

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
[] DIVISION

v.

Civil No.

NOTICE

You are hereby notified that we have filed a motion for summary judgment in your case.

Because you are not represented by counsel, you are hereby advised of your obligation to respond to the summary judgment motion, in accordance with *Kincaid v. Vail*, 969 F.2d 594, 599 (7th Cir. 1992); *Timms v. Frank*, 953 F.2d 281, 285-86 (7th Cir.), *cert. denied*, 112 S.Ct. 2307 (1992); and *Lewis v. Faulkner*, 689 F.2d 100 (7th Cir. 1982).

By the motion for summary judgment, we are asking to have this suit decided in our favor without a full scale trial, based on the evidence presented in the affidavits and documents attached to the motion. Any factual assertion in the affidavits will be accepted by the court as being true unless you submit your own affidavits or other documentary evidence contradicting the assertion. Your failure to respond in that way would be the equivalent of failing to present any evidence in your favor at a trial.

Rule 56 of the Federal Rules of Civil Procedure governs motions for summary judgment, and that rule must be complied with by you in submitting any further response to our motion. Rule 56 provides in part:

- (c) . . . The judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that

the moving party is entitled to a judgment as a matter of law
.....

- (e) 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 the adverse party=s pleading, but the adverse party=s 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 the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.

Fed. R. Civ. P. 56 (emphasis added).

Under Rule 56 of the Federal Rules of Civil Procedure, you have a right to respond to our motion and accompanying sworn material by filing your own affidavit or other sworn responses. Although the mere filing of affidavits or other responsive materials will not guarantee the denial of our motion, your response will enable the court to consider more meaningfully all relevant factors. If you do not respond to the motion with your own affidavits to dispute the facts established by us, a summary judgment may be entered against you if, on the basis of the facts established by us, we are entitled to judgment as a matter of law. Unless you respond to this motion with sworn statements which contradict important facts claimed by us in our sworn materials, the court will accept our uncontested facts as true. More importantly, you will lose this lawsuit, in whole or in part, if the court determines that, under those unchallenged facts, we are entitled to judgment under the law.

In the event you elect to respond to our motion, your response must include or be supported by sworn statements or other responsive materials. You cannot merely rely upon any conflict or inconsistency between the contents of the complaint and the affidavit(s) or other sworn materials filed in support of our motion. If you submit an affidavit or affidavits in support of your response, the facts in the affidavits must be personally known to the person making the affidavit and not be hearsay; the facts must be specific and not general. Merely denying the facts in the sworn material filed by us in support of our motion or giving opinions or beliefs is not enough.

If you oppose this motion for summary judgment, Northern District of Indiana Local Rule 56.1, states that you must file any response to the motion along with any supporting materials within thirty (30) days from the date the motion is served.