

A moving party is required by Local Rule 401.2 to serve copies of his respective papers upon the opposing party. If allegations of facts are relied upon in support of a motion, Local Rule 401.3 mandates that the relevant documents must be filed with the court within ten (10) days after the motion is filed. Local Rule 401.4 directs a party filing a motion for summary judgment to file an accompanying short and concise statement of material facts. Local Rule 401.4, ¶2 directs a party opposing a summary judgment motion to file a separate concise statement of material facts responding to the movant's statement.

Local Rule 401.5 requires that any party who files a motion shall be required to file a brief in support of that motion within ten (10) days of the filing of the motion. In the event such a moving party does not file a brief in support of his motion within the ten (10) day time frame, Local Rule 401.5 provides that such a party shall be deemed to have withdrawn the motion. In the event the moving party does file a timely brief in support of his motion, Local Rule 401.6 provides that the party against whom the motion and brief thereon is filed must file a brief in opposition to the moving party's motion, together with any opposing affidavits, deposition transcripts, or other documents, within fifteen (15) days of the filing of the brief thereon. If he does not file his brief and other documentation within the same time frame, Local Rule 401.6 provides that he shall be deemed not to

oppose the moving party's motion and the motion may therefore be granted. Local Rule of Court 401.7 allows the moving party to file a reply brief to the responding party's opposing brief within ten (10) days of the filing of the opposing brief. However, a reply brief is not mandatory and the failure to file one will not result in detrimental action. Local Rule 401.8 explains what the "Content of Briefs" should be.

If no discovery has been initiated in a prisoner case, the parties shall be directed to file all appropriate motions within sixty (60) days after the closing of the pleadings as defined in Fed. R. Civ. P. 7(a). If discovery has been initiated by either party prior to that date, the time for filing said motions shall be postponed until 30 days after discovery is closed in conformity with Local Rule 406.

Federal Rule of Civil Procedure 56(e) provides that a party who files a motion for summary judgment may file affidavits or other documentation in support of such a motion. Federal Rule of Civil Procedure 56(e) also provides that a party may not rely on the allegations set forth in his pleadings, such as a complaint, in the face of affidavits or other documentation filed pursuant to Rule 56 which contradict and undermine the facts set forth in such pleadings. Rather, Rule 56 provides that the party opposing a motion for summary judgment should, in the face of affidavits or other supporting documentation contradicting or undermining his

claim, file his own affidavits or other substantiating documentation so as to demonstrate that a genuine issue for trial exists and that summary judgment should not be granted. Pursuant to Local Rules 401.6 and 401.8 such contravening affidavits or documentation must be filed within fifteen (15) days of the brief, affidavits and other documentation filed by the moving party in support of his motion for summary judgment. If such contravening affidavits or supporting documentation are not filed within this time frame, the motion for summary judgment shall be considered solely upon the affidavits or other supporting documentation filed by the party who filed the motion for summary judgment, and in light of the absence of contravening affidavits or other supporting documentation summary judgment may be granted.

A pro se plaintiff has the affirmative obligation to keep the court informed of his address. Should such address change in the course of this litigation, the plaintiff shall immediately inform the court of such change, in writing. If the court is unable to communicate with the plaintiff because the plaintiff has failed to notify the court of his address, the plaintiff will be deemed to have abandoned the lawsuit.

Attached to this order are copies of Local Rules 401.1 through 401.8, Local Rule 406, and a copy of the relevant parts of the Federal Rule of Civil Procedure 56.

Accordingly, IT IS HEREBY ORDERED THAT:

All parties follow the requirements of these rules or suffer the consequences of their failure to do such, including possible dismissal of their action. Unless otherwise ordered by the court, there will be no hearing.



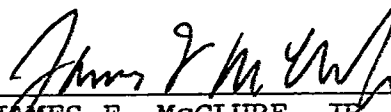
SYLVIA H. RAMBO, Chief Judge
Middle District of Pennsylvania



WILLIAM W. CALDWELL
United States District Judge



EDWIN M. KOSIK
United States District Judge



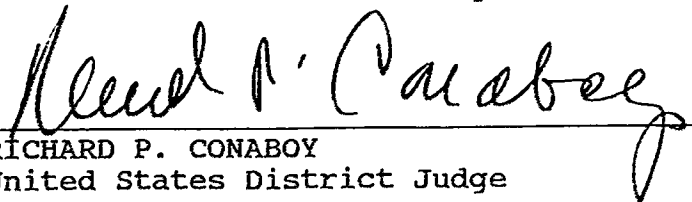
JAMES F. McCLURE, JR.
United States District Judge



WILLIAM J. NEALON
United States District Judge



MUIR
United States District Judge



RICHARD P. CONABOY
United States District Judge

Dated: August 31, 1993

RULE 401 Motions Prior to Trial and Objections to Interrogatories and Requests for Admissions.

401.1 Motions To Be Written. All motions, objections to interrogatories or objections to requests for admissions filed prior to trial must be written, and shall contain a certification by counsel for the movant that he has sought concurrence in the motion from each party, and that it has been either given or denied. A certificate of nonconcurrence does not eliminate the need for counsel to comply with Rule 402.6 relating to conferences between counsel in all discovery motions directed toward a resolution of the motion. Every motion shall be accompanied by a form of order which, if approved by the court, would grant the relief sought in the motion.

401.2 Service by Movant and Respondent. The movant and respondent shall serve copies of their respective papers upon the opposing party at the time such papers are filed with the clerk.

401.3 Documents Substantiating Motion. When allegations of fact are relied upon in support of a motion, all pertinent affidavits, transcripts of depositions, and other documents must accompany the motion whenever practicable. In any event, such supporting documents must be filed within ten (10) days after the motion has been filed, unless otherwise ordered by the court.

401.4 Motions for Summary Judgment. Upon any motion for summary judgment pursuant to Fed.R.Civ.P.56, there shall be annexed to the motion a separate, short and concise statement of the material facts, in numbered paragraphs, as to which the moving party contends there is no genuine issue to be tried.

The papers opposing a motion for summary judgment shall include a separate, short and concise statement of the material facts, responding to the numbered paragraphs set forth in the statement required in the foregoing paragraph, as to which it is contended that there exists a genuine issue to be tried.

All material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by the statement required to be served by the opposing party.

401.5 Submission of Briefs Supporting Motions. Within ten (10) days after the filing of any motion filed prior to trial, the party filing the same shall file three (3) copies of a brief with the clerk and shall serve copies thereof on all parties. If the motion seeks a protective order, a supporting brief shall be filed with the motion. Unless otherwise ordered by the court, if supporting legal briefs are not filed within the time provided in this rule such motion shall be deemed to be withdrawn.

401.6 Submission of Briefs or Memoranda Opposing Motions. Any party opposing any motion shall file three (3) copies of a responsive brief, together with any opposing affidavits, deposition transcripts or other documents, within fifteen (15) days after service of the movant's brief. Any respondent who fails to comply with this rule shall be deemed not to oppose such motion.

401.7 Reply Briefs or Memoranda. Three (3) copies of a brief in reply to matters argued in respondent's brief may be filed by the moving party within ten (10) days after service of the respondent's brief. No further briefs may be filed without leave of court.

401.8 Content of Briefs. Briefs shall contain complete citations of all authorities relied upon, including whenever practicable, citations both to official and unofficial reports. A copy of any unpublished opinion which is cited must accompany the brief as an attachment. The brief of the moving party shall contain a procedural history of the case, a statement of facts, a statement of questions involved, and argument. The brief of the opposing party may contain a counterstatement of the facts and of the questions involved and a counterhistory of the case. If counterstatements of facts or questions involved are not filed, the statements of the moving party will be deemed adopted. The brief of each party, if more than fifteen (15) pages in length, shall contain a table of contents with page references, and table of citations of the cases, statutes and other authorities referred to therein, with references to the pages at which they are cited.

LOCAL RULE OF COURT 406

Closing of Discovery Proceedings. Except upon motion and for cause shown, each party to a civil action shall complete his discovery proceedings within six (6) months of the date of the last pleading filed by such party. In the absence of such motion, the court will conclude that all discovery has been completed and the parties are ready for trial. A trial or pre-trial conference shall not be continued on the motion of any party who has not complied with the provisions of this rule. The word "pleading" shall have the same meaning in this rule as in Fed.R.Civ.P. 7(a).

FEDERAL RULE OF CIVIL PROCEDURE 56(e)

Form of Affidavits; Further Testimony; Defense Required. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.