

Notice to the Bar:

Chief Justice Barbara J. Rouse of the Superior Court invites comments on proposed (1) changes to Superior Court Rule 9A(b)(5)(ii) that would require a party opposing a motion for summary judgment to cite to pleadings, depositions, etc., in support of an opposition to a motion for summary judgment; and (2) a new Superior Court rule on "Certification of Expert Disclosures" (Proposed Superior Court Rule 30B), which would require that experts who will testify at trial sign the answers to expert interrogatories certifying that the answer accurately states the subject matter(s), the substance of the facts and opinions, and a summary of the grounds for each opinion, to which the expert is expected to testify at trial. The proposed changes and new rule can be found below and/or on the Superior Court link to the Trial Court Website at <http://www.mass.gov/courts/courtsandjudges/courts/superiorcourt> under "Notice to the Bar from Superior Court Chief Justice Barbara J. Rouse." The deadline for comments is **September 2, 2011**. Comments should be mailed to the Superior Court Administrative Office, c/o Maria I. Peña, Suffolk County Courthouse, Three Pemberton Square, 13th Floor, Boston, MA 02108 or emailed to maria.pena@jud.state.ma.us.

PROPOSED AMENDMENT TO SUPERIOR COURT RULE 9A(b)(5)(ii). (proposed changes would add bolded language)



(ii) An opposition to a motion for summary judgment shall include a response to the moving party's statement of facts as to which the moving party claims there is no genuine issue to be tried. ~~To permit~~ **In order for** the court to have ~~in hand~~ a single document containing the parties' positions as to material facts in ~~easy~~ **comprehensible form, in preparing this response** the opposing party shall reprint the moving party's statement of material facts and shall set forth a response to each directly below the appropriate numbered paragraph : , **with page or paragraph references to supporting pleadings, depositions, answers to interrogatories, responses to requests for admission, affidavits, or other evidentiary documents.** Where the obligation to send the statement of material facts in electronic form has been excused, the response to the statement of material facts may be in a separate document. For purposes of summary judgment, the moving party's statement of a material fact shall be deemed to have been admitted unless controverted as set forth in this paragraph.

PROPOSED SUPERIOR COURT RULE 30B: CERTIFICATION OF EXPERT DISCLOSURES

In addition to the signature of the party, every disclosure called for by Mass. R. Civ. P. 26(b)(4)(A)(i) regarding any expert whose testimony is to be presented at trial shall be signed by the expert so disclosed. The signature by the expert is a certification that the disclosure accurately states the subject matter(s) on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion to which the expert is expected to testify at trial.