



**FEDERAL BAR
ASSOCIATION**
WESTERN DISTRICT OF WASHINGTON

08-CV-189

Federal Bar Association of the
Western District of Washington
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January 29, 2009

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

Re: **Opposition to Proposed Amendment to FRCP 56(c)**

Dear Mr. McCabe:

I am President of the Federal Bar Association of the Western District of Washington and write to express our opposition to the adoption of the proposed amendments to Federal Rule of Civil Procedure 56(c).

We believe that the proposed amendments requiring separate filings setting out claimed undisputed facts will add burden and expense to the summary judgment process without resulting benefit. The requirement for filing pleadings and counter-pleadings listing undisputed facts will make summary judgment practice more complicated and expensive. It is inevitable that these required filings will generate disputes concerning the admissibility of evidence cited and other issues, likely generating more motion practice and further increasing the burden on the parties and the Court. We believe that imposing this additional burden will interfere with the efficient administration of cases by the District Court.

We understand that other Districts have implemented local rules requiring the separate filings required by the proposed amendments. The local rules in the Western District of Washington do not have such a requirement. The experience of attorneys practicing in the Western District is that summary judgment motions are typically resolved efficiently without separate fact statements. We believe that the proposed amendments will not improve summary judgment practice in this District and will instead make it more cumbersome and time-consuming.

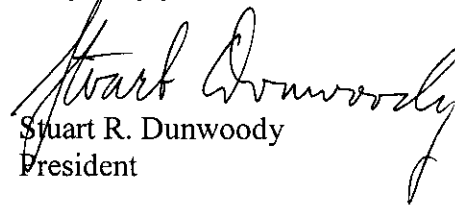
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All of the judges of the Western District oppose the proposed amendments to Rule 56(c). Their position was set forth in Chief Judge Lasnik's January 23, 2009 letter, signed by each judge in the Western District of Washington.

We have also solicited the views of the Ninth Circuit Representatives to the Western District of Washington. That group, which directly assists the District Courts on a variety of matters, also opposes the proposed amendments to Rule 56(c) for the reasons outlined in this letter.

The Federal Bar Association of the Western District of Washington supports that position and respectfully urges that the proposed amendments be rejected. If they are adopted, however, we ask that Rule 56(c) will be further revised to allow individual Districts to opt out of the new procedure by local rule.

Very truly yours,



Stuart R. Dunwoody
President

cc: The Honorable Robert S. Lasnik