

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

OFFICIAL COMMITTEE OF	)	
UNSECURED CREDITORS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket No. 1:18-cv-68-NT
	)	
CALPERS CORPORATE PARTNERS	)	
LLC, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**LOCAL RULE 56(H) PRE-FILING CONFERENCE REPORT AND ORDER**

A conference was held on Wednesday, August 12, 2020, at 9:00 a.m.

Presiding: Nancy Torresen, United States Chief District Judge

For Plaintiff: Jeremy Fischer, Jay Geller

For Defendant: Rena Andoh, Edward Tillinghast, Danielle Vrabie, Adam Shub

In accordance with the procedural order issued on November 22, 2019 (ECF No. 158) and the subsequent order issued on November 26, 2019 (ECF No. 162), I held a Local Rule 56(h) conference with counsel on January 28, 2020, during which the decision was made to proceed first with the parties' motions to exclude expert testimony and the Plaintiff's motion to amend the Complaint. I issued an order on those motions on July 17, 2020 (ECF No. 189). A second Local Rule 56(h) conference was held on August 12, 2020, during which the following items were discussed:

1. **Bases for Proposed Motion for Summary Judgment:** The Defendant intends to move for summary judgment on two issues: (1) whether the Debtor was paying its debts as they became due following each distribution and (2) whether the Debtor had sufficient capital and/or assets following each

distribution. The Plaintiff reserves the right to move for summary judgment on the issue of whether there was a transfer of interest of the Debtor's property.

2. **Estimated Memorandum Length:** Each memorandum of law shall comply with the page limits set forth in the Local Rules.
3. **Filing of the Record:** The parties shall confer to determine the summary judgment record. The record shall consist of the universe of documents that any party may cite to in their motions or statements of fact. The record shall be filed on ECF in advance of the filing of any motion, response or statement of fact and the parties shall make the appropriate citations to the record (see paragraph 2 outlining citations to the record). The ECF event "Local Rule 56(h) Record" can be found in the "other documents" category of the "civil events" listing on ECF.

If during the motion practice any party determines that they need to supplement the record, they may file a supplemental record, but shall not duplicate any record material already on the docket. Any supplemental record shall be filed on ECF in advance of the filing of any pleading so that the appropriate citations to the record can be made.

4. **Citations to the Record:** Filing the record in ECF in advance of the filing of any pleadings will generate ECF document numbers and page ID numbers. When citing documents from the record in statement of material facts, counsel should contain citations to the record with the appropriate ECF document and page ID numbers.

Example: (Smith Affidavit, ¶1; Doc. 52-28, #566)

5. **Cooperation of Counsel on Factual Statement:** By the conclusion of the briefing, it is the Court's preference to have one document that contains the full text of all the facts, admissions, denials, qualifications, and requests to strike produced by all parties. The Court expects the parties to work collaboratively in this endeavor.
  1. All admissions, denials, qualifications, and requests to strike shall appear under the text of the proposed fact to which they refer.
  2. A request to strike shall be preceded by an admission, denial, or qualification, in case the request to strike is denied.

3. All responses to requests to strike shall appear under the text of the request to strike to which they refer.
4. The parties' various statements of material facts should utilize a single, continuous sequence of paragraph numbers.
5. In accordance with Local Rule 56(d), the movant's reply statement of material fact should address only the opposing party's additional facts and requests to strike.

The following sequence should take place when compiling the factual statements:

- First, each party moving for summary judgment shall file a "Supporting Statement of Material Facts," pursuant to Local Rule 56(b). This includes a numbered list of facts the party contends are supported by the record and undisputed.
  - The PDF version should be filed on ECF using the "Statement of Fact" event, which can be found in the "other documents" category of the "civil events" listing on ECF.
  - The movant shall email the opposing party a Word version of its PDF document.
- Second, the party opposing the motion shall file an "Opposing Statement of Material Facts," pursuant to Local Rules 56(c) and Local Rule 56(e). These documents shall reproduce the text of the facts proposed by the movant. The opposing party shall add appropriate admissions, denials, and qualifications, and, if necessary, requests to strike under each fact. Second, the opposing party may add a list of additional facts that the opposing party contends are supported by the record, keeping with the same paragraph sequence numbering (i.e. if the movant's Statement of Material Fact ended at paragraph number 50, the opposing party shall start with paragraph number 51 for their Statement of Additional Facts).
  - The PDF versions should be filed on ECF using the "Response to Statement of Fact with Additional Facts" event, which can be found in the "responses and replies" category of the "civil events" listing on ECF.

- The opposing party shall email the movant a Word version of the relevant PDF document.
- Third, the movant shall file a “Reply Statement of Material Facts,” pursuant to Local Rules 56(d) and 56(e). This document shall reproduce the text of the facts proposed by the movant and opposing party’s corresponding admissions, denials, qualifications, and requests to strike, as well as the text of the opposing party’s additional facts. The movant must add appropriate admissions, denials, qualifications, and, if necessary, requests to strike under each of the opposing party’s additional facts. In addition, the movant may respond to any of the opposing party’s requests to strike.
  - The PDF version should be filed on ECF using the “Reply to Additional Statement of Fact” event, which can be found in the “responses and replies” category of the “civil events” listing on ECF.
  - The movant shall email the opposing party Word versions of these PDF documents.
- Fourth, the opposing party may file a “Response to Requests to Strike,” pursuant to Local Rule 56(e). This document shall reproduce the text of the movant’s facts, the opposing party’s additional facts, all admissions, denials, and qualifications, all requests to strike, and the movant’s responses to opposing party’s requests to strike. The opposing party may add only appropriate responses under each of the movant’s requests to strike. These documents should be a complete account of the parties’ factual statements.
  - The PDF versions should be filed on ECF using the “Response to Request to Strike Per LR 56(e)” event, which can be found in the “responses and replies” category of the “civil events” listing on ECF.
  - This fourth step only takes places in the event the movant has made requests to strike the opposing party’s Additional Facts. If no requests to strike the opposing party’s Additional Facts is made, the briefing is complete at the third step.

Following the discussion, I **ORDERED** that motions for summary judgment shall be filed by August 26, 2020. Oppositions are due on or before September 16, 2020. Replies shall be filed on or before September 23, 2020. If necessary, the movant may file a response to any requests to strike from the opposing party by September 30, 2020.

SO ORDERED.

/s/ Nancy Torresen  
United States District Judge

Dated this 12th day of August, 2020.