

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
JAYME GORDON,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:11-cv-10255-JLT
)	
DREAMWORKS ANIMATION SKG,)	
INC., DREAMWORKS ANIMATION)	
LLC, and PARAMOUNT PICTURES)	
CORP.,)	
)	
Defendants.)	
_____)	

**DEFENDANTS’ MEMORANDUM IN OPPOSITION TO
PLAINTIFF’S REQUEST FOR LEAVE TO FILE A REPLY BRIEF
WITH NEW AFFIDAVITS AND ARGUMENTS**

Defendants DreamWorks Animation SKG, Inc., DreamWorks Animation LLC, and Paramount Pictures Corporation respectfully submit this memorandum in opposition to plaintiff Jayme Gordon’s request for leave to file a reply to their opposition to Gordon’s Motion for a Protective Order and Sanctions (Dkt. # 50). The proposed “reply” brief raises new arguments and issues not raised in his motion, and attaches new affidavits.

The proper function of a reply brief is to respond to arguments in the opposition brief that were not reasonably anticipated in the moving party’s opening brief, not to make new arguments or introduce new purported facts. *See, e.g., Financial Resources Network, Inc. v. Brown & Brown, Inc.*, 754 F. Supp. 2d 128, 139-140 (2010) (arguments first raised in reply are waived) (citing cases). Here, Mr. Gordon introduces not only new affidavits and new arguments (including confidential settlement discussions), but also several pages of a gratuitous attacks on the character of Defendants and their counsel, which attacks have utterly no connection to Mr.

Gordon's claim that, by hiring a private investigator to investigate Gordon's background and allegations, Defendants' counsel have committed a felony and violated ethical rules such that Mr. Gordon should be excused from attending his deposition and should be given access to Defendants' protected work product.

In the event that the Court nonetheless elects to entertain the few portions of the reply brief that bear on the motion before it, Defendants request that the Court consider the arguments presented in Defendants' proposed Reply Brief in Support of Defendants' Motion to Dismiss For Plaintiff's Refusal to Appear at his Deposition, filed concurrently herewith, which addresses much of the same material.

Dated: November 14, 2011

Respectfully submitted,

DREAMWORKS ANIMATION SKG, INC.,
DREAMWORKS ANIMATION, LLC, and
PARAMOUNT PICTURES CORP.,

By their attorneys,

/s/ John A. Shope

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I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on the above date.

/s/ David A. Kluft

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