

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

**UNITED STATES OF AMERICA,
Plaintiff,**

vs.

Case No: 3:07cv50/RV/MD

**HORACE A. GANT,
Defendants.**

ORDER AND NOTICE

Plaintiff's motion for summary judgment (doc. 18) will be taken under advisement by the undersigned on **February 19, 2008**. Because the court does not contemplate scheduling a hearing on this motion, the parties are directed to file and serve affidavits and any other documents or materials authorized to be filed under the Federal Rules of Civil Procedure and this court's Local Rules prior to the above date.¹ Only those pleadings and evidentiary materials currently in the record or filed prior to the above date will be considered by the court in ruling on this motion. A motion for summary judgment will result in a final judgment being entered for the moving party (in this case the United States) if the pleadings, depositions, answers to interrogatories, admissions, affidavits, and any other appropriate evidentiary materials properly filed in the record show that there is no genuine

¹If defendant Gant files an additional response to the motion, such response should include affidavits and any other documents or materials required by FED.R.CIV.P. 56 and Local Rule 56.1(A). Defendant is cautioned that he must dispute or contradict plaintiff's argument with evidence of a substantial nature as distinguished from legal conclusions. Defendant cannot successfully defeat a motion for summary judgment with mere formal denials or general allegations that do not disclose the facts in detail and with precision, nor can he simply rely upon the pleadings. A general denial unaccompanied by any evidentiary support will not suffice. See e.g., *Courson v. McMillian*, 939 F.2d 1479 (11th Cir. 1991); *Hutton v. Strickland*, 919 F.2d 1531 (11th Cir. 1991).

Evidentiary material which is acceptable in opposition to a motion for summary judgment includes sworn affidavits or other sworn documentary or other evidence indicating the existence of a genuine issue of material fact. FED.R.CIV.P. 56(e). Affidavits must be based on personal knowledge, setting forth such facts as would be admissible into evidence and affirmatively showing that the affiant is competent to testify to the matters stated therein. FED.R.CIV.P. 56(e).

issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. FED. R. CIV. P. 56; *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23, 106 S. Ct. 2548, 2553-54, 91 L. Ed. 2d 265 (1986).

DONE AND ORDERED this 1st day of February, 2008.

/s/ *Miles Davis*

MILES DAVIS
UNITED STATES MAGISTRATE JUDGE