

Locke Lord QuickStudy: The New Standard – Florida’s Changes to Its Summary Judgment Rule

Locke Lord LLP

WRITTEN BY

[Thomas J. Cunningham](#) | [Steven J. Brotman](#) | [R. Keith Ustler](#)

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Effective May 1, 2021, the federal summary judgment standard is the law in Florida state court. The Florida Supreme Court announced this shift would take place in December 2020 and sought further comment concerning the transition. On April 29, 2021 the court took matters one step further and, after reviewing the comments and concerns from the legal community, amended the language within Fla. R. Civ. P. 1.510 to “largely adopt” the text of Fed. R. Civ. P 56 as a replacement for rule 1.510. The court reasoned that doing so “makes it more likely that Florida’s adoption of the federal summary judgment standard will take root.”

This new standard governs the adjudication of any summary judgment motion decided on or after May 1, 2021, including pending cases. Moreover, in cases where a motion for summary final judgment was denied under the pre-amendment rule, the court should give the parties a reasonable opportunity to file a renewed summary judgment motion under the new rule. *See, Wilsonart, LLC v. Lopez*, 308 So. 3d 961, 964 (Fla. 2020).

Key changes flowing from the court’s adoption of the federal standard and amendment of rule 1.510 are:

- 1) the standard for summary judgment now “mirrors” the standard for directed verdict, (i.e. whether the evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law);
- 2) there is no requirement that the moving party negate the opponent’s claims (it is sufficient that the moving party discharge their burden by pointing out to the court that there is an absence of evidence to support the opponent’s case);
- 3) a genuine issue of material fact is such that a reasonable jury could return a verdict for the non-moving party (meaning, a party opposing summary judgment must do more than simply show there is some metaphysical doubt as to the material facts);
- 4) the timing for summary judgment motions and the filing of counter-evidence has been augmented (fully supported motions must be filed 40 days prior to a hearing – up from 20 under the pre-amendment rule – and countervailing evidence must be filed 20 days prior to a hearing – up from 2 days in the pre-amendment rule); and

5) the court *shall* state on the record the reason for granting or denying a summary judgment motion (the court must state the reasons for its decision with enough specificity to provide useful guidance and allow for appellate review).

In making this sweeping change, the Florida Supreme Court indicated its goals were to improve the fairness and efficiency of Florida's civil justice system, relieve parties from the expense and burden of meritless litigation, and save juries for cases where there are real factual disputes that need resolution.

Further, in adopting the text of federal rule 56 almost verbatim the transplantation brings with it the "old soil" of case law interpreting the federal rule. This means that litigants can, and should, cite federal case law in support of their positions in state court. *See, Fla. Hwy. Patrol v. Jackson*, 288 So. 3d 1179 1183 (Fla. 2020).

The impact of the reworking of Florida's summary judgment framework will be profound. Florida is facing an extraordinary backlog of cases due to the COVID-19 pandemic and these changes should assist the courts in clearing out unnecessary litigation and conserving necessary resources.

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