

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

**Memorandum Re: Compliance with Local Rule 56.1
Concise Statement of Facts for Motions for Summary Judgment**

You will find **an Example** of a Concise Statement of Facts and an Opposing Concise Statement of Facts attached.

The following points set forth the **Key Requirements** of Local Rule 56.1:

1. The separate Concise Statement is limited to 5 pages or no more than 1500 words.
2. Only material facts that are absolutely necessary for the Court to determine the limited issues presented in the Motion should be included in the Concise Statement.
3. Material facts put forward by the moving party's separate Concise Statement are deemed admitted unless controverted by the separate Opposing Concise Statement.
4. Each material fact shall be supported by evidence such as a particular affidavit, deposition, or other document. The Concise Statement shall particularly identify the filing, portion of each document referenced, and page in support of each material fact, and where it can be found in ECF.
5. The relevant portions of each document shall be highlighted, or otherwise emphasized.
6. Documents referenced in the Concise Statement need not be filed in their entirety, but may be if a party concludes that the full context would be helpful to the Court.
7. The Concise Statement shall be filed separately. The Concise Statement should not be filed as an attachment to the Motion for Summary Judgment.
8. All attached exhibits on **all original and courtesy copies** shall have appropriately **labeled tabs**.

9. **Do not include argument** in your separate Concise Statement.

The purpose of the rule is to narrow the issues and provide the Court and the Parties with a statement of what is actually in dispute. Please be **very specific** as to what material facts are controverted and identify the specific **evidence** supporting your position.

In addition to the **Key Requirements** outlined above, the Parties must also comply with all other provisions of Local Rule 56.1.

revised 9/24/15



/s/ Helen Gillmor
Helen Gillmor
United States District Judge

EXAMPLE

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Attorney for Defendant:
L.H. Morgan Consulting Actuaries, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

Lawrence Spann,	)	CIVIL NO. 12-99999 HG-RLP
)	
	)	L.H. MORGAN CONSULTING
Plaintiff,	)	ACTUARIES, INC.'S SEPARATE AND
	)	CONCISE STATEMENT OF FACTS IN
vs.	)	SUPPORT OF DEFENDANT'S MOTION
	)	FOR SUMMARY JUDGMENT
L.H. Morgan Consulting)	
Actuaries, Inc.,	)	Hearing Date: TBD
)	
	)	Judge: Hon. Helen Gillmor
Defendant.)	
_____	)	Trial Date: April 16, 2014

**DEFENDANT'S SEPARATE AND CONCISE STATEMENT OF FACTS IN SUPPORT OF
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56.1 of the Civil Local Rules of Practice for the United States District Court for the District of Hawaii, Defendant L.H. Morgan Consulting Actuaries, Inc. ("L.H. Morgan") hereby submits its Separate and Concise Statement of Material Facts in support of its Motion for Summary Judgment, which is being filed contemporaneously.

DEFENDANT'S STATEMENT OF FACTS

FACTS

EVIDENTIARY SUPPORT

<p>1. On December 28, 2010, Plaintiff Lawrence Spann wrote to L.H. Morgan to request an employment interview.</p>	<p>Letter from Lawrence Spann to L.H. Morgan dated 12/28/10 at p. 1, attached as Ex. C to Def.'s Concise Statement of Facts ("CSF"), ECF No. 35-4.</p>
<p>2. Spann's cover letter and resume were reviewed by Nancy Sullivan, Director of Personnel for L.H. Morgan</p>	<p>Affidavit of Nancy Sullivan, Director of Personnel for L.H. Morgan ("Sullivan Aff.") at ¶ 5, attached as Ex. B to Def.'s CSF, ECF No. 35-3.</p>
<p>3. From the various awards and activities listed on Spann's resume, Sullivan was aware that Spann was an African-American candidate.</p>	<p>Sullivan Aff. at ¶ 12, Ex. B, ECF No. 35-3.</p>
<p>4. Shortly after receiving Spann's cover letter and resume, Sullivan contacted Spann and invited him to interview with L.H. Morgan on January 24, 2011, for a position in their Actuarial Trainee Program.</p>	<p>Spann's Answers to Interrogatories at p. 5, attached as Ex. J to Def.'s CSF, ECF No. 35-11.</p>
<p>5. Although L.H. Morgan did not ordinarily reimburse entry-level candidates for their interview expenses, Sullivan offered to pay for Spann's expenses because the firm was actively recruiting African-American candidates for its Actuarial Trainee Program</p>	<p>Spann's Response to Request for Admissions at p. 11, attached as Ex. A to Def.'s CSF, ECF No. 35-2.</p>
<p>6. The percentage of African-Americans in the Actuarial Training Program at L.H. Morgan is six times higher than the national percentage of African-American actuaries.</p>	<p>Sullivan Aff. at ¶ 13, Ex. B, ECF No. 35-3; NAACP Report dated July 8, 2010, entitled, "African-Americans in Actuarial Training Programs" at pp. 15, 27-28, attached as Ex. E to Def.'s CSF, ECF No. 35-6.</p>

<p>7. As communicated to Spann in a letter dated January 5, 2011, Spann's interview was scheduled to begin at 9:30 a.m. on January 24, 2011.</p>	<p>Letter to Spann from Sullivan dated 1/5/11, attached as Ex. D to Def.'s CSF, ECF No. 35-5.</p>
<p>8. Spann was scheduled to interview with Director of Personnel Sullivan and Steven Parsons, a senior partner at the firm.</p>	<p>Sullivan Aff. at ¶ 11, Ex. B, ECF No. 35-3.</p>
<p>9. On January 24, 2011, Spann arrived at the L.H. Morgan offices at 9:55 a.m.</p>	<p>Deposition of Lawrence Spann ("Spann Depo.") at p. 9, attached as Ex. F to Def.'s CSF, ECF No. 35-7.</p>
<p>10. During his interview with Sullivan, Spann indicated that his salary expectations were around \$80,000.</p>	<p><u>Id.</u> at p. 14.</p>
<p>11. L.H. Morgan's average starting salary for Actuarial Trainees is \$60,000.</p>	<p>Affidavit of Jane Turner, Director of Payroll for L.H. Morgan ("Turner Aff.") at ¶ 4, attached as Ex. G to Def.'s CSF, ECF No. 35-8.</p>
<p>12. The industry-wide average starting salary for the equivalent position is \$50,000.</p>	<p>Report from the American Society of Actuaries dated January 10, 2012, entitled, "Assessment of Industry Compensation Standards" at pp. 48-49, attached as Ex. H to Def.'s CSF, ECF No. 35-9.</p>
<p>13. During his interview with Parsons, Spann remarked that the duties of an Actuarial Trainee appeared somewhat menial and that he would expect to be promoted to Actuarial Associate within one year.</p>	<p>Spann Depo. at p. 18, Ex. F, ECF No. 35-7.</p>
<p>14. On average, entry-level candidates at L.H. Moran spend two and one half years as Actuarial Trainees before promotion to Actuarial Associate.</p>	<p>Sullivan Aff. at ¶ 20, Ex. B, ECF No. 35-3; Turner Aff. at ¶ 6, Ex. G, ECF No. 35-8.</p>

<p>15. Spann devoted the majority of his interview with Parsons to inquiring about the Actuarial Associate position and the requirements for partnership.</p>	<p>Affidavit of Steven Parsons ("Parsons Aff.") at ¶ 5, attached as Ex. I to Def.'s CSF, ECF No. 35-10.</p>
<p>16. In accordance with standard interview procedures, Sullivan and Parsons met after their interviews with Spann to discuss their impressions and to fill out a written evaluation form.</p>	<p>Sullivan Aff. at ¶ 19, Ex. B, ECF No. 35-3; Parsons Aff. at ¶ 8, Ex. I, ECF No. 35-10.</p>
<p>17. Sullivan and Parsons agreed that Spann should not be extended an employment offer.</p>	<p>Sullivan Aff. at ¶¶ 20-21, Ex. B, ECF No. 35-3; Parsons Aff. at ¶¶ 9-10, ECF No. 35-10.</p>

DATED: Honolulu, Hawaii, October 1, 2013.

ROBERT M. MANGAN

Attorney for Defendant:
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ACTUARIES, INC.

EXAMPLE

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Attorney for Plaintiff:
Lawrence Spann

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

Lawrence Spann,	)	CIVIL NO. 12-99999 HG-RLP
)	
Plaintiff,	)	PLAINTIFF'S SEPARATE AND
	)	CONCISE STATEMENT OF FACTS IN
vs.	)	OPPOSITION TO DEFENDANT'S
	)	MOTION FOR SUMMARY JUDGMENT
)	
L.H. Morgan Consulting	)	Hearing Date: November 5, 2013
Actuaries, Inc.,)	
	)	Judge: Hon. Helen Gillmor
)	
Defendant.	)	Trial Date: April 16, 2014
)	

**PLAINTIFF'S SEPARATE AND CONCISE STATEMENT OF FACTS IN OPPOSITION
TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56.1 of the Civil Local Rules of Practice for the United States District Court for the District of Hawaii, Plaintiff Lawrence Spann hereby submits his Separate and Concise Statement of Facts in opposition to the Defendant L.H. Morgan Consulting Actuaries, Inc.'s Separate and Concise Statement of Facts submitted in support of its Motion for Summary Judgment.

Facts 1 through 17 correspond to the facts and supporting evidence presented in the Defendant's Separate and Concise Statement of Material Facts. Where appropriate, Plaintiff has

indicated that the facts relied upon by Defendant are controverted. These are followed by additional material facts and supporting evidence that Plaintiff introduces to demonstrate the existence of a genuine issue of material fact.

PLAINTIFF'S RESPONSE TO DEFENDANT'S STATEMENT OF FACTS

<u>FACTS</u>	<u>EVIDENTIARY SUPPORT</u>
1. Undisputed.	<u>See</u> Letter from Lawrence Spann to L.H. Morgan dated 12/28/10 at p. 1, attached as Ex. C to Def.'s Concise Statement of Facts ("CSF"), ECF No. 35-4.
2. Undisputed.	<u>See</u> Affidavit of Nancy Sullivan, Director of Personnel for L.H. Morgan ("Sullivan Aff.") at ¶ 5, attached as Ex. B to Def.'s CSF, ECF No. 35-3.
3. Undisputed.	<u>See</u> Sullivan Aff. at ¶ 12, attached as Ex. B to Def.'s CSF, ECF No. 35-3.
4. Partially disputed. Although Nancy Sullivan did invite Plaintiff Lawrence Spann to interview with L.H. Morgan on January 25, 2011, Spann was never informed that he was only being considered for the Actuarial Trainee Program.	Affidavit of Lawrence Spann ("Spann Aff.") at ¶ 7, attached as Ex. A to Pla.'s CSF, ECF No. 37-2; Deposition of Nancy Sullivan ("Sullivan Depo.") at p. 9, attached as Ex. B to Pla.'s CSF, ECF No. 37-3.

<p>5. Partially disputed. L.H. Morgan was not actively recruiting African-American candidates for its Actuarial Trainee Program. L.H. Morgan did not hire a single African-American into its Actuarial Training Program between September 1, 2010 and August 31, 2011. During this same period, the firm hired thirty non-African-Americans into the Program.</p>	<p>Def.'s Answers to Interrogatories at p. 2, attached as Ex. C to Pla.'s CSF, ECF No. 37-4.</p>
<p>6. Undisputed.</p>	<p>See Sullivan Aff. at ¶ 13, Ex. B, ECF No. 35-3; NAACP Report dated July 8, 2010 entitled "African-Americans in Actuarial Training Programs" at pp. 15, 27-28, attached as Ex. E to Def.'s CSF, ECF No. 35-6.</p>
<p>7. Undisputed.</p>	<p>See Letter to Spann from Sullivan dated 1/5/11, attached as Ex. D to Def.'s CSF, ECF No. 35-5.</p>
<p>8. Undisputed.</p>	<p>See Sullivan Aff. at ¶ 11, attached as Ex. B to Def.'s CSF, ECF No. 35-3.</p>
<p>9. Disputed. Plaintiff Spann arrived at L.H. Morgan's building at 9:27 a.m., but was not able to proceed to L.H. Morgan's reception area on the twenty-second floor because Sullivan had neglected to inform security that Spann was an expected visitor. By the time the security officer received Sullivan's permission to send Spann upstairs, it was 9:51 a.m. As a result, Spann did not arrive at the L.H. Morgan reception area until about 9:53 a.m.</p>	<p>Deposition of Lawrence Spann ("Spann Depo.") at pp. 9-10, attached as Ex. E to Pla.'s CSF, ECF No. 37-6; Affidavit of Kimo Watson ("Watson Aff.") at ¶¶ 12-13, attached as Ex. F to Pla.'s CSF, ECF No. 37-7.</p>

<p>10. Partially disputed. Spann indicated that salary was negotiable, but that given his credentials, he believed \$80,000 would be reasonable.</p>	<p>Spann Depo. at pp. 10-11, attached as Ex. E to Pla.'s CSF, ECF No. 37-6.</p>
<p>11. Undisputed.</p>	<p><u>See</u> Affidavit of Jane Turner, Director of Payroll for L.H. Morgan ("Turner Aff.") at ¶ 4, attached as Ex. G to Def.'s CSF, ECF No. 35-8.</p>
<p>12. Undisputed.</p>	<p><u>See</u> Report from the American Society of Actuaries dated January 10, 2012, entitled "Assessment of Industry Compensation Standards" at pp. 48-49, attached as Ex. H to Def.'s CSF, ECF No. 35-9.</p>
<p>13. Partially disputed. Spann indicated to Parsons that he was confident in his ability and would expect to advance quickly.</p>	<p>Def.'s Response to Request for Admissions at p. 4, attached as Ex. D to Pla.'s CSF, ECF No. 37-5; Spann Aff. at ¶ 27, attached as Ex. A to Pla.'s CSF, ECF No. 37-2.</p>
<p>14. Undisputed.</p>	<p><u>See</u> Sullivan Aff. at ¶ 20, attached as Ex. B to Def.'s CSF, ECF No. 35-3; Turner Aff. at ¶ 6, attached as Ex. G to Def.'s CSF, ECF No. 35-8.</p>
<p>15. Undisputed.</p>	<p><u>See</u> Affidavit of Steven Parsons ("Parsons Aff.") at ¶ 5, attached as Ex. I to Def.'s CSF, ECF No. 35-10.</p>

16. Undisputed	See Sullivan Aff. at ¶ 19, attached as Ex. B to Def.'s CSF, ECF No. 35-3; Parsons Aff. at ¶ 8, attached as Ex. I to Def.'s CSF, ECF No. 35-10.
17. Undisputed.	See Sullivan Aff. at ¶ 20, attached as Ex. B to Def.'s CSF, ECF No. 35-3; Parsons Aff. at ¶ 9, attached as Ex. I to Def.'s CSF, ECF No. 35-10.

Plaintiff also contends that the following additional material facts are relevant or in dispute.

PLAINTIFF'S STATEMENT OF MATERIAL FACTS IN OPPOSITION

18. Plaintiff Spann is a 2009 <i>magna cum laude</i> graduate of the Wharton School of Business, where he obtained a Bachelor of Science degree in Economics with concentrations in Actuarial Science and Accounting.	Transcript for Lawrence Spann from the Wharton School of Business dated 6/10/09, attached as Ex. F to Pla.'s CSF, ECF No. 37-7.
19. In the course of his studies at the University of Pennsylvania, Spann maintained a 4.0 grade point average in his seven accounting classes and was awarded numerous academic prizes and citations.	<u>Id.</u>
20. At the time of his application to L.H. Morgan, Spann had passed seven of the examinations administered by the American Society of Actuaries, making him an Associate Member of the Society.	Certificate from the American Society of Actuaries for Lawrence Spann dated 12/05/10, attached as Ex. G to Pla.'s CSF, ECF No. 37-8.

<p>21. When Spann mentioned to Sullivan that he thought \$80,000 would be a fair salary, Sullivan told Spann that such a salary was on the high side, but not necessarily "out of the ballpark."</p>	<p>Spann Aff. at ¶ 10, attached as Ex. A to Pla.'s CSF, ECF No. 37-2.</p>
<p>22. When Spann expressed interest in the Actuarial Associate position and in the requirements for partnership, Parsons remarked that Spann might "be getting a little ahead of himself" to be thinking about such positions.</p>	<p><u>Id.</u> at ¶ 17.</p>
<p>23. Of the thirty individuals hired into the Actuarial Trainee Program between September 1, 2010 and August 31, 2011, twenty-seven had grade point averages that were lower than Spann's and none had passed as many of the exams administered by the American Society of Actuaries.</p>	<p>Def.'s Answers to Interrogatories at pp. 7-9, attached as Ex. C to Pla.'s CSF, ECF No. 37-4.</p>

DATED: Honolulu, Hawaii, October 20, 2013.

CATHERINE M. FURST

Attorney for Plaintiff:
LAWRENCE SPANN