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To <Rules\_Comments@ao.uscourts.gov> **08-CV-182**  
cc  
bcc  
Subject: Opposition to Rule 56 Changes

I oppose the changes to Rule 56f for the reasons articulated by NELA attorneys who have previously outlined the problems with the proposed rule.

As one example of a small firm opposing summary judgment, I refer you to this case – Foster v Bowie County et al, 2:05-cv-00526-TJW, Eastern District of Texas, Marshall Division. This was a Section 1983 First Amendment retaliation case involving an almost 30-year employee with a stellar work record who blew the whistle on an employer decision to deep-six potential child abuse and allegations of child abuse and other issues concerning exploitation of children under the care of her employer

The brief/response and appendix to the msj response, not including the attached evidence, were about 87 pages long due to the nature of the msj grounds, including a no evidence challenge slipped into a footnote in the msj. As the non-movant on a dispositive motion, I felt the need to respond to any ground, even a no evidence ground slipped into a footnote or some not expressly stated, yet vaguely argued, ground for the motion. One of the grounds we had to address was whether the speech was a matter of public concern. The intro to the msj appendix also explains why point-counterpoint, as suggested in the new rule, would not work in that case.

I would attach the entire response, but I fear the size would not allow e-mail transmission. So, I provided the cite, and all is available on PACER. I believe about 15 depositions were taken in that case due to the inevitable msj.

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