

Summary of the Amendments to the Local Rules of Civil and Criminal Procedure and the Local Patent Rules of the Western District of New York to be effective January 1, 2024

1. Amendment to Loc. R. Civ. P. 56(a)(1)–(2).

The amendment to subsections (a)(1) and (2), bolding the words “**short**” and “**concise**” and “**material facts**” and the changes to the sentence beginning “Failure to submit” in subsections (a)(1) and (2) are meant to emphasize the requirements of the Rule.

In addition, language was added to subsection (a)(1) to clarify that in cases involving administrative records, the parties’ statement of facts should cite to the administrative record rather than declarations, transcripts, or other evidence.

Finally, the amendment adds language in subsection (a)(2) indicating that the party opposing a motion for summary judgment also has the obligation, when responding to the statement of facts, to cite to admissible evidence or evidence that can be presented in admissible form at trial. The language added to this subsection mimics that included in Loc. R. Civ. P. 56(a)(1).

Redline version:

RULE 56

MOTIONS FOR SUMMARY JUDGMENT

(a) Statements of Facts on Motion for Summary Judgment.

- (1) **Movant’s Statement.** Upon any motion for summary judgment pursuant to Fed. R. Civ. P. 56, there shall be annexed to the notice of motion a separate, **short**, and **concise** statement, in numbered paragraphs, of the **material facts** as to which the moving party contends there is no genuine issue to be tried. Each such statement must be followed by citation to admissible evidence or to evidence that can be presented in admissible form at trial as required by Fed. R. Civ. P. 56(c)(1)(A). Citations shall identify with specificity the relevant page and paragraph or line number of the evidence cited. Failure to submit

~~such~~ a statement in compliance with this Rule may constitute grounds for denial of the motion. This paragraph shall not apply to cases in which judicial review is based solely on the administrative record. In such cases, motions for summary judgment and oppositions thereto shall include a statement of facts with references to the administrative record.

- (2) **Opposing Statement.** The papers opposing a motion for summary judgment shall include a response to each numbered paragraph in the moving party's statement, in correspondingly numbered paragraphs and, if necessary, additional paragraphs containing a **short** and **concise** statement of additional **material facts** as to which it is contended there exists a genuine issue to be tried. Each such statement must be followed by citation to admissible evidence or to evidence that can be presented in admissible form at trial as required by Federal Rule of Civil Procedure 56(c)(1)(A). Citations shall identify with specificity the relevant page and paragraph or line number of the evidence cited. Each numbered paragraph in the moving party's statement of material facts may be deemed admitted for purposes of the motion unless it is specifically controverted by a correspondingly numbered paragraph in the opposing statement.

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Final version:

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MOTIONS FOR SUMMARY JUDGMENT

(a) Statements of Facts on Motion for Summary Judgment.

- (1) **Movant's Statement.** Upon any motion for summary judgment pursuant to Fed. R. Civ. P. 56, there shall be annexed to the notice of motion a separate, **short**, and **concise** statement, in numbered paragraphs, of the **material facts** as to which the moving party contends there is no genuine issue to be tried. Each such statement must be followed by citation to admissible evidence or to evidence that can be presented in admissible form at trial as required by Fed. R. Civ. P. 56(c)(1)(A). Citations shall identify with specificity the relevant page and paragraph or line number of the evidence cited. Failure to submit a statement in compliance with this Rule may constitute grounds for denial of the motion. This paragraph shall not apply to cases in which

judicial review is based solely on the administrative record. In such cases, motions for summary judgment and oppositions thereto shall include a statement of facts with references to the administrative record.

- (2) **Opposing Statement.** The papers opposing a motion for summary judgment shall include a response to each numbered paragraph in the moving party’s statement, in correspondingly numbered paragraphs and, if necessary, additional paragraphs containing a **short** and **concise** statement of additional **material facts** as to which it is contended there exists a genuine issue to be tried. Each such statement must be followed by citation to admissible evidence or to evidence that can be presented in admissible form at trial as required by Federal Rule of Civil Procedure 56(c)(1)(A). Citations shall identify with specificity the relevant page and paragraph or line number of the evidence cited. Each numbered paragraph in the moving party’s statement of material facts may be deemed admitted for purposes of the motion unless it is specifically controverted by a correspondingly numbered paragraph in the opposing statement.

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2. Amendment to the citation to the “Fed. R. Cr. P.” in Local Rule of Criminal Procedure 1(a) to comply with the Bluebook.

In 2022, the District Judges for the W.D.N.Y. voted to change the citation to the Local Rules of Criminal Procedure in Rule 1(a) from “L.R.Crim.P.” to “Loc. R. Crim. P.” The Judges also voted to adopt an amendment to Local Rule of Criminal Procedure 1(a) regarding the citation to the Federal Rules of Civil and Criminal Procedure to comply with the Bluebook citation, changing it from “Fed.R.Cr.P.” to “Fed. R. Cr. P.”

When reviewing the final version of the Local Rules of Criminal Procedure this year, Local Rules Committee noticed that the Local Rules shortens “criminal” to “Crim.” when referencing the Local Rules, but to “Cr.” when referencing the Federal Rules.

The Judges amended Local Rule of Criminal Procedure 1(a) to indicate that the citation to the Federal Rules of Criminal Procedure be “Fed. R. Crim. P.” so that the citations to the Federal and Local Rules of Criminal Procedure are consistent.

Redline Version:

RULE 1

APPLICABILITY

- (a) **Scope.** These rules are the Local Rules of Criminal Procedure for the United States District Court for the Western District of New York. They supplement the Federal Rules of Criminal Procedure (“Fed. R. Crim. P.”) and are numbered to conform therewith. The Local Rules of Criminal Procedure shall be cited as “Loc. R. Crim. P.”

Final Version:

RULE 1

APPLICABILITY

- (a) **Scope.** These rules are the Local Rules of Criminal Procedure for the United States District Court for the Western District of New York. They supplement the Federal Rules of Criminal Procedure (“Fed. R. Crim. P.”) and are numbered to conform therewith. The Local Rules of Criminal Procedure shall be cited as “Loc. R. Crim. P.”

3. Amendment to Rule 1.4 of the Local Patent Rules referring to the citation to those Rules.

Currently Rule 1.4 provides as follows:

1.4 Citation

These rules shall be cited as “L. Pat. R. _____.”

In 2022, the Judges voted to amend the citations to both the Local and Criminal Rules of Civil Procedure to read “Loc. R. Civ. P.” and “Loc. R. Crim. P.” To be

consistent, the Judges adopted an amendment so that Rule 1.4 of the Local Patent Rules reads “Loc. Pat. R. _____.”

Redline Version:

RULE 1

INTRODUCTION

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1.4 Citation

These rules shall be cited as “**Loc.** Pat. R. __.”

Final Version:

RULE 1

INTRODUCTION

...

1.4 Citation

These rules shall be cited as “Loc. Pat. R. __.”