

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

CMI ROADBUILDING, INC. and CMI
ROADBUILDING, LTD.,

Plaintiffs,

vs.

IOWA PARTS, INC.,

Defendant.

No. 16-CV-33-LRR

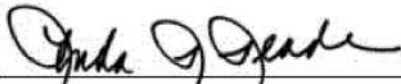
ORDER

The matter before the court is Defendant Iowa Parts, Inc.’s (“Iowa Parts”) “Motion to Strike Errata to Plaintiff’s Brief” (“Motion”) (docket no. 154), which it filed on November 3, 2017. In the Motion, Iowa Parts requests that the court strike the Supplement (docket no. 153) filed by Plaintiffs CMI Roadbuilding, Inc. and CMI Roadbuilding, Ltd. (collectively, “CMI”) in support of their pending Motion for Partial Summary Judgment (docket no. 134). Iowa Parts argues that the Supplement presents “facts and legal conclusions that were not previously raised,” was filed without leave of court and in violation of the Local Rules, and thus argues that it would be “grossly unfair” for the court to consider the Supplement. Motion at 1-2. The court is unimpressed by Iowa Parts’s arguments. The Supplement does not attempt to cut new arguments and factual allegations from whole cloth—it is instead meant to correct a clerical error made by the omission of a single page of CMI’s brief in support of its Motion for Partial Summary Judgment. The court refuses to strike the Supplement and thereby shackle itself to attempt to rule on the Motion for Partial Summary Judgment on an incomplete record. However, because Iowa Parts has not had the chance to respond to the arguments contained on the inadvertently omitted page, the court shall permit it to file a sur reply. Such sur reply **must not exceed five pages in length and must be filed by no later than**

November 20, 2017. The sur reply may only address those arguments which could not have been properly resisted due to the omitted page in CMI's brief in support of its Motion for Partial Summary Judgment. Accordingly, the Motion is **DENIED**.

IT IS SO ORDERED.

DATED this 15th day of November, 2017.



LINDA R. READE, JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA