

STATE OF MAINE
CUMBERLAND, ss.

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CLERK'S OFFICE
SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-06-335
2007 FEB 28 A 10:46
FILED 2/28/07

PAUL J. AUGER and COURTENAY
AUGER,

Plaintiffs

v.

ORDER ON MOTION
FOR SUMMARY
JUDGMENT

KEITH HULTS,

Defendant

Before the Court is Plaintiffs Paul and Courtenay Auger's ("Plaintiffs") motion for summary judgment pursuant to M.R. Civ. P. 56 in their action against Defendant Keith Hults ("Defendant").

DISCUSSION

It is unnecessary to discuss the merits of Plaintiffs' motion as they have patently failed to comply with the Rules of Civil Procedure applicable to summary judgment motions. Specifically, attached to Plaintiff's motion are two interrogatories and an affidavit. Notably absent, however, is a statement of material facts.

Under Rule 56, "[a] motion for summary judgment *shall be supported by a separate, short, and concise statement of material facts . . . as to which the moving party contends there is no genuine issue of material fact to be tried.*" M.R. Civ. P. 56(h)(1) (emphasis added). "A proper statement of material facts is essential to summary judgment practice." M.R. Civ. P. 56 (comment).

In a case where a party moving for summary judgment filed a statement of material facts, but failed to include citations referencing specific pages and paragraph numbers in the record where support for the facts could be found, the

Law Court held that this failure to comply with the Rules of Civil Procedure was "fatal to the . . . motion." *Levine v. R.B.K. Caly Corp.*, 2001 ME 77, ¶ 9, 770 A.2d 653, 656. In this case, Plaintiffs have provided no statement of material facts. "Accordingly, in the matter before us the [C]ourt [has] no factual basis for entry of summary judgment."¹ *Id.* ¶ 10, 770 A.2d at 656.

Therefore, the entry is:

Plaintiffs' motion for summary judgment is DENIED.

The clerk shall incorporate this Order into the docket by reference pursuant to M.R. Civ. P. 79(a).

Dated at Portland, Maine this 28th day of February, 2007.



Robert E. Crowley
Justice, Superior Court

¹ In addition, Plaintiffs failed to comply with the Rules of Civil Procedure regarding the format of their memorandum. In all memoranda filed with the court, "[t]he typed matter *must be double spaced* . . . [and a]ll pages *shall be numbered*." M.R. Civ. P. 7(f) (emphasis added). Plaintiffs' memorandum is single-spaced and has no page numbers.

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