

Summary of Statement  
of Judge H. Russel Holland to  
Advisory Committee on Civil Rules

08-CV-149

February 2, 2009  
San Francisco, California

Although we are based in Anchorage, Alaska, where there is no local rule amplifying Civil Rule 56, both Chief Judge Sedwick and I have experience with an Arizona local rule that parallels the proposed Rule 56(c).

The proposed amendment to Rule 56(c) does not comport with the spirit of Rule 1 of the Federal Rules: the rules are intended "to secure the just, speedy, and inexpensive determination of every action and proceeding."

- The proposed amendment requires additional attorney time.
- The proposed amendment increases client expense.
- The proposed amendment will not facilitate the work of district courts.
- The proposed amendment will lead to unnecessary, subsidiary motion practice.
- Presently under Rule 56, counsel have an obligation to set forth in a memorandum of points and authorities the material facts that are, in counsel's view, undisputed. As a general proposition, counsel do this responsibly.
- The district judges of Alaska oppose what has come to be referred to as the "point-by-point" provision of the proposed rule. We urge the committee to delete the several subsections of proposed Rule 56(c) calling for a separate statement of facts, a response thereto, and a reply.

----- via facsimile -----