

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

DWAYN RICH, and PAMELA RICH,)	
)	
Plaintiffs)	
)	
v.)	Civil No. 99-0007-B
)	
VALMET, INC.,)	
)	
Defendant)	

ORDER

Plaintiffs have filed a Motion to Dismiss or Strike Defendant’s Motion for Summary Judgment for Defendant’s failure to comply with the Court’s Local Rule 56(b), as amended on May 1, 1999. The rule provides that a motion for summary judgment “shall be supported by a separate, short, and concise statement of material facts, set forth in numbered paragraphs, as to which the moving party contends there is no genuine issue of material fact to be tried. Each fact asserted in the statement shall be supported by a record citation as required by subsection (e) of this rule.” D. Me. R. 56(b).

In this case, Defendant’s submission indicated that it included the separate statement of material facts required by the rule, but the statement was not included in the envelope served on opposing counsel. Plaintiff’s counsel represents that he checked with the Clerk’s office and learned the Court had also not received its copy.

Plaintiff's Motion relies heavily on the Court's oft-stated interest in efficient docket management as the basis for the request to strike the Motion for Summary Judgment and proceed to trial.¹

Defendant's objection to the Motion to Strike includes as an attachment the missing Statement of Material Facts. Defendant represents that it was provided to Plaintiff's counsel "late last week." The objection having been filed on Thursday, July 8, the Friday of the week prior would have been the very day Plaintiffs filed their Motion to Strike. It is apparent to the Court that Defendant's counsel was unaware that the Statement of Material Facts had been omitted, and that the document was indeed ready for transmission to opposing counsel immediately when counsel was first made aware by the Motion to Strike. The Court notes that Plaintiff's counsel could likely have received his copy much earlier by simply contacting Defendant's counsel about the omission, rather than the Court. In light of that fact, the Court is not sympathetic to Plaintiff's counsel's complaint that he was forced to search through all of Defendant's supporting evidentiary material in case there were material facts omitted from the summary of facts contained in Defendant's Memorandum of Law. The Court further notes that Plaintiffs, on July 12, filed a responsive Statement

¹ Plaintiffs request that the motion be stricken with prejudice, because the deadline for filing dispositive motions in this case has expired. Pltf. Memo. at 3 (noting that this Court has previously permitted prompt refiling under similar circumstances).

of Material Facts that also does not comply with local rule 56(c) despite having had Defendant's separate Statement in their possession for approximately ten days.

In short, this Court's interest in efficient management of its docket has not been served by either party in this case. The local rule regarding summary judgment submissions was recently amended in order to assist the Court in analyzing the evidentiary material submitted by both parties in connection with motions for summary judgment, but the Court has much experience analyzing factual statements presented in the form presently before the Court. Because the interests of justice are never served by resolving cases on the basis of technical error, nor is the Court's docket advanced by proceeding to trial on issues that could have been resolved on summary judgment, the Court will utilize that experience in this case.

The Motion to Strike Defendant's Motion for Summary Judgment is hereby DENIED. Defendant's Statement of Material Facts, filed in connection with its objection to the Motion to Strike, shall be separately docketed, and used for purposes of the Court's analysis of the pending Motion for Summary Judgment. In light of the fact that Plaintiffs apparently had a copy of the actual Statement of Material Facts well before filing their own Statement in response, the Court sees no need to permit additional filings relative to the Motion for Summary Judgment.

SO ORDERED.

Eugene W. Beaulieu
U.S. Magistrate Judge

Dated on August 9, 1999