

2020-008

Lorrie Platt

From: Jonathan Boutin <jboutin@boutinlaw.com>
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To: RulesComment
Subject: SJ - Statement of Undisputed Facts comment

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The rule requiring a single, agreed upon, statement of facts does not seem to be practical or desirable for New Hampshire's State Courts. I have practiced in federal courts where it is required. The amount of additional hours in negotiating and drafting required to even reach an agreement seems to have little impact on the overall summary judgment pleadings effort, because, in practice, firms also file statements of disputed facts and rely on the documentation to support the undisputable nature of the factual assertion. At that point, the Courts are still forced to evaluate and compare the supporting evidence to determine if there is a genuine issue of material fact that bars summary judgment. In state courts, where the dollar amounts at issue are often lower and the litigants are less likely to be large companies with significant resources dedicated to litigation, the additional expense required does not justify the nominal benefit. I recommend against the requirement.

Thanks,
Jonathan

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