

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

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|-----------------------------|---|-----------------------------------|
| ALONZO FREEMAN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CIVIL ACTION NO. 5:09-CV-395(MTT) |
| |) | |
| PERDUE FARMS, INCORPORATED, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

ORDER

This matter is before the Court on the Defendant’s Amendment to Motion for Summary Judgment (the “Amended Motion”) (Doc. 34) and the Plaintiff’s Motion for Leave to File Sur-Reply Brief (Doc. 36). The Defendant’s Amended Motion consists entirely of the Supplemental Affidavit of Maria Rivera (the “Affidavit”) (Doc. 34-1) and accompanying exhibits, in which the Defendant replied to the Plaintiff’s Response to Motion for Summary Judgment (Doc. 21). The same day that the Defendant filed its Amended Motion, it also filed its Reply to Plaintiff’s Response to Motion for Summary Judgment (Doc. 35).

Pursuant to Local Rule 7.3, “[m]ovant’s counsel shall serve any desired reply brief, argument, or affidavit within fourteen (14) days after service of the respondent’s response, brief, or affidavit” (emphasis added). Because the Affidavit included with the Defendant’s Amended Motion was in reply to the Plaintiff’s Response and accompanying affidavits, it was not necessary for the Defendant to seek leave to file the

Affidavit. In short, the Affidavit has been filed pursuant to Local Rule 7.3. Accordingly, the Amended Motion is **denied as moot**.

Pursuant to Local Rule 7.3.1(b), “[s]ur-reply briefs are not favored.” In light of the Court’s ruling above, and because the Court has concluded that the Defendant’s Reply, including the Affidavit, only replies to the Plaintiff’s Response, the Plaintiff’s Motion for Leave to File Sur-Reply Brief (Doc. 36) is **DENIED**.

SO ORDERED, this 22nd day of February, 2011.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT