Chambers of
Timothy J. Savage
District Judge

United States District Court

Eastern District of Pennsylvania

9614 United States Courthouse
Independence Mall
Philadelphia Pennsylvania 19106
267-299-7480

January 12, 2009

08-CV-132

Peter G. McCabe
Secretary of the Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
Washington, D.C. 20544

Re: Proposed Rule 56

Dear Mr. McCabe.

Having used the same procedure that is proposed as a revision to Federal Rule of Civil Procedure 56(c) for several years, I support the proposed new rule. Using the procedure requiring the parties to specifically identify disputed and undisputed facts with citations to the record has been invaluable. It has been an efficient and fair method of considering summary judgment motions.
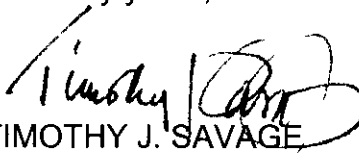
The procedure eliminates the wasteful and needless searching of the record with which the attorneys are familiar and the court is not. In some cases, the record is voluminous and disorganized. It can take days, not just hours, to navigate the record looking for disputed and undisputed facts. The procedure puts the burden where it belongs – on the lawyers, and not the court – to identify the facts at issue.

The procedure also saves time by having the party state which facts are not in dispute. The court can simply verify, without going through the entire record, if the facts are indeed uncontested by checking the parties' citations to the record.

Though I believe the procedure should be mandatory, I recognize that some lawyers and judges may not find it appropriate in every case. The proposed rule accommodates those who do not want it by allowing a judge not to follow the procedure in a particular case. Thus, the proposed rule does not infringe upon the independence of each judge.

For these reasons, I strongly support the proposed revisions to Rule 56. If you wish to discuss my comments in further detail, kindly feel free to contact me.

Sincerely yours,

TIMOTHY J. SAVAGE

TJS\rg
cc: The Honorable Michael M. Baylson