

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

SHEILA HELMERT, WILMA BROWN,  
and LORI WEST, on behalf of themselves  
and others similarly situated

PLAINTIFFS

v.

No. 4:08CV00342 JLH

BUTTERBALL, LLC

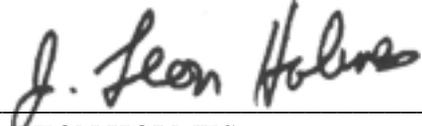
DEFENDANT

**ORDER**

Butterball, LLC, has filed a motion to strike or in the alternative a motion to file a sur-response. That motion is directed at a brief filed by the plaintiffs in support of their motion for leave to file a second amended complaint. When the motion was filed, the plaintiffs did not file a brief in support. After Butterball had filed a brief opposing the motion, the plaintiffs then filed a brief in support of the motion. The plaintiffs do not oppose the motion for leave to file a sur-response.

The motion to strike is DENIED. The motion for leave to file a sur-response is GRANTED. Document #187. Any sur-response in addition to the one filed yesterday that Butterball wishes to file must be filed within seven days from the entry of this Order.<sup>1</sup>

IT IS SO ORDERED this 13th day of May, 2010.

  
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J. LEON HOLMES  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The plaintiffs have submitted an affidavit from one of their lawyers saying that he told one of the Court's clerks in a telephone conversation that plaintiffs would be filing a reply and that the clerk responded that she would be looking for it. Nothing is inappropriate in a lawyer notifying a law clerk that a document will be filed, nor is it inappropriate for the clerk to say that she would be looking for it. It is disturbing, however, that the plaintiffs present this *ex parte* conversation as advice from chambers or a ruling by the Court. It would be inappropriate for court staff to give advice to a party or to offer an opinion about how the Court would rule.