

The affidavit or declaration must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on matters stated. FRCP 56 (c) (4). See *Gell v. Town of Aulander*, 252 F.R.D. 297, 304 (E.D.N.C.2008) (competence goes to matters in affidavit, not affiant's age or recall ability).

A court must not consider parts of an affidavit or declaration that do not meet the requirements of FRCP 56 (c) (4) when determining a motion for summary judgment. See *Cooper-Schut v. Visteon Auto. Sys.*, 361 F.3d 421, 429 (7th Cir. 2004).

An affidavit or declaration made on "information and belief" does not meet the FRCP 56 (c) (4) requirement of personal knowledge. See *Automatic radio Mfg. Co. v. Hazeltine Research, Inc.*, 339 U.S. 827, 831 (1950), *overruled on other grounds*, *Lear, Inc., v. Adkins*, 395 U. S. 653 (1969); *Columbia Pictures Indus. V. Professional real estate Investors, Inc.*, 944 F.2d 1525, 1529 (9th Cir.1991), *aff'd*, 508 U.S. 49 (1993).

Moreover, The facts stated in the affidavit or declaration must be specific and must constitute admissible evidence See *Lujan v. National Wildlife Fed'n*, 497 U.S. 871, 888 (1990); see, e.g. *Evans v. Technologies Applications & Serv.*, 80 F.3d 954, 962 (4th Cir.1996), (inadmissible hearsay cannot be considered).