

DISPOSITIVE MOTION GUIDELINES

Judge Herren's Cases

September 10, 2020

For dispositive motions filed in adversary proceedings before Judge Herren, a separate brief or memorandum of law in support of the motion is required by local rule and good bankruptcy practice. *See* D. Kan. L.B.R. 7056.1 and 7012.1; D. Kan. Rule 7.1(a). Dispositive motions subject to the separate brief requirement include: (1) motions for summary judgment (or partial summary judgment) under Fed. R. Civ. P. 56; (2) motions to dismiss under Fed. R. Civ. P. 12(b); and (3) motions for judgment on the pleadings under Fed. R. Civ. P. 12(c). The non-movant's response brief or memorandum of law in opposition to the motion should address the facts, issues, and legal argument and authority presented in the movant's brief. The movant is permitted to file a reply brief: (i) in the case of a summary judgment motion, to respond to any additional statements of uncontroverted fact submitted in the response brief; and (ii) to address arguments and matters raised for the first time in the response brief. It is not appropriate in a reply brief to re-state or re-argue matter previously presented in the movant's opening brief or supporting memorandum of law.

If a brief or memorandum of law in support of the movant's motion is not filed, the Court may, without further notice, decline to consider or act upon the dispositive motion, may strike the motion, or may deny the relief requested. Judge Herren adheres to the 30-page limit on briefs set forth in D. Kan. L.B.R. 9013.1(b) and Rule 7.1(e) unless leave of court to exceed the page limit is first sought and granted. ***Counsel and parties should comply with the 21-day and 14-day deadlines for response and reply briefs set forth in the local rules: D. Kan. L.B.R. 7012.1(b), D. Kan. L.B.R. 7056.1(f), and D. Kan. 6.1(d)(2).***

Bankruptcy practitioners are strongly encouraged to read and review the applicable federal and local rules of procedure before filing a dispositive motion or supporting brief for your party's position:

- ▶ Fed. R. Bankr. P. 7012, which incorporates in whole or in part Fed. R. Civ. P. 12
- ▶ Fed. R. Bankr. P. 7056, which incorporate in whole or in part Fed. R. Civ. P. 56
- ▶ D. Kan. L.B.R. 7012.1
- ▶ D. Kan. L.B.R. 7056.1
- ▶ D. Kan. L.B.R. 9013.1
- ▶ D. Kan. Rule 7.1
- ▶ D. Kan. Rule 7.2
- ▶ D. Kan. Rule 6.1