

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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In re: Local Civil Rule 56.2  
Notice to Pro Se Litigants  
Opposing Summary Judgment

ADMINISTRATIVE ORDER  
99-6

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WHEREAS the Committee on Civil Litigation of the Eastern District of New York recommended that a form of notice to a pro se litigant was required under the decision of the United States Court of Appeals for the Second Circuit in Vital v. Interfaith Medical Center, et al., No. 98-7730 (2<sup>nd</sup> Circuit, February 19, 1999), and

WHEREAS the Joint Local Rules Committee of the Southern and Eastern Districts of New York submitted a draft Local Civil Rule 56.2 to provide such notice, and

WHEREAS the Board of Judges of the Eastern District of New York at its regular monthly meeting held on September 21, 1999 approved and adopted the draft of the Joint Local Rules Committee, it is now hereby

ORDERED that Local Civil Rule 56.2, Notice to Pro Se Litigants Opposing Summary Judgment, is adopted as shown in the text attached, and it is further

ORDERED that Local Civil Rule 56.2 is effective immediately, in accord with 28 U.S.C. §2071, following public notice and an opportunity for comment, and shall remain in effect unless modified or abrogated by the judicial council of the Second Circuit.

SO ORDERED.

Dated: Brooklyn, New York  
September \_\_, 1999

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Charles P. Sifton, Chief Judge

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**Local Civil Rule 56.2 Notice to Pro Se Litigants Opposing Summary Judgment**

Any represented party moving for summary judgment against a party proceeding *pro se* shall serve and file as a separate document, together with the papers in support of the motion, a “Notice To Pro Se Litigant Opposing Motion For Summary Judgment” in the form indicated below. Where the pro se party is not the plaintiff, the movant shall amend the form notice as necessary to reflect that fact.

**Notice To Pro Se Litigant Opposing Motion For Summary Judgment**

The defendant in this case has moved for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. This means that the defendant has asked the court to decide this case without a trial, based on written materials, including affidavits, submitted in support of the motion. **THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION** by filing your own sworn affidavits or other papers as required by Rule 56(e). An affidavit is a sworn statement of fact based on personal knowledge that would be admissible in evidence at trial. The full text of Rule 56 is attached.

In short, Rule 56 provides that you may NOT oppose summary judgment simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising issues of fact for trial. Any witness statements, which may include your own statements, must be in the form of affidavits. You may submit affidavits that were prepared specifically in response to defendant’s motion for summary judgment.

Any issue of fact that you wish to raise in opposition to the motion for summary judgment must be supported by affidavits or by other documentary evidence contradicting the facts asserted by the defendant. If you do not respond to the motion for summary judgment on time with affidavits or documentary evidence contradicting the facts asserted by the defendant, the court may accept defendant’s factual assertions as true. Judgment may then be entered in defendant’s favor without a trial.

If you have any questions, you may direct them to the Pro Se Office.