

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION**

**DUNSTON BROWN and JOSEPHINE  
BROWN,**

Plaintiffs,

v.

**JOHNNY RAY SPELLS and JOHNNY'S  
TOWING, INC.,**

Defendants.

Civil Action No. 7:11-cv-91 (HL)

**ORDER**

Plaintiffs filed a partial Motion for Summary Judgment in this case (Doc. 38), but failed to include a separate Statement of Material Facts as required by Local Rule 56. In their response brief, Defendants pointed out Plaintiffs' failure to comply with the Local Rules, leading Plaintiffs to file a letter requesting leave to file a separate Statement of Material Facts (Doc. 42). Plaintiffs' request is granted and they will be allowed to file a separate Statement of Material Facts, but the Court finds it necessary to warn Plaintiffs' counsel that this will be the last exercise of leniency in this case.

In the course of this litigation, Plaintiffs have failed to abide by the Court's rules in several instances. First, Plaintiffs improperly pled subject matter jurisdiction, leading to the dismissal of their case (Doc. 9). The dismissal was later reconsidered at Plaintiffs' request (Doc. 12) and the case was allowed to proceed. Next, Plaintiffs failed to timely identify their expert witnesses. The Court

disallowed Plaintiffs from presenting expert witness Dr. Francis Rushing since Dr. Rushing was not identified within the deadline set out in the scheduling and discovery report (Doc. 37). Finally, after realizing their Motion for Summary Judgment did not comply with the Local Rules, Plaintiffs filed this motion asking for leave to file a separate statement of facts. It is worth noting that this request came in the form of a letter, as opposed to a formal motion filed via the CM/ECF system.

Despite these grievances, the Court finds that Plaintiffs should be allowed to file a separate statement of material facts so that their Motion for Summary Judgment complies with the Local Rules and can properly be considered by the Court. However, the Court does not anticipate granting any further motions requesting leniency.

**SO ORDERED**, this 27<sup>th</sup> day of November, 2012.

**s/ Hugh Lawson**  
HUGH LAWSON, SENIOR JUDGE

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