

## STANDARD FOR SUMMARY JUDGMENT

Pursuant to **Rule 56, Federal Rules of Civil Procedure**, summary judgment is proper only if "there is no genuine issue as to any material fact and . . . the moving party is entitled to judgment as a matter of law." "[T]he substantive law will identify which facts are material. Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted." **Anderson v. Liberty Lobby, Inc.**, 477 U.S. 242, 248, 106 S.Ct. 2505 2510, 91 L.Ed.2d 202 (1986). The burden is on the moving party to demonstrate that no genuine issue of material fact exists. **Celotex Corp. v. Catrett**, 477 U.S. 317, 323, 106 S.Ct. 2548, 2552-53, 91 L.Ed.2d 265 (1986). In determining whether the moving party has met its burden, the court must consider all inferences drawn from the underlying facts in a light most favorable to the party opposing the motion and must resolve all reasonable doubt against the moving party. **Anderson**, 477 U.S. at 255, 106 S.Ct. at 2513-14; See **Matsushita Elec. Indus. Co. v. Zenith Radio Corp.**, 475 U.S. 574, 587-88, 106 S.Ct. 1348, 1358-57, 89 L.Ed.2d 538 (1986).

"[T]he court must consider all inferences drawn from the underlying facts in a light most favorable to the party opposing the motion . . . ." **Anderson v. Liberty Lobby, Inc.**

The court may grant summary judgment only "if there is no genuine issue as to any material fact." **Anderson v. Liberty Lobby, Inc.**, 477 U.S. 242, 250, 106 S.Ct. 2502, 2511, 91 L.Ed.2d. 202 (1986). The burden rests on the moving party to demonstrate the lack of a genuine issue of fact. **Adickes v. S. H. Kress & Co.**, 398 U.S. 144, 157, 90 S.Ct. 1598, 1608, 26 L.Ed.2d 142 (1970). The record must be viewed in the light most favorable to the moving party opposing the motion. **United States v. Diebold, Inc.**, 369 U.S. 654, 82 S.Ct. 993, 994, 8 L.Ed.2d 176 (1962).

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It is well settled that a plaintiff may survive summary judgment by "presenting evidence sufficient to demonstrate a genuine issue of material fact as to the truth or falsity of the employer's legitimate, nondiscriminatory reasons." **Evans v. McClain of Georgia, Inc.**, 131 F.3d 957, 965 (11th Cir. 1997) (citations omitted) and that "the fact finder's disbelief of the reasons put forward by the defendant (particularly if disbelief is accompanied by a suspicion of mendacity) may, together with the elements of a prima facie case, suffice to show intentional discrimination." **St. Mary's Honor Center v. Hicks**, 509 U.S. 502, 511, 113 S.Ct. 2742, 2749 (1993).

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"The prima facie case method established in McDonnell Douglas was never intended to be rigid, mechanized, or ritualistic. Rather, it is merely a sensible, orderly way to evaluate the evidence in light of common experience as it bears on the critical question of discrimination." **United States Postal Service Board of Governors v. Aikens**, 460 U.S. 711 (1983) (citation omitted). In **Iadimarco v. Runyon**, 190 F.3d 151 (10th Cir. 1999) the court noted its previous adoption of prima facie case alternatives that the Fourth Circuit had outlined. It made note that a plaintiff who presents direct evidence of discrimination or indirect evidence sufficient to support a reasonable probability that but for the plaintiff's status the challenged employment decision would have favored the plaintiff states a prima facie case of intentional discrimination under Title VII. *Id.* at 162 (citations omitted).

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