UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

January 2, 2013

Notice of Extension of the Local Rule 56(h) Summary Judgment Pilot Project

The United States District Court for the District of Maine will extend the Local Rule 56(h) Summary Judgment Pilot Project through December 31, 2013.

This fall, the Committee, with assistance from the Clerk's Office, surveyed the bar to determine how the amended rule has affected the bar's summary judgment practice. The results of the survey were inconclusive. Therefore, the Court, on recommendation of the Local Rules Advisory Committee, has extended the pilot project through December 31, 2013 to gather more information and data about the impact of the amended rule.

Since the pilot project began in July 2011, the Court has conducted more than 60 Rule 56(h) conferences. The goals of the mandatory pre-filing conference are to reduce the number and breadth of summary judgment motions, reduce the number of motions for extension of page limits on memoranda, and minimize the number of unnecessarily long statements of material facts. At the time the rule was amended, the Court expected the pilot project regarding the rule to last for 18 months, following which the Court and the Local Rules Advisory Committee (Committee) would review the efficacy of the amended rule on summary judgment practice in the District of Maine.

Local Rule 56 was amended on July 1, 2011 to add new subsections (g) and (h), which read as follows:

- (g) Facts deemed admitted solely for purposes of summary judgment shall not be deemed admitted for purposes other than determining whether summary judgment is appropriate.

- (h) In all Standard Track cases, but not including those categories of cases specifically referenced in Rule 26(a)(1)(B), F.R.Civ.P., a party moving for summary judgment shall, in every case and no later than seven (7) days after the close of discovery, provide the Court and all other parties to the action with written notice of the intent to file and the need for a pre-filing conference with a judicial officer. At the pre-filing conference, the parties shall be prepared to discuss, and the judicial officer shall consider:

  i. The issues to be addressed by a motion for summary judgment;
  ii. The length of any statement of material facts filed pursuant to LR 56 (b) & (c);
  iii. The length of the memoranda filed pursuant to LR 7;and
  iv. The time within which the motion for summary judgment shall be filed.

  Following the pre-filing conference, the judicial officer will issue an order reciting the action taken at the conference.

In extending this pilot project, the Court emphasizes that the pre-filing conference is intended to provide an opportunity for counsel and the judicial officer to discuss openly the remaining issues in the case, and to tailor the ensuing summary judgment process, if any, to each case. Many pre-filing conferences have been very successful, resulting in either the avoidance of summary judgment practice or summary judgment motions on significantly fewer issues. The conference is not intended to be a settlement conference, nor should counsel expect that the judicial officer holding the conference will give an opinion as to the merits of any proposed motion, or grant or deny a party's right to file a motion for summary judgment.

During the pendency of the project, the Court and the Committee will continue to survey the bar to determine how the rule has impacted summary judgment practice. Counsel who participated in, or were scheduled for, a LR 56(h) conference will receive a survey request from the Clerk of Court. Your feedback will be invaluable to the Committee and the Court, and will assist the Committee in determining the efficacy of the amended rule and in making recommendations to the Court following conclusion of the pilot project in December 2013. Please be assured that your survey responses will be anonymous; neither the Court, the Clerk's Office, nor the Local Rules Advisory Committee, will be able to identify any respondent.

Questions and comments regarding the pilot project can be directed to:

Leonard W. Langer, Esq., Chair
District Court Local Rules Advisory Committee
Thompson & Bowie, LLP
3 Canal Plaza
P.O. Box 4630
Portland, ME 04112
(207) 774 – 5200
lwlanger@thompsonbowie.com