

After being fired, a woman sued her former employer in federal court, alleging that her supervisor had discriminated against her on the basis of her sex. The woman's complaint included a lengthy description of what the supervisor had said and done over the years, quoting his telephone calls and emails to her and her own emails to the supervisor's manager asking for help.

The employer moved for summary judgment, alleging that the woman was a pathological liar who had filed the action and included fictitious documents in revenge for having been fired. Because the woman's attorney was at a lengthy out-of-state trial when the summary judgment motion was filed, he failed to respond to it. The court therefore granted the motion in a one-line order and entered final judgment. The woman has appealed.

Is the appellate court likely to uphold the trial court's ruling?

- A. No, because the complaint's allegations were detailed and specific.
- B. No, because the employer moved for summary judgment on the basis that the woman was not credible, creating a factual dispute.
- C. Yes, because the woman's failure to respond to the summary judgment motion means that there was no sworn affidavit to support her allegations and supporting documents.
- D. Yes, because the woman's failure to respond to the summary judgment motion was a default giving sufficient basis to grant the motion.

Explanation:

Motion for summary judgment

(FRCP 56)

- | | |
|---------------------------|--|
| Time to file | <ul style="list-style-type: none">• Motion may be filed until 30 days after close of discovery OR time set by local rule or court |
| Burden of proof | <ul style="list-style-type: none">• Movant has initial burden to establish standard<ul style="list-style-type: none">– may support by relying on pleadings, affidavits, declarations, discovery, or other materials containing admissible facts• If initial burden is met, burden shifts to nonmovant to either:<ul style="list-style-type: none">– show specific disputed facts through affidavits, declarations, discovery, or other materials containing admissible facts (cannot rely on pleadings) <i>or</i>– request postponement for additional discovery & support with affidavit or declaration |
| Standard for grant | <ul style="list-style-type: none">• No genuine dispute as to any material fact AND movant entitled to judgment as a matter of law<ul style="list-style-type: none">– evidence must be viewed in light most favorable to nonmovant– all doubts must be resolved in nonmovant's favor |

FRCP = Federal Rule of Civil Procedure.

A motion for **summary judgment** is a request that the court enter judgment without a full trial. A trial court can only grant summary judgment if the movant shows that:

- there is **no genuine dispute of material fact** (ie, a fact of consequence to the outcome of the case) *and*
- the evidence is legally insufficient for a reasonable jury to find in the nonmovant's favor, so the movant is entitled to **judgment as a matter of law**.

Therefore, an appellate court will uphold a trial court's grant of summary judgment only if these elements are met.

Here, the employer's motion for summary judgment alleged that the woman was a pathological liar who used fictitious documents to support her sex discrimination claim. By challenging the woman's credibility in this manner, the employer disputed all the factual allegations set forth in her complaint. Since this created a genuine dispute of material fact, the appellate court will likely reverse (ie, not uphold) the trial court's grant of summary judgment.

(Choice A) The detail and specificity of the woman's allegations do not automatically prevent the court from entering summary judgment. Instead, the woman's allegations *and* the allegations raised in the employer's motion must show that there is a genuine dispute of material fact that bars summary judgment (as seen here).

(Choices C & D) The woman was not required to respond to the summary judgment motion until the man showed that he was entitled to such relief. Had this initial burden been met, the burden would have shifted to the woman to show the existence of a genuine dispute of material fact through affidavits, declarations, or other materials containing admissible facts. Only then would her failure to respond constitute a default.

Educational objective:

Summary judgment should be granted if the movant shows that (1) there is no genuine dispute as to any material fact and (2) the movant is entitled to judgment as a matter of law. A factual dispute exists if the movant challenges the credibility of the nonmovant's allegations.

References

- Fed. R. Civ. P. 56 (summary judgment).
- Celotex Corp. v. Catrett, 477 U.S. 317, 323–24 (1986) (explaining the summary judgment process and the support required from the moving and nonmoving parties).

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