1-056. Summary judgment.

A. **For claimant.** A party seeking to recover [~~upon~~] on a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may move with or without supporting affidavits for a summary judgment in [~~his~~] their favor [~~upon~~] on all or any part [~~thereof~~] of those.

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 [~~as to~~] on all or any part [~~thereof~~] of those.

C. **Grounds for motion.** 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~~] on 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~~] on the amount of damages.

If alternative grounds for summary judgment have been presented to the court, the order granting or denying the motion for summary judgment shall specify the grounds [~~upon~~] on which the order is based.

D. **Time; procedure.**

(1) Motions for summary judgment will not be considered unless filed within a reasonable time [~~prior to~~] before the date of trial to allow sufficient time for the opposing party to file a response and affidavits, depositions, or other documentary evidence and to permit the court reasonable time to dispose of the motion.

(2) The moving party shall submit to the court a written memorandum containing a short, concise statement of the reasons in support of the motion with a list of

authorities relied upon. A party opposing the motion shall, within fifteen (15) days after service of the motion, submit to the court a written memorandum containing a short, concise statement of the reasons in opposition to the motion with authorities. The moving party may, within fifteen (15) days after the service of [~~such~~] the memorandum, submit a written reply memorandum.

The memorandum in support of the motion shall set out a concise statement of all of the material facts [~~as to~~] on which the moving party contends no genuine issue exists. The facts shall be numbered and shall refer with particularity to those portions of the record [~~upon~~] on which the moving party relies.

A memorandum in opposition to the motion shall contain a concise statement of the material facts [~~as to~~] on which the party contends a genuine issue does exist. Each fact in dispute shall be numbered, shall refer with particularity to those portions of the record [~~upon~~] on which the opposing party relies, and shall state the number of the moving party's fact that is disputed. All material facts set forth in the statement of the moving party shall be deemed admitted unless specifically controverted.

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~~] in it. Sworn or certified copies of all papers or parts [~~thereof~~] of them referred to in an affidavit shall be attached [~~thereto~~] to the affidavit or served [~~therewith~~] with it. 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 [~~upon~~] on the mere allegations or denials of [~~his~~] their pleading, but [~~his~~] their 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 [~~he~~] the adverse party does not so respond, summary judgment, if appropriate, shall be entered against [~~him~~] them.

F. **When affidavits are unavailable.** Should it appear from the affidavits of a party opposing the motion that [~~he~~] the party cannot for reasons stated present by affidavit facts essential to justify [~~his~~] their position, 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~~] any other order as is just.

G. **Affidavits, declarations, or Rule 1-011(B) NMRA affirmations made in bad faith.** [~~Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to~~] If satisfied that an affidavit, declaration, or a Rule 1-011(B) NMRA unsworn affirmation under this rule is submitted [~~are presented~~] in bad faith or for the purpose of delay, the court—after notice and a reasonable opportunity to respond—may [~~shall forthwith~~] order the offending party or attorney [~~employing them~~] to pay to the other party [~~the amount of~~] the reasonable expenses, including attorney's fees, it incurred as a result [~~which the filing of the affidavits caused him to incur, including reasonable attorney's fees, and any~~]. An offending party or attorney may also be held in [~~be adjudged guilty of~~] contempt or subjected to other appropriate sanctions.

[As amended, effective August 1, 1989; as amended by Supreme Court Order No. S-1-RCR-2025-00164, effective for all cases pending or filed on or after December 31, 2026.]