression, fraud, or malice	Fact 4. Defendant timely investigated Plaintiff's insurance claim.  Jones Decl. ¶¶ 18-20, Dkt. No. 100-1, at 8.	

Template for Response

Claim or Defense	Moving Party's Undisputed Facts & Supporting Evidence	Opposing Party's Response & Supporting Evidence
<b>Claim 3: Breach of Contract</b>		
Issue 1. Plaintiff did not complete performance	Fact 1. Defendant issued an insurance policy to plaintiff.  Jones Decl. ¶¶4-5, Dkt. No. 100-1, at 4; Ex. A (policy), Dkt. No. 100-2.	Undisputed.
	Fact 2. Plaintiff failed to pay premiums required by the policy.  Jones Decl. ¶ 6, Dkt. No. 100-1, at 4.	Disputed. Plaintiff timely paid the premiums required by the policy.  Smith Dep. 22:4-23:19, Dkt. No. 104-2, at 2.
	<b>Opposing Party's Additional Material Facts on this Issue</b>	
	Additional Fact 1. Defendant has failed to record Plaintiff's timely premium payments on two prior occasions.  Smith Dep. 72:8-14, Dkt. No. 104-2, at 9.	[Left blank for moving party's reply]
Issue 2. Defendant did not breach	Fact 3. The policy expressly excludes coverage for loss resulting from theft.  Jones Decl. ¶¶ 9-10, Dkt. No. 100-1, at 5; Ex. A (policy), Dkt. No. 100-2.	Disputed. The policy does not exclude coverage for loss resulting from theft.  Jones Decl. Ex. A (policy), Dkt. No. 100-2.
<b>Punitive Damages</b>		
Issue 1. Plaintiff cannot establish that Defendant acted with oppression, fraud, or malice	Fact 4. Defendant timely investigated Plaintiff's insurance claim.  Jones Decl. ¶¶ 18-20, Dkt. No. 100-1, at 8.	Disputed. Defendant waited more than 4 months before investigating Plaintiff's claim.  Smith Dep. 79:15-80:4, Dkt. No. 104-2, at 10.