



WHERE WE ARE & WHAT WE'RE DOING

- Pleading
- Pre-trial
 - Discovery
 - Resolution without Trial
- Trial & Post-trial
- Appeal

SUMMARY JUDGMENT

Overview

- SJ Basics

- What it is – Cf. 12(b)(6)
- Standard for obtaining - FR 56(c)
 - No genuine issue as to any material fact (GIMF)
 - Entitled to judgment as a matter of law
- Procedure
 - Motion
 - Facts
 - Affidavits (Declarations)
 - Discovery Responses
 - Law

SUMMARY JUDGMENT

Overview

- SJ Issues
 - Burdens of production/proof
 - Credibility Issues
 - Affidavits/Declarations
 - Substance
 - Form (e.g. sworn/unsworn)

SUMMARY JUDGMENT

Practice Skills: Elements Chart

- Elements
- Factual Propositions
- Proof
- FR 56(c) req'ts

SUMMARY JUDGMENT

Celotex Corp. v. Catrett, p. 630

- Charting the claim
 - Elements (pl's allegations)
 - Factual propositions?
 - What's at issue?

SUMMARY JUDGMENT

Celotex Corp. v. Catrett, p. 630

- SJ Motion
 - How did Celotex try to show no GIMF?

SUMMARY JUDGMENT

Celotex Corp. v. Catrett, p. 635

- Burden of prod./proof Note 4
 - Celotex motion
 - No medically qualified expert re: causation
 - Catrett response – affidavit of pathologist
 - Catrett motion
 - Affidavit of pathologist
 - tissue samples “consistent with” death by asbestosis
 - Celotex response – no affidavit contradicts

SUMMARY JUDGMENT

Celotex Corp. v. Catrett, p. 630

- Substance of Affidavits
 - What is sufficient to show GIMF?
 - Letter from supervisor
 - “I can testify that at time w/in s/l Mr. C was exposed to Celotex asbestos in D.C”
 - Letter from supervisor
 - “I can tell you which asbestos we used in the factory when Mr. C. worked there”

SUMMARY JUDGMENT

Celotex Corp. v. Catrett, p. 630

- Form of Affidavits, FR 56(e)
 - Letter from supervisor proper evidence?
 - p. 631, 13 lines down
 - p. 636, note 5a
 - What should C's lawyer have done?