

What is a Summary Judgment Motion?

Notice for Parties Who Do Not Have a Lawyer

A summary judgment motion was filed in your case. A summary judgment motion asks the court to decide this case without having a trial. Here are some important things to know.

What is summary judgment? Summary judgment is a way for one party to win their case without a trial. The party can ask for summary judgment for part of the case or for the whole case.

What happens if I ignore the motion? If you do not respond to the summary judgment motion, you can lose your case without the judge hearing from you. If you are the plaintiff or petitioner in the case, that means that your case can be dismissed. If you are the defendant, that means the plaintiff can get everything they asked for in the complaint.

How do I respond to a summary judgment motion? You can file a brief and tell the judge about the law and the facts that support your side of the case. A brief is not evidence, though, and the facts that you write about in your brief need to be supported by evidence. You can file sworn affidavits, declarations, and other paperwork to support your case. An affidavit or declaration is a sworn statement of fact that is based on personal knowledge and is admissible as evidence. You can get blank declaration forms at the Clerk's Office.

If you are a plaintiff, you cannot win a summary judgment motion just by saying what is in your complaint. Instead, you need to give evidence such as affidavits or declarations. You can write a declaration and so can other witnesses.

What rules do I need to know? The most important rules for summary judgment are Civil Rule 56 and Local Civil Rule 56. Those are attached to this notice. You also need to follow all the other rules that apply to courts, including Evidence Rules. You need to follow deadlines for filing your paperwork and give copies of your paperwork to the other party.

How do I file paperwork? The County Clerk's Office can help you with that. You can walk in to file documents during normal business hours, and can consult their web site for information at www.kitsap.gov/clerk

What happens at the summary judgment hearing? A summary judgment hearing is not a trial. The judge will not swear in witnesses or take evidence that day. The judge may let the parties or their attorneys speak and may ask questions. The entire hearing usually takes less than 30 minutes. The judge will read the paperwork in the file and will make a decision. The judge may make a decision that day or may make it later.

(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or cross claim, or to obtain a declaratory judgment may, after the expiration of the period within which the defendant is required to appear, or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in the party's favor upon all or any part thereof.

(b) For Defending Party. A party against whom a claim, counterclaim, or cross claim is asserted or a declaratory judgment is sought may move with or without supporting affidavits for a summary judgment in such party's favor as to all or any part thereof.

(c) Motion and Proceedings. The motion and any supporting affidavits, memoranda of law, or other documentation shall be filed and served not later than 28 calendar days before the hearing. The adverse party may file and serve opposing affidavits, memoranda of law or other documentation not later than 11 calendar days before the hearing. The moving party may file and serve any rebuttal documents not later than 5 calendar days prior to the hearing. If the date for filing either the response or rebuttal falls on a Saturday, Sunday, or legal holiday, then it shall be filed and served not later than the next day nearer the hearing which is neither a Saturday, Sunday, or legal holiday. Summary judgment motions shall be heard more than 14 calendar days before the date set for trial unless leave of court is granted to allow otherwise. Confirmation of the hearing may be required by local rules. The judgment sought 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. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

(d) Case Not Fully Adjudicated on Motion. If on motion under the rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action, the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

(e) Form of Affidavits; Further Testimony; Defense Required. 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

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Kitsap County Superior Court

09/01/24

upon the mere allegations or denials of a pleading, but a 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.

(f) **When Affidavits Are Unavailable.** Should it appear from the affidavits of a party opposing the motion that, for reasons stated, the party cannot present by affidavit facts essential to justify the party's opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(g) **Affidavits Made in Bad Faith.** Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable attorney fees, and any offending party or attorney may be adjudged guilty of contempt. (h) **Form of Order.** The order granting or denying the motion for summary judgment shall designate the documents and other evidence called to the attention of the trial court before the order on summary judgment was entered.

[Amended effective September 1, 1978; September 1, 1985; September 1, 1988; September 1, 1990; September 1, 1993; April 28, 2015.]

KITSAP COUNTY SUPERIOR COURT CIVIL COURT RULE 56 SUMMARY JUDGMENT

(c) **Motion and Proceedings.**

(i) A bench copy of the summary judgment and all supporting documents and responses shall be delivered, on the date of filing, to the Superior Court office.

(ii) **Notice to Pro Se Litigants Opposing Summary Judgment.** Any represented party moving for summary judgment against a party proceeding pro se at the time the summary judgment motion was filed shall serve and file as a notice entitled “What is a Summary Judgment Motion? Notice for Parties Who Do Not Have a Lawyer” with the papers in support of the motion. This notice shall be on a form approved by the court and available on the court’s website. The represented party shall also serve a copy of CR 56 and KCLCR 56.

Official Comment:

For further guidance on the submission of bench copies see KCLCR 7. For further guidance on calendaring a motion for summary judgment, see KCLCR 77(k)(2).