

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
Jacksonville Division**

JOY PERRY, *et al.*,)
)
Plaintiffs,)
)
v.)
)
BARRY REDDISH, *et al.*,)
)
Defendants.)
_____)

Case No. 3:09-cv-403-J-34 JRK

**JOINT MOTION FOR ADDITIONAL BRIEFING ON DEFENDANTS’ RESPONSE
IN OPPOSITION TO PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT**

Plaintiffs and Defendants, by and through their undersigned counsel and pursuant to Local Rule 3.01(c), Middle District of Florida, hereby seek leave of Court to file additional briefing on Defendants’ Response in Opposition to Plaintiffs’ Motion for Summary Judgment (D.E. 55), in the form of a Reply for Plaintiffs and subsequent Surreply for Defendants, and in support thereof, state as follows:

1. On May 14, 2010, Plaintiffs filed their Motion for Summary Judgment (D.E. 44) in the above captioned matter.
2. On May 27, 2010, Defendants filed a Motion to Amend Case Management and Scheduling Order (D.E. 48), informing Plaintiffs and this Court of a “newly discovered witness” – Steve Arnold – and requesting that this Court reopen discovery for the narrow purpose of providing Plaintiffs’ counsel an opportunity to depose Mr. Arnold.
3. On June 15, 2010, Defendants filed their Response in Opposition to Plaintiffs’ Motion for Summary Judgment (D.E. 55). Defendants attached to their Response an affida-

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vit of Steve Arnold (D.E. 55, Ex. A), and cited to factual testimony contained in Mr. Arnold's affidavit throughout their Response.

4. On June 17, 2010 this Court granted Defendants' Motion to Amend Case Management and Scheduling Order, reopened discovery for thirty (30) days for the limited purpose of allowing the parties to conduct the deposition of Mr. Arnold, and directed Defendants to produce the personnel file of Mr. Arnold to Plaintiffs prior to such deposition if requested (D.E. 59).

5. Plaintiffs conducted their deposition of Mr. Arnold on June 30, 2010.

6. Prior to Plaintiffs' deposition of Mr. Arnold, conducted over a month after Plaintiffs' submission of their Motion for Summary Judgment, Plaintiffs had had no opportunity to question Mr. Arnold regarding his testimony in this matter and had been provided no documents supporting the basis for Mr. Arnold's affidavit or testimony.

7. Due to Mr. Arnold's late disclosure and deposition, Plaintiffs seek leave of Court to file a Reply to Defendants' Response in Opposition to Plaintiffs' Motion for Summary Judgment to address numerous factual and conclusory assertions made by Defendants in reliance on Mr. Arnold's affidavit and testimony. Plaintiffs' Reply will be limited and directed to these assertions made in reliance on Mr. Arnold's testimony, and will not be used as an opportunity to make new or additional argument in support of Plaintiffs' Motion for Summary Judgment. If granted, Plaintiffs' Reply will not exceed fifteen (15) pages in length.

8. If Plaintiffs are granted leave to file such a Reply, in the interests of fairness Defendants seek leave of Court to file a Surreply to Plaintiffs' Reply to Defendants' Re-

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sponse in Opposition to Plaintiffs' Motion for Summary Judgment. Defendants' Surreply will be limited and directed only to those arguments contained in Plaintiffs' Reply, and will not be used as an opportunity to make new or additional argument in opposition to Plaintiffs' Motion for Summary Judgment. If granted, Defendants' Surreply will not exceed fifteen (15) pages in length.

9. This Joint Motion is made in good faith and not for the purpose of delay. No parties will be prejudiced by the granting of the relief requested herein.

10. **Certificate of Counsel.** Pursuant to Local Rule 3.01(g), Middle District of Florida, the parties are in agreement as to the relief requested herein.

WHEREFORE the parties respectfully request this Court enter an Order granting Plaintiffs leave to file a Reply to Defendants' Response in Opposition to Plaintiffs' Motion for Summary Judgment and granting Defendants leave to file a Surreply to Plaintiffs' Reply to Defendant's Response in Opposition to Plaintiffs' Motion for Summary Judgment.

Respectfully submitted,

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