

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

LOIS DRIVER, et al

PLAINTIFFS

VS.

CASE NO. 4:13-cv-4074

D. MOSLEY TRUCKING, INC.,
et al

DEFENDANTS

ORDER

Before the Court are the following motions: Defendants D. Mosley Trucking Inc. and Ramon Colon's Motion for Leave to File Response (ECF No. 174); Plaintiffs' Motion to Strike Reply (ECF No. 177); and Defendants D. Mosley Trucking Inc. and Ramon Colon's Motion to Clarify (ECF No. 178). Responses to the motions have been filed. (ECF Nos. 175, 179, 180, & 181). These matters are ripe for the Court's consideration.

Defendants D. Mosley Trucking Inc. and Ramon Colon's Motion for Leave to File Response and Motion to Clarify are related to Defendant New Millennium Building Systems, LLC's ("NMBS") Motion for Partial Summary Judgment. (ECF No. 167). D. Mosley Trucking Inc. and Ramon Colon request permission to file a response to the NMBS's motion to address various issues raised in the motion. D. Mosley Trucking Inc. and Ramon Colon's Motion to Clarify seeks to clarify the positions that were raised in their Motion for Leave to File Response. Upon consideration, the Court finds that the Motion for Leave to File Response (ECF No. 174) should be and hereby is **GRANTED**.¹ The Clerk is directed to place ECF No. 174, Exh. 1 on

¹ The Court has reviewed D. Mosley Trucking Inc. and Ramon Colon's proposed response. Defendants raise the issue of a conducting a separate trial on the punitive damages claim if that claim survives summary judgment. This is an issue that needs to be raised and briefed in an independent motion after the punitive damages decision is made. Accordingly, the Court will not address the bifurcation issue at this time.

the docket as D. Mosley Trucking Inc. and Ramon Colon's response to NMBS's Motion for Partial Summary Judgment (ECF No. 167). Any reply to the response must be filed on or before **March 18, 2015**. The clarifications made in D. Mosley Trucking Inc. and Ramon Colon's Motion to Clarify (ECF No. 178) are noted. The Clerk is directed to terminate the motion.

Plaintiffs request that NMBS's reply (ECF No. 176) in support of their partial summary motion be struck as untimely. Plaintiffs also request that they be permitted to file a surreply. NMBS's reply was filed ten days after Plaintiffs' response. Reading Local Rule 7.2 in conjunction with Fed. R. Civ. P. 6(d) and 5(b)(2) and 5(b)(3), the Court finds that NMBS's reply was timely filed. As to Plaintiffs' surreply request, the Court finds that further argument on NMBS's Motion for Partial Summary Judgment is not needed. Accordingly, Plaintiffs' motion (ECF No. 177) is **DENIED**.

IT IS SO ORDERED, this 13th day of March, 2015.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge