

STATE OF MAINE
YORK, ss.

SUPERIOR COURT
Civil Action
Docket No. CV-16-0131

SONEPAR DISTRIBUTION, INC.
d/b/a NORTHEAST ELECTRICAL
DISTRIBUTORS,

Plaintiffs,

v.

MOULISON NORTH CORPORATION,
KENNETH MOULISON,

Defendants.

**ORDER ON PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT**

Plaintiff Sonepar Distribution, Inc. d/b/a Northeast Electrical Distributors moves for summary judgment pursuant to M.R. Civ. P. 56. The motion was scheduled to be heard on March 7, 2017.

The court's review of the file in preparation for hearing discloses that Plaintiff failed to support the motion with a separate statement of material fact as required by M.R. Civ. P. 56(h).¹ "A party who moves for a summary judgment must properly put the motion and, *most importantly*, the material facts before the court, or the motion will not be granted, regardless of the adequacy, or inadequacy, of the nonmoving party's response." *Levine v. R.B.K. Caly Corp.*, 2001 ME 77, ¶ 5, 770 A.2d 653 (emphasis added). Even though Plaintiff filed an affidavit in support of the motion, the rules strictly require that a "motion for summary judgment and opposition thereto *shall* be supported by statements of material facts." M.R. Civ. P. 56(h) (emphasis added). Rule 56(h)(1) further requires that the motion "*shall* be supported by a separate, short, and concise

¹ In their opposition to the motion, the only issue Defendants raise is this procedural defect. Plaintiff did not reply to Defendants' opposition.

statement of material facts, set forth in numbered paragraphs, as to which the moving party contends there is no genuine issue of material fact to be tried. . . [and] . . . [e]ach fact asserted in the statement shall be set forth in a separately numbered paragraph and shall be supported by a record citation" *Id.* (emphasis added).

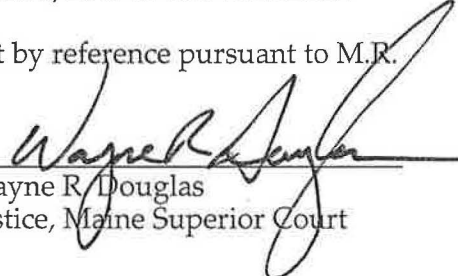
In the absence of a statement of material fact properly supported by record citations, there is "no factual basis for entry of summary judgment." *Levine*, 2001 ME 77, ¶ 5. Therefore, the court determines that Plaintiff's motion for summary judgment will be denied and that a hearing is therefore unnecessary.

Accordingly, it is hereby ORDERED as follows:

1. Plaintiff Sonepar Distribution, Inc. d/b/a Northeast Electrical Distributors' motion for summary judgment is DENIED.
2. The hearing scheduled for 3:00 p.m. on March 7, 2017 is CANCELLED.

The clerk may incorporate this order on the docket by reference pursuant to M.R. Civ. P. 79(a).

DATED: March 1, 2017



Wayne R. Douglas
Justice, Maine Superior Court