

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Christine M. Arguello**

Civil Action No. 09-cv-02142-CMA-MJW

WILLIAM A. RALSTON,  
RICHARD L. RALSTON, and  
SALBA SMART NATURAL PRODUCTS, LLC,

Plaintiffs,

v.

SALBA CORP N.A.,

Defendant.

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**ORDER DENYING MOTIONS TO SUPPLEMENT AND TO FILE A SURREPLY**

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This matter is before the Court on Defendant's attorneys' Motion for Leave to Supplement Request for Award of Attorney Fees Under Rule 11(c)(2) (Doc. # 50) and Defendant's Motion for Leave to File a Surreply to Plaintiffs' Response Brief (Doc. # 53). For the following reasons, both Motions are DENIED.

**I. BACKGROUND**

On October 29, 2009, upon holding a hearing, the Court granted Plaintiffs' Motion to Compel Arbitration and granted Plaintiffs' leave to file a motion for attorneys' fees that they incurred in connection with their attempts to compel arbitration. Though the Court intended to award Plaintiffs' their attorneys' fees, the Court did not intend that such an award would include sanctions.

Plaintiffs filed their Motion for Attorney Fees (Doc. # 38) on November 5, 2009. The Motion included a Motion for Sanctions. Because the embedded Motion for Sanctions violated Local Rule 7.1(c), as well as the procedural requirements set forth in the Federal Rules of Civil Procedure, the Court struck Plaintiffs' request for sanctions. (Doc. # 52, 12/17/09 Minute Order).

**II. DEFENDANT'S ATTORNEYS' MOTION FOR LEAVE TO SUPPLEMENT REQUEST FOR AWARD OF ATTORNEY FEES UNDER RULE 11(c)(2) (Doc. #50)**

In the instant Motion, Defendant's attorneys seek leave to supplement a request for an award of attorneys' fees they and Defendant included in their respective Responses to Plaintiffs' Motion for Attorneys' Fees. (Doc. ## 47 and 48). In those Responses, Defendant and its attorneys opposed Plaintiffs' request for sanctions and requested "an award of attorney's fees for the cost and expense of preparing this response as permitted to a prevailing party in a Rule 11 Motion."

Because the Defendant's and its attorneys' request for attorney's fees is related to Plaintiff's Motion for Sanctions, which the Court struck, the Motion for Leave to Supplement (Doc. # 50) is DENIED.

**III. DEFENDANT'S MOTION FOR LEAVE OF COURT TO FILE SURREPLY TO PLAINTIFFS' RESPONSE BRIEF (Doc. # 53)**

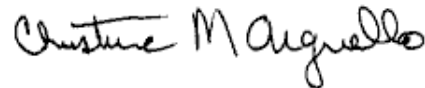
In the instant Motion, Defendant seeks leave to file a Surreply to Plaintiffs' Combined Reply in Support of Motion for Attorneys' Fees and Response in Opposition to Motion for Reconsideration (Doc. # 49). The arguments Defendant raises in its proposed Surreply (Doc. # 53-2) are related to Plaintiffs' Motion for Sanctions, which the

Court struck. Therefore, Defendant's Motion for Leave to File a Surreply (Doc. # 53) is DENIED.

For the foregoing reasons, it is ORDERED that Defendant's Attorneys' Motion for Leave to Supplement Request for Award of Attorney Fees Under Rule 11(c)(2) (Doc. # 50) and Defendant's Motion for Leave to File a Surreply (Doc. # 53) are DENIED.

DATED: January 21, 2010

BY THE COURT:



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CHRISTINE M. ARGUELLO  
United States District Judge