



## Federal Pro Se Clinic

CENTRAL DISTRICT OF CALIFORNIA

### ■ How to File an Opposition to a Motion for Summary Judgment ■

#### What is a Motion for Summary Judgment?

A Motion for Summary Judgment can be filed by any party (defendant or plaintiff) who wants the Court to enter a final judgment on all or some of the parties' claims or defenses before trial. The Motion for Summary Judgment is governed by Federal Rule of Civil Procedure 56.

The party who files a Motion for Summary Judgment is called the "**moving party**" and can file the Motion if he or she believes that there is no genuine dispute as to any material fact and that he or she is entitled to judgment as a matter of law with respect to some or all of the parties' claims or defenses. The party who opposes a Motion for Summary Judgment is called the "**non-moving party**."

To oppose a Motion for Summary Judgment, the non-moving party must show that **there is a genuine dispute as to material facts and that the moving party is not entitled to judgment as a matter of law** on the claims or defenses raised in the moving party's Motion.

If the Court grants a Motion for Summary Judgment, the moving party will obtain a final judgment on all or some of the parties' claims or defenses. If the Court denies a Motion for Summary Judgment, the case will proceed to trial, unless the parties agree to settle the case. Therefore, when the Court denies a Motion for Summary Judgment, the judge is not saying that the moving party has lost the claims or defenses raised in the Motion. Rather, the judge is saying that a trial is necessary to resolve those claims and defenses.

Whether you are a plaintiff or defendant, it is extremely important that you oppose the moving party's Motion for Summary Judgment because if the judge grants the Motion, you will lose all or part of your case.

#### Glossary of Terms

##### **"Material fact"**

*A "material fact" is a fact that is important to or will likely prove one or more of the claims or defenses in your case. For example, the following are material facts in a personal injury case where an element of the plaintiff's claim is negligence:*

- *Defendant was driving 100 miles per hour before his car collided with plaintiff's car.*
- *Defendant ran a red light seconds before his car collided with plaintiff's car.*

### **Summary Judgment is Complicated!**

Read Federal Rule of Civil Procedure 56 and Local Rule 56 of the Central District of California thoroughly before drafting your Opposition to Motion for Summary Judgment. Consider consulting the law library for authoritative books on Motions for Summary Judgment. In addition, read your judge's "standing order" for any additional requirements for the Opposition to Motion for Summary Judgment.

### **When Can a Party File or Oppose a Motion for Summary Judgment?**

A Motion for Summary Judgment may be filed after the defendant has filed a response to the complaint (such as an answer or a motion to dismiss), but no later than 30 days after the close of discovery. You will find the deadline for the close of discovery by looking at the Court's "scheduling order" in your case. The judge may also set a specific deadline in the scheduling order for filing a Motion for Summary Judgment. (The judge may call a Motion for Summary Judgment a "dispositive motion" in your scheduling order.)

You must oppose a Motion for Summary Judgment no later than 21 days before the hearing date scheduled for the Motion for Summary Judgment. However, if the moving party files the Motion for Summary Judgment before discovery has closed in your case and if you need additional discovery to prepare your opposition, consider asking the judge for more time. File a declaration or affidavit telling the Court that you need more time to obtain discovery in order to oppose the Motion. See Federal Rule of Civil Procedure 56(d) for more information.

### **What Must an Opposition to a Motion for Summary Judgment Include?**

To file an Opposition to a Motion for Summary Judgment, prepare the following documents:

- 1) Memorandum of Points and Authorities in Opposition to Motion for Summary Judgment
- 2) Declaration in Support of Opposition to Motion for Summary Judgment
- 3) Statement of Genuine Issues in Dispute
- 4) Proof of Service by Mail

### **Description of Each Document**

#### **1) Memorandum of Points and Authorities in Opposition to Motion for Summary Judgment**

The Memorandum of Points and Authorities includes any legal authorities and arguments that support your Opposition. An effective Memorandum of Points and Authorities will directly address the arguments made in the Motion for Summary Judgment. It should contain a strong legal argument, with references to the facts as well as to legal authorities such as case opinions and statutes. When supporting your argument with facts, make sure every fact you rely upon is supported by admissible evidence. It is not enough to repeat your opinion that a fact is true or to point to arguments in documents you previously filed.

The Memorandum must not exceed **7000 words**. If you choose to handwrite your Memorandum, it may not exceed **25 pages**. If the Memorandum is more than 10 pages in length, it must also contain a table of contents and a table of authorities (i.e., a list of the cases and statutes you use to support the Memorandum and the pages where you cite them).



#### Research Tip:

The first step in drafting a good Opposition is to read the cases cited in the moving party's Summary Judgment Motion. Because these cases serve as the basis for the moving party's arguments, they will give you a starting point for doing your own legal research.

## 2) Declaration in Support of Opposition to Motion for Summary Judgment

A Declaration is a sworn statement to the Court stating facts supporting your Opposition. These facts must come from the declarant's own personal knowledge of the events. The declarant should also explain how he or she obtained knowledge of the facts included in the Declaration. Therefore, a Declaration is like a written version of what the declarant would testify to if he or she were on the witness stand.

You may submit your own Declaration, swearing to the facts you know that support your case. You may also submit Declarations from other people if they swear to the facts stated in the Declaration. Any Declaration must be signed by the declarant. Together, all the Declarations submitted with your Opposition should support all of the facts stated in the Opposition (aside from facts admitted by the moving party).

Attach, as exhibits to the Declaration, any documents discussed in the Declaration. You must do this because the Declaration will verify the truth or authenticity of the document you attach as an exhibit. The Declaration should state whether each exhibit is a true and correct copy of the original document and explain what the document is. It is helpful to designate each exhibit with a number or a letter, for example, Exhibit A, Exhibit B, etc.

## 3) Statement of Genuine Issues of Material Fact in Dispute

This document lists the material facts you argue are disputed as well as the sources of these facts. This list should directly correspond to the facts provided in the moving party's "Statement of Uncontroverted Facts."

- In preparing your Statement of Genuine Issues in Dispute, create two columns. The left hand column should state the moving party's alleged undisputed facts. The right hand column should state whether or not you are disputing this fact and your source for the disputed information. The chart to the right illustrates these two columns.

Moving Party's Alleged Uncontroverted Facts	Response
1. Defendant's car did not collide with the plaintiff's vehicle.	Disputed. Defendant did collide with plaintiff's vehicle. (Smith Decl. ¶ 12.)
2. Defendant did not run a red light.	Disputed. Defendant did run a red light. (Jones Decl., Exh. D.)
3. Defendant filed a police report on April 1, 2011.	Undisputed.

- Separate each fact in a separate box and number each box sequentially exactly as it is written in the moving party's Statement of Uncontroverted Facts.
- The facts must be *evidentiary* facts, not mere conclusions. This means your facts must be supported by citations to specific parts of the record, such as depositions, affidavits, declarations, admissions, stipulations, interrogatory answers, and any other evidence. Citations to the record must be *precise*. Therefore, cite specific pages and paragraphs of the record.
- If you believe any other material facts are in dispute in your case, you may create a separate set of columns. In this set, the left hand column should state the material facts you contend are in dispute. The right hand column should state the source of this fact. See the attached form that accompanies this guide for a sample of these two columns.

#### 4) Proof of Service by Mail

In the Proof of Service, you or someone else will swear to the Court that you have mailed a copy of the above documents to the opposing counsel or to the unrepresented party.

#### Formatting Your Opposition

By following the instructions below, you will comply with the format requirements of the Local Rules for the Central District of California:

- 1) **Pleading Paper:** Oppositions must be written on pleading paper. "Pleading paper" is letter-sized (8.5" x 11") paper that has the numbers 1-28 typed down the left-hand side. You can download a template for pleading in Word format on Public Counsel's Website: <https://publiccounsel.org/services/federal-court/forms-guides-samples/>  
Select "Pleading Paper" in the list of forms.
- 2) **Font, Margins, and Spacing:** 14 pt size font (suggested fonts: Times New Roman or Arial); 1-inch margins; double-spaced.
- 3) **Name and Contact Information:** Starting on Line 1, write your name, address, and phone number. Write "Plaintiff in Pro Per" or "Defendant in Pro Per" underneath your personal information.
- 4) **Line 8 or below:** Type the name of the court (UNITED STATES DISTRICT COURT). On the next line, write the district name (CENTRAL DISTRICT OF CALIFORNIA).

1	Name	
2	Email	
3	Address Line 1	
4	Address Line 2	
5	Phone Number	
6	Defendant in Pro Per	
7		
8	<b>UNITED STATES DISTRICT COURT</b>	
9	<b>CENTRAL DISTRICT OF CALIFORNIA</b>	
10	Plaintiff's Name,	Case No.: CV10-000 PA (SSWx)
11	Plaintiff,	
12	vs.	<b>DEFENDANT'S OPPOSITION</b>
13	Defendant's Name,	<b>TO PLAINTIFF'S MOTION</b>
14	Defendant.	<b>FOR SUMMARY JUDGMENT</b>
15		<b>(F.R.C.P. 56)</b>
16		<b>Hearing Date:</b> Dec. 21, 2013
17		<b>Time:</b> 1:30 pm
18		<b>Judge:</b> Percy Anderson
19		<b>Courtroom:</b> 15
20	Defendant hereby submits its Memorandum of Points and	
21	Authorities in Opposition to Plaintiff's Motion for Summary	
22	Judgment, for the reasons set forth below.	
23		
24		
25		
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1  
Opposition to Motion for Summary Judgment

- 5) **Party Names:** Below the name of the court and district, write the names of the plaintiff and the defendant(s).
- 6) **Case Number:** Your case number should be identified to the right of the party names. Be sure to include all of the letters that make up the judges' initials.
- 7) **Title of Document:** Under the Case Number, write the title of your document. For example, "Opposition to Plaintiff's Motion for Summary Judgment."
- 8) **Date and Signature:** When you have finished writing your Opposition documents, write the date, your signature and your name.
- 9) **Footer and Page Numbers:** Type the title of your document in the footer. Number every page.

### **Filing Your Opposition**

When you have completed your Motion for Summary Judgment, you must file it with the Civil Intake Division of the courthouse in which the judge who is hearing the Motion is located. File **1 original** and **1 copy** of each document you wish to file with the Civil Intake Division.

You may file your Opposition with the Court in person or by mail. Keep in mind that mailing your Opposition to the Court may delay the official date on which it is filed. The addresses for the Civil Intake Division for the Central District of California courthouses are as follows:

#### **LOS ANGELES**

United States Courthouse  
Central District of California  
255 East Temple St., Ste  
TS-134 Los Angeles, CA 9001

#### **SANTA ANA**

United States Courthouse  
Central District of California  
Southern Division  
411 West Fourth St., Ste 1053

#### **RIVERSIDE**

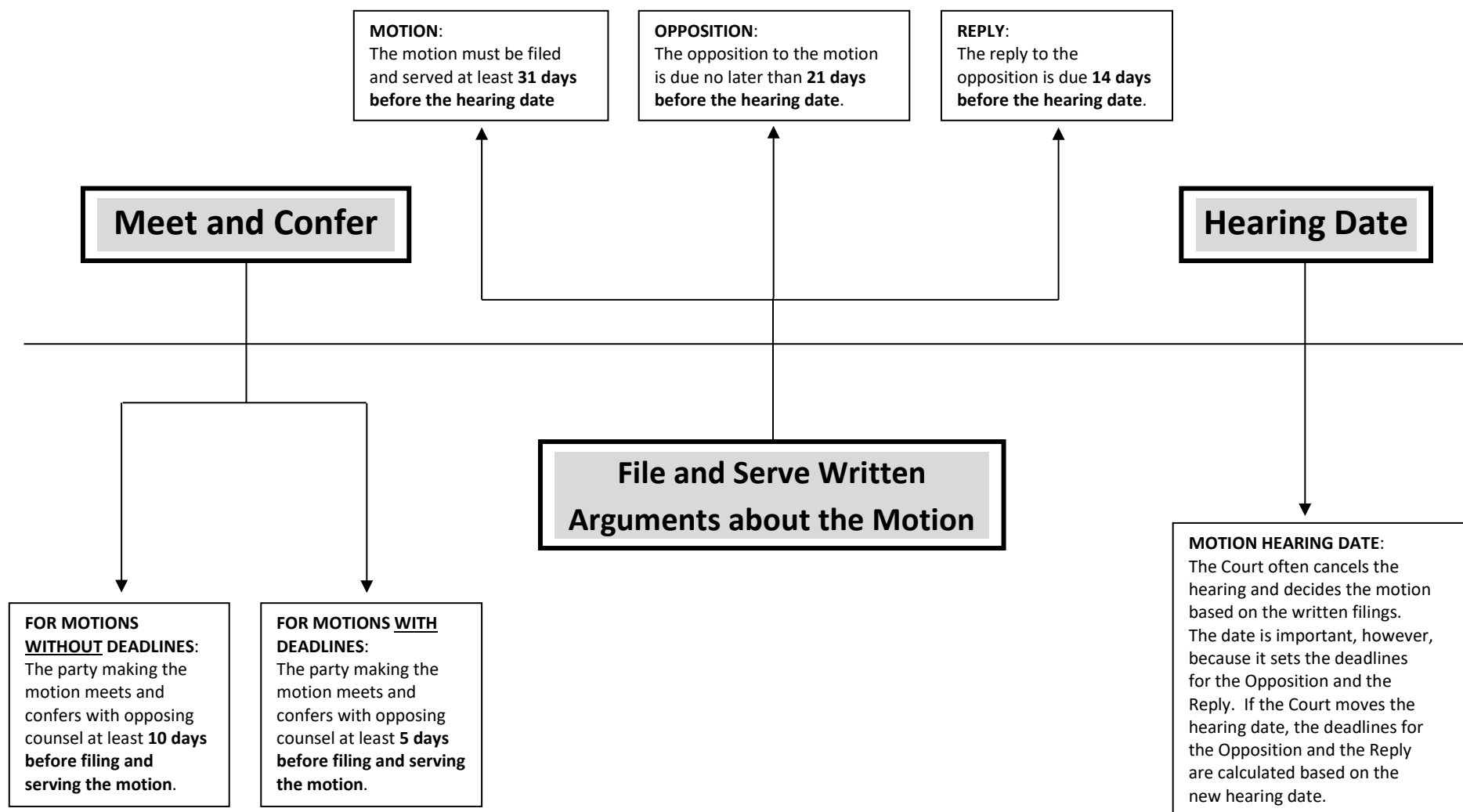
United States Courthouse  
Central District of California  
Eastern Division  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

### **Serving Your Opposition**

In addition to filing your Opposition with the Court's Civil Intake Division, send 1 copy of each document you have filed to the opposing party, or if the party has an attorney, to the opposing party's attorney by mail on the same day you file.



# Motion for Summary Judgment Timeline in the Central District of California



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(Address Line 1)  
\_\_\_\_\_  
(Address Line 2)  
\_\_\_\_\_  
(Phone Number)

\_\_\_\_\_ in Pro Per  
(indicate Plaintiff or Defendant)

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

\_\_\_\_\_,  
Plaintiff,  
vs.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_,  
Defendant(s).

Case No.: \_\_\_\_\_

**MEMORANDUM OF POINTS  
AND AUTHORITIES IN  
OPPOSITION TO MOTION FOR  
SUMMARY JUDGMENT  
PURSUANT TO FED. R. CIV. P. 56**

**Hearing Date:** \_\_\_\_\_

**Hearing Time:** \_\_\_\_\_

**Judge:** \_\_\_\_\_  
(Judge's name)

**Place:** \_\_\_\_\_  
(courtroom number)

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1 **I. INTRODUCTION**

2 *(Briefly describe the nature of the case and summarize the reasons the Court should deny summary judgment.)*

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## II. ARGUMENT

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is no text or other markings on the paper.

### III. CONCLUSION

For the reasons stated above, this Court should deny the Motion for Summary Judgment.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
(sign)

\_\_\_\_\_  
(print name)

\_\_\_\_\_ in Pro Per  
(indicate Plaintiff or Defendant)

1 \_\_\_\_\_ (Full Name)  
2 \_\_\_\_\_ (Email Address)  
3 \_\_\_\_\_ (Address Line 1)  
4 \_\_\_\_\_ (Address Line 2)  
5 \_\_\_\_\_ (Phone Number)

6 \_\_\_\_\_ in Pro Per  
7 (indicate Plaintiff or Defendant)

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9  
10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

12  
13 \_\_\_\_\_,  
14 Plaintiff,  
15 vs.  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_,  
19 Defendant(s).

Case No.: \_\_\_\_\_

**DECLARATION IN SUPPORT OF  
OPPOSITION TO MOTION FOR  
SUMMARY JUDGMENT  
PURSUANT TO FED. R. CIV. P. 56**

**Hearing Date:** \_\_\_\_\_

**Hearing Time:** \_\_\_\_\_

**Judge:** \_\_\_\_\_  
(Judge's name)

**Place:** \_\_\_\_\_  
(courtroom number)

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22 I, \_\_\_\_\_, declare as follows:  
23 (print name)

- 24 1. I am the \_\_\_\_\_ in the above-entitled case.  
(indicate Plaintiff or Defendant)
- 25 2. I have personal knowledge of the following facts, and, if called as a  
26 witness, I could and would competently testify thereto.
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10. \_\_\_\_\_

11. \_\_\_\_\_

1 12. \_\_\_\_\_

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4 13. \_\_\_\_\_

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8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed on \_\_\_\_\_, in \_\_\_\_\_.  
10 (date of signing) (city, state of signing)

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12 \_\_\_\_\_  
(signature)

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14 \_\_\_\_\_  
(name)

15 \_\_\_\_\_ in Pro Per  
16 (indicate Plaintiff or Defendant)

1 \_\_\_\_\_ (Full Name)  
2 \_\_\_\_\_ (Email Address)  
3 \_\_\_\_\_ (Address Line 1)  
4 \_\_\_\_\_ (Address Line 2)  
5 \_\_\_\_\_ (Phone Number)

6 \_\_\_\_\_ in Pro Per  
7 (indicate Plaintiff or Defendant)

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10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

12  
13 \_\_\_\_\_,  
14 Plaintiff,  
15 vs.  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_,  
19 Defendant(s).

Case No.: \_\_\_\_\_

**STATEMENT OF GENUINE  
ISSUES OF MATERIAL FACT IN  
DISPUTE IN SUPPORT OF  
OPPOSITION TO MOTION FOR  
SUMMARY JUDGMENT  
PURSUANT TO LOCAL RULE  
56-2**

**Hearing Date:** \_\_\_\_\_

**Hearing Time:** \_\_\_\_\_

**Judge:** \_\_\_\_\_  
(Judge's name)

**Place:** \_\_\_\_\_  
(courtroom number)

23 Pursuant to Central District Local Rule 56-2, \_\_\_\_\_  
24 (indicate Plaintiff or Defendant and your name)  
25 files the following Statement of Genuine Issues of Material Fact in Dispute in  
26 support of its Opposition to the Motion for Summary Judgment.  
27  
28

1 The facts below correspond to the facts and supporting evidence presented in  
2  
3 the moving party's Statement of Uncontroverted Facts. These facts are followed  
4 by additional material facts and supporting evidence showing a genuine issue of  
5 material fact in dispute.  
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<b>Moving Party's Alleged Uncontroverted Facts</b>	<b>Response</b>
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1 \_\_\_\_\_ also contends that the following other material facts  
2 (indicate Plaintiff or Defendant)  
3 are in dispute:

4 Material Facts in Dispute	Source
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14 3.	
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18 I declare under penalty of perjury that the foregoing is true and correct.

19 Executed on \_\_\_\_\_, in \_\_\_\_\_.  
20 (date of signing) (city, state of signing)

21 \_\_\_\_\_  
22 (signature)

23 \_\_\_\_\_  
24 (name)

25 \_\_\_\_\_ in Pro Per  
26 (indicate Plaintiff or Defendant)  
27  
28

1 \_\_\_\_\_ (Full Name)  
2 \_\_\_\_\_ (Address Line 1)  
3 \_\_\_\_\_ (Address Line 2)  
4 \_\_\_\_\_ (Phone Number)

5 \_\_\_\_\_ in Pro Per  
6 (indicate Plaintiff or Defendant)

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9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 Case No.: \_\_\_\_\_

12  
13 **PROOF OF SERVICE BY MAIL**

14 \_\_\_\_\_,  
15 Plaintiff,

16 vs.

17 \_\_\_\_\_,  
18 Defendant(s).

19  
20 I, \_\_\_\_\_, declare as follows:  
21 (name of person serving documents)

22 My address is \_\_\_\_\_

23 \_\_\_\_\_, which is located in the  
24 county where the mailing described below took place.

25  
26 On \_\_\_\_\_, I served the document(s) described as:  
27 (date of mailing)

- Memorandum of Points and Authorities in Opposition to Motion for Summary Judgment Pursuant to Fed. R. Civ. P. 56
- Declaration in Support of Opposition to Motion for Summary Judgment Pursuant to Fed. R. Civ. P. 56
- Statement of Genuine Issues of Material Fact in Dispute Pursuant to Local Rule 56-2

on all interested parties in this action by placing a true and correct copy thereof in a sealed envelope, with first-class postage prepaid thereon, and deposited said envelope in the United States mail at or in \_\_\_\_\_, (city and state of mailing) addressed to:

_____ (name)	_____ (name)
_____ (address)	_____ (address)
_____ (address)	_____ (address)
_____ (address)	_____ (address)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_.  
(date) (city and state of signing)

\_\_\_\_\_  
(sign)

\_\_\_\_\_  
(print name)