

*The proposed amendment to Trial Rule 56(E) would require any documents referred to in a summary judgment affidavit that have not been previously filed or produced to be served upon the opposing party within ten days upon request.

Trial Rule 56. Summary Judgment

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(E) Form of affidavits--Further testimony--Defense required. Supporting and opposing affidavits ~~must~~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. Any documents referred to in an affidavit that have not been previously filed or produced must be served upon the opposing party within ten days upon request. ~~Sworn or certified copies not previously self-authenticated of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith.~~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 the mere allegations or denials of ~~the~~his pleading, but ~~the~~his 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 ~~the~~ adverse party~~he~~ does not so respond, summary judgment, if appropriate, ~~must~~shall be entered against ~~the~~ adverse party~~him~~. Denial of summary judgment may be challenged by a motion to correct errors after a final judgment or order is entered.

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