

NOTICE TO PRO SE LITIGANT REGARDING RULE 56 MOTIONS FOR SUMMARY JUDGMENT

This Notice contains important information. Please read the entire notice carefully.

Why am I receiving this Notice? Because you represent yourself in this matter, you are what is known as a pro se litigant. You are receiving this notice because all pro se litigants are entitled to certain notice when a motion for summary judgment is filed against them. This Notice advises you that a party in your lawsuit has filed a motion for summary judgment against you under Rule 56 of the Federal Rules of Civil Procedure (“Rule 56”). This Notice further advises you of the consequences for failing to follow the rules that govern motions for summary judgment.

What is summary judgment? Rule 56 provides that summary judgment must be granted by the court if there is no genuine dispute as to any material fact and the party asking for summary judgment is entitled to judgment as a matter of law. Summary judgment may be granted as to all or a portion of the case. If summary judgment is granted, all or a portion of the case ends without a trial.

Do I have to respond to this motion? Yes. You must respond to the motion for summary judgment. You cannot oppose summary judgment by relying on allegations or documents previously filed in this case.

What happens if I do not respond to this motion? If you do not respond to this motion, summary judgment may be granted to the party or parties that asked for summary judgment against you and all or a portion of the case could end or be dismissed without a trial.

What rules do I have to follow? You must follow the Federal Rules of Civil Procedure and the Local Rules of Civil Procedure. Both sets of rules are available on the court’s website: www.nywd.uscourts.gov.

What do I have to submit in response to the motion? The rules require that you submit a response to the Statement of Material Facts, an appendix, and a memorandum of law.

Response to Statement of Material Facts: You must respond to each numbered paragraph in the moving party’s Statement of Material Facts, in correspondingly numbered paragraphs. If you fail to respond to the facts in any numbered paragraph, those facts may be deemed admitted by you and undisputed for purposes of resolving the motion and summary judgment could be entered against you. See Rule 56(e). Your Response to the Statement of Material Facts must comply with Rule 56(c) and Local Rule 56.

Appendix: If you dispute any of the facts set forth in the Statement of Material Facts, you must submit an appendix containing all cited evidence, as required in Local Rule 56(a)(3).

Memorandum of Law: You must submit a separate answering memorandum of law. See Local Rule 7(a)(2)(A). If you fail to file an answering memorandum of law, the motion for summary judgment could be granted against you and all or a portion of the case could end without a trial.

Can I ask for more information to respond to the motion? Yes. You have the right to ask for discovery if you believe that you are unable to present facts essential to justify your opposition to the motion. To request discovery, you must submit an affidavit or declaration demonstrating, for specified reasons, that you are unable to adequately respond to the motion and that you need additional time to obtain affidavits or declarations or to take discovery. See Rule 56(d).