

IN THE SUPREME COURT OF FLORIDA

CASE NO.: SC19-1336

WILSONART, LLC and SAMUEL ROSARIO,

Petitioners,

v.

MIGUEL LOPEZ, as Personal Representative of the Estate of
JON LOPEZ, deceased,

Respondent.

On review from the District Court of Appeal
Fifth District of Florida

CASE NO.: 5D18-2907

APPENDIX TO FEDERATION OF DEFENSE & CORPORATE COUNSEL'S
AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONERS

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State	Citation	Celotex Status
Alabama	<i>Ex parte General Motors Corp.</i> , 769 So. 2d 903, 909 (Ala. 1999).	Cited with approval.
Alaska	<i>Moffatt v. Brown</i> , 751 P.2d 939, 943 (Al. 1988); <i>Christensen v. Alaska Sales & Serv.</i> , 335 P.3d 514 (Al. 2014).	Rejected <i>Anderson</i> and the Federal Rule changes. <i>But see Greywolf v. Carroll</i> , 151 P.3d 1234 (AL. 2007) (citing to <i>Celotex</i> with favor).
Arizona	<i>Orme School v. Reeves</i> , 802 P.2d 1000, 1009 (Ariz. 1990 (en banc)).	Adopted <i>Celotex</i> .
Arkansas	<i>Short v. Little Rock Dodge, Inc.</i> , 759 S.W.2d 553, 554 (Ark. 1988).	Adopted <i>Celotex</i> .
California	<i>Aguilar v. Atlantic Richfield Co.</i> , 24 P.3d 493, 512 (Cal. 2001).	Cited with approval.
Colorado	<i>Continental Air Lines, Inc. v. Keenan</i> , 731 P.2d 708, 712 (Co. 1987); <i>State v. 5Star Feedlot, Inc.</i> , 2019 Colo. App. LEXIS 1589, *20—23, 2019 WL 544307 (Co. App. 2019).	Cited with approval.
Connecticut	<i>Maltas v. Maltas</i> , 2 A.3d 902, 913 (Conn. 2010).	Cited with approval.
Delaware	<i>Burkhart v. Davies</i> , 602 A.2d 56, 59 (Del. 1991).	Cited with approval.

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Florida	<i>Intentionally Omitted</i>	Omitted
Georgia	<i>PNC Bank v. GV Assocs.</i> , 2014 GA. State LEXIS 958 (Ga. Fulton Cty., 2014) (<i>Celotex</i>).	Cited with approval by lower court and no ruling in high court.
Hawaii	<i>First Hawaiian Bank v. Weeks</i> , 772 P.2d 1187, 1190 (Hawaii 1989).	Cited with approval.
Idaho	<i>Dunnick v. Elder</i> , 882 P.2d 475, 478-79 (Idaho Ct. App. 1994)	Adopted.
Illinois	<i>Koziol v. Hayden</i> , 723 N.E.2d 321, 324—25 (Ill. App. 1999).	Cited with approval.
Indiana	<i>Jarboe v. Landmark Community Newspapers</i> , 644 N.E.2d 118, 123 (Ind. 1994).	Rejected.
Iowa	<i>Slaughter v. Des Moines Univ. Coll. Of Osteopathic Med.</i> , 925 N.W.2d 793, 820 (Ia. 2019).	Stated that it does not follow <i>Celotex</i> where the motion for summary judgment is not “adequately supported.”
Kansas	<i>Sharples v. Roberts</i> , 816 P.2d 395, 395 (Kan. 1991).	Cited with approval.
Kentucky	<i>Steelvest, Inc. v. Scansteel Service Center, Inc.</i> , 807 S.W.2d 476, 483 (Ky. 1991) (overruled on other grounds by	Rejected a change to Kentucky law but recognized that Kentucky law and Federal law overlapped in some

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	statute in KRS 411.182).	respects. The standard was stated to be that summary judgment would be used “to terminate litigation when, as a matter of law, it appears that it would be impossible for the respondent to produce evidence at the trial warranting a judgment in his favor and against the movant.”
Louisiana	<i>Anders v. Andrus</i> , 773 So.2d 289, 291 (La. Ct. App. 2000).	Cited with approval.
Maine	<i>Corey v. Norman Hanson & Detroy</i> , 742 A.2d 933 (Me. 1999).	Cited with approval.
Maryland	<i>Bond v. Nibco, Inc.</i> , 96 Md. App. 127, 135 (1993).	Cited with approval.
Massachusetts	<i>Kourouvacilis v. General Motors Corp.</i> , 575 N.E.2d 734, 740 (Mass. 1991).	Adopted.
Michigan	<i>McCart v. J. Walter Thompson USA, Inc.</i> , 469 N.W.2d 284, 290, n.12 (Mich. 1990).	Cited with approval.
Minnesota	<i>Rouse v. Dunkley & Bennett, P.A.</i> , 520 N.W.2d 406, 411 (Minn.1994).	Cited with approval.

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Mississippi	<i>Williamson v. Keith</i> , 786 Sp.2d 390, 394 (Miss. 2001).	Cited with approval.
Missouri	<i>Powel v. Chaminade College Prep., Inc.</i> ,197 S.W.3d 576, fn.7 (Mo. 2006); <i>ITT Commercial Finance v. Mid-Am Marine</i> , 854 S.W.2d 371, 379-80 (Mo. 1993).	Cited with approval and stated that the standard in Missouri is “basically the same.”(<i>Powel</i>)
Montana	<i>Monroe v. Cogswell Agency</i> , 234 P.3d 79, 93 (Mt. 2010).	Cited with approval.
Nebraska	<i>Anderson v. Service Merchandise Co.</i> , 485 N.W.2d 170, 174 (Neb. 1992).	Cited with approval.
Nevada	<i>Maine v. Stewart</i> , 857 P.2d 755, 759 (Nev. 1993).	Cited with approval.
New Hampshire	<i>Laramie v. Cattell</i> , 2007 N.H. Super. LEXIS 6, *7 (N.H. Super. 2007)	Cited with approval by lower court and no ruling in high court.
New Jersey	<i>Brill v. Guardian Life Ins. Co. of Am.</i> , 142 N.J. 520, 540 (1995).	Adopted.
New Mexico	<i>Romero v. Phillip Morris, Inc.</i> , 242 P.3d 280, 287 (N.M. 2010).	Rejecting and defining the standard as follows: once the moving party shows a prima facie entitlement to summary judgment, the burden “shifts to the non-movant to

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		<p>demonstrate the existence of specific evidentiary facts which would require trial on the merits.” <i>Romero</i>, 242 P.3d at 288. “A party may not simply argue that such evidentiary facts might exist, nor may it rest upon the allegations of the complaint [but instead] must adduce evidence to justify a trial on the issues.” <i>Id.</i></p>
<p>New York</p>	<p><i>Cawein v. Flintkote Co.</i>, 203 A.D2d 105, 106 (1994).</p>	<p>Cited with approval by lower court and no ruling in high court but see concurrence in <i>Yun Tung Chow v. Reckitt & Colman, Inc.</i>, 17 N.Y.3d 29, 36 (N.Y. App. 2011) (“If we were writing on a clean slate, I might prefer the Celotex rule to ours, but we are not, and I am not urging a change in our law. I am urging, however, that parties moving for summary judgment in the</p>

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		future be alert to the burden that New York places on a moving party.”)
North Carolina	<i>Corum v. Univ. of North Carolina</i> , 413 S.E. 2d 276, 287 (N.C. 1992).	Cited with approval.
North Dakota	<i>Estate of Stanton v. Stanton</i> , 472 N.W. 2d 741, 743 (N.D. 1991).	Cited with approval.
Ohio	<i>Dresher v. Burt</i> , 662 N.E.2d 264, 268—277 (1996).	Cited with approval.
Oklahoma	<i>Kating v. City of Pryor</i> , 977 P.2d 1142, 1144 (Okla. 1999).	Noted that <i>Celotex</i> is not specifically applicable and that the standard is as follows: “The court should render summary judgment when there is no substantial controversy as to any material fact, and one of the parties is entitled to judgment as a matter of law. The court must also find that reasonable people could not reach different conclusions on the undisputed facts. All inferences to be drawn from the undisputed facts

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		<p>must be viewed in the light most favorable to the party opposing the motion. Nevertheless, the mere contention that facts exists, or might exist, to create a fact question is insufficient.”</p>
Oregon	<i>Jones v. General Motors Corp.</i> , 939 P.2d 608 (Or. 1997).	<i>Jones</i> held that the federal cases were not codified in the 1995 Oregon amendment and that the burden to show entitled to summary judgment falls on the moving party even if the opposing party would have the trial burden.
Pennsylvania	<i>Ertel v. Patriot-News Co.</i> , 674 A.2d 1038, 1042 (Pa. 1996).	Adopted.
Rhode Island	<i>Lavoie v. N.E. Knitting, Inc.</i> , 918 A.2d 225, 228 (2007).	Quoted with approval.
South Carolina	<i>Harris v. Rose’s Stores, Inc.</i> , 433 S.E.2d 905, 906 fn 2 (S.C. 1993).	Cited with approval.
South Dakota	<i>Weiss v. Van Norman</i> , 562 N.W.2d 113, 116 (S.D. 1997)	Cited with Approval

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Tennessee	<i>Rye v. Women’s Care Ctr. Of Memphis, MPLLC</i> , 477 S.W.3d 235, 264 (2015).	Adopted, stating that the Court “fully embrace[s] the standards articulated in the <i>Celotex</i> trilogy.”
Texas	<i>Huckabee v. Time Warner Ent. Co., L.P.</i> , 19 S.W.3d 413 (Tex. 2000).	Rejected the <i>Anderson</i> clear and convincing standard but in practice applied <i>Celotex</i> by concluding that because the defendant produce evidence negating a requisite claim and the plaintiff failed to produce controverting evidence raising a fact issue, summary judgment was appropriate.
Utah	<i>Burns v. Cannondale Bicycle Co.</i> , 876 P.2d 415, 420 (Utah Ct. App. 1994).	Cited with approval.
Vermont	<i>Brown v. State</i> , 88 A.3d 402, 406 (Vt. 2013).	Cited with approval.
Virginia	<i>Realtors v. Glenn</i> , 2001 WL 587489, *5, 2001 VA. Cir. LEXIS 145, *15 (Va. Cir. Ct. 2001)	Cited with approval by lower court and no ruling in high court, <i>but see Realstar Realtors v. Glenn</i> , 56 Va. Cir. 170, 186 (Cir. Ct. 2001) rejecting.
Washington	<i>White v. Kent</i>	Cited with approval.

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	<i>Medical Center, Inc.</i> , 810 P.2d 4, 9 (Wash. 1991).	
West Virginia	<i>Williams v. Precision Coil, Inc.</i> , 459 S.E.2d 329 (W.Va. 1995).	Cited with approval.
Wisconsin	<i>Yahnke v. Carson</i> , 613 N.W.2d 102, 108 (Wis. 2000).	Adopted.
Wyoming	<i>Bogdanski v. Budzik</i> , 408 P.3d 1156, fn.12 (Wy. 2018).	Wyoming has neither adopted nor rejected <i>Celotex</i> as it has not been properly raised before the Wyoming Supreme Court.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was served via Electronic Mail to all parties listed on the Service List below and filed via the Florida Courts e-Filing Portal on this 16th day of December, 2019.

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In compliance with Florida Rule of Appellate Procedure 9.210(2), counsel for Amicus Counsel for Federation of Defense & Corporate Counsel certifies that the size and style of type used in this appendix are 14 point type, Times New Roman.

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