

1 3. A motion for summary judgment is a request for judgment on some or all of Plaintiff's
2 claims in favor of Defendants without trial. Fed. R. Civ. P. 56(a). Defendants' motion sets forth
3 the facts which they contend are not reasonably subject to dispute and that entitle them to
4 judgment as a matter of law. Fed. R. Civ. P. 56(c). This is called the Statement of Undisputed
5 Facts. Local Rule 260(a).

6 Plaintiff has the right to oppose a motion for summary judgment. To oppose the motion,
7 Plaintiff must show proof of his claims. Plaintiff may agree with the facts set forth in
8 Defendants' motion but argue that Defendants are not entitled to judgment as a matter of law.

9 In the alternative, if Plaintiff does not agree with the facts set forth in Defendants' motion,
10 Plaintiff may show that Defendants' facts are disputed in one or more of the following ways: (1)
11 Plaintiff may rely upon statements made under the penalty of perjury in the complaint or the
12 opposition if (a) the complaint or opposition shows that Plaintiff has personal knowledge of the
13 matters stated and (b) Plaintiff calls to the Court's attention those parts of the complaint or
14 opposition upon which Plaintiff relies; (2) Plaintiff may serve and file declarations setting forth
15 the facts which Plaintiff believes prove his claims;¹ (3) Plaintiff may rely upon written records but
16 Plaintiff must prove that the records are what he claims they are;² or (4) Plaintiff may rely upon
17 all or any part of the transcript of one or more depositions, answers to interrogatories, or
18 admissions obtained in this proceeding. Should Plaintiff fail to contradict Defendants' motion
19 with declarations or other evidence, Defendants' evidence will be taken as truth, and final
20 judgment may be entered without a full trial. Fed. R. Civ. P. 56(e).

21 In opposing Defendants' motion for summary judgment, Local Rule 260(b) requires
22 Plaintiff to reproduce Defendants' itemized facts in the Statement of Undisputed Facts and admit
23 those facts which are undisputed and deny those which are disputed. If Plaintiff disputes (denies)
24 a fact, Plaintiff must cite to the evidence used to support that denial (e.g., pleading, declaration,

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26 ¹A declaration is a written statement setting forth facts (1) which are admissible in evidence, (2) which are based
27 on the personal knowledge of the person giving the statement, and (3) to which the person giving the statement is
28 competent to testify. 28 U.S.C. § 1746; Fed.R.Civ.P. 56(c)(4). A declaration must be dated and signed under
penalty of perjury as follows: "I declare (or certify, verify or state) under penalty of perjury that the foregoing is true
and correct. Executed on (date). (Signature)." 28 U.S.C. § 1746.

² Sworn or certified copies of all papers referred to in the declaration must be included. Fed.R.Civ.P. 56(e).

